

#### NOTE BY THE CLERK

The acts of the extraordinary session will be found immediately following the acts and resolves of the regular session, and are separated therefrom by a yellow insert sheet.

The acts of the second extraordinary session will be found immediately following the acts and resolves of the extraordinary session, and are separated therefrom by a blue insert sheet.

The indexes for the acts of each session are likewise separated.

#### ERRATA

On page 402, in section one, line five should read as follows: "the name "the city of Princeton" by which name they shall"

On page 509, in section five, between lines twenty-six and twenty-eight, line twenty-seven to read as follows: "one member of the water board who shall serve for a term of" should be inserted.

A C T S  
OF  
THE LEGISLATURE  
OF  
WEST VIRGINIA

---

REGULAR SESSION 1917

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THE TRIBUNE PRINTING CO.  
Charleston, West Va.



TRIBUNE PRINTING CO., CHARLESTON

# List of Members and Officers of the Legislature of West Virginia

## REGULAR SESSION, 1917.

### SENATE

President—WELLS GOODYKOONTZ, Williamson.  
 Clerk—JOHN T. HARRIS, Parkersburg.  
 Chief Assistant—HOMER GRAY, Wheeling.  
 Sergeant-at-Arms—O. A. PETTY, Charleston.  
 Door-Keeper—JACK SMITH, Huntington.

District.	Name.	Postoffice.
First.....	*Elmer Hough (R.)..... Benjamin L. Rosenbloom (R.).....	Wellsburg. Wheeling.
Second.....	*W. F. Burgess (R.)..... W. H. Carter (R.).....	Reader. Middlebourne.
Third.....	*M. K. Duty (R.)..... Robert L. Gregory (R.).....	Pensboro. Parkersburg.
Fourth.....	*Raymond Dodson (R.)..... Warren Miller (R.).....	Sencer. Ripley.
Fifth.....	*J. E. Frazier (D.)..... W. P. McAboy (R.).....	Buffalo. Huntington.
Sixth.....	*J. W. Litcher (R.)..... Wells Goodykoontz (R.).....	Welch. Williamson.
Seventh.....	*C. C. Coalter (R.)..... W. P. Hawley (R.).....	Hinton. Bluefield.
Eighth.....	*A. R. Montgomery, Jr. (D.)..... Dr. Martin V. Godbey (R.).....	Clothier. Charleston.
Ninth.....	*H. G. Vencill (D.)..... Dr. Gory Hogg (D.).....	Dixie. Harvey.
Tenth.....	*Fred L. Fox (D.)..... Eakridge H. Morton (D.).....	Sutton. Webster Springs.
Eleventh.....	*Dr. Chas. A. Sinsel (R.)..... Scott C. Lowe (D.).....	Grafton. Fairmont.
Twelfth.....	*Wallace B. Gribble (R.)..... Roy E. Parrish (R.).....	West Union. Clarksburg.
Thirteenth.....	*Gohen C. Arnold (R.)..... Richard E. Talbott (D.).....	Buchannon. Phillippi.
Fourteenth.....	*S. L. Coburn (R.)..... S. O. Billings (R.).....	Martinsburg. Parsons.
Fifteenth.....	*G. K. Kump (D.)..... Frank Beckwith (D.).....	Romney. Charles Town.

R..... Republican,  
 D..... Democrat.  
 \*Holdover Senators.

### RECAPITULATION.

Republicans..... 20  
 Democrats..... 10

## Standing Committees of the Senate.

---

### ON PRIVILEGES AND ELECTIONS.

Messrs. Luther (*Chairman*), Burgess, Coalter, Gregory, Hough, McAboy, Frazier, Montgomery and Talbott.

### ON THE JUDICIARY.

Messrs. Gregory (*Chairman*), Carter, Arnold, Duty, Miller, Parrish, Rosenbloom, Beckwith, Kump, Fox and Morton.

### ON FINANCE.

Messrs. Hawley (*Chairman*), McAboy, Cobun, Godbey, Luther, Gribble, Rosenbloom, Hogg, Lowe, Montgomery and Talbott.

### ON EDUCATION.

Messrs. Duty (*Chairman*), Parrish, Burgess, Carter, Hough, Sinsel, Beckwith, Morton and Talbott.

### ON COUNTIES AND MUNICIPAL CORPORATIONS.

Messrs. Rosenbloom (*Chairman*), Coalter, Arnold, Carter, Gribble, McAboy, Fox, Frazier and Lowe.

### ON ROADS AND NAVIGATION.

Messrs. Burgess (*Chairman*), Hough, Billings, Duty, Gregory, Arnold, Lowe, Morton and Vencill.

### ON BANKS AND CORPORATIONS.

Messrs. Cobun (*Chairman*), McAboy, Burgess, Dodson, Gregory, Hawley, Beckwith, Montgomery and Talbott.

## ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS.

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## ON PENITENTARY.

Messrs. Carter (*Chairman*), Sinsel, Gribble, Hawley, Hough, Luther, Beckwith, Hogg and Lowe.

## ON RAILROADS.

Messrs. Coalter (*Chairman*), Godbey, Carter, Billings, Parrish, Sinsel, Frazier, Kump and Montgomery.

## ON MILITIA.

Messrs. Dodson (*Chairman*), Billings, Gribble, Hough, Miller, Parrish, Fox, Lowe and Vencill.

## ON FEDERAL RELATIONS.

Messrs. Luther (*Chairman*), Billings, Cobun, Dodson, Duty, Miller, Beckwith, Hogg and Kump.

## ON INSURANCE.

Messrs. Parrish (*Chairman*), Coalter, Godbey, Gribble, McAboy, Rosenbloom, Beckwith, Fox and Morton.

## ON IMMIGRATION AND AGRICULTURE.

Messrs. Gribble (*Chairman*), Gregory, Dodson, Cobun, Luther, Miller, Frazier, Kump and Vencill.

## ON MINES AND MINING.

Messrs. Hough (*Chairman*), Godbey, Coalter, Cobun, Billings, Luther, Hogg, Montgomery and Vencill.

## ON MEDICINE AND SANITATION.

Messrs. Sinsel (*Chairman*), Godbey, Gregory, Billings, Gribble, Hawley, Frazier, Hogg and Kump.

## ON LABOR.

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## ON CLAIMS AND GRIEVANCES.

Messrs. Billings (*Chairman*), Arnold, Burgess, Duty, Hawley, Rosenbloom, Fox, Montgomery and Morton.

## ON FORFEITED AND UNAPPROPRIATED LANDS.

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## ON PUBLIC PRINTING.

Messrs. Billings (*Chairman*), Godbey, Hawley, Luther, Miller, McAboy, Fox, Kump and Morton.

## ON RULES.

Messrs. Goodykoontz (*Chairman*), Godbey, Duty, McAboy and Fox.

## ON PUBLIC LIBRARY.

Messrs. McAboy (*Chairman*), Gregory, Hawley, Hough, Parrish, Rosenbloom, Montgomery, Talbott and Vencill.

## TO EXAMINE THE CLERK'S OFFICE.

Messrs. Godbey (*Chairman*), Gribble, Luther, Miller, Rosenbloom, Sinsel, Beckwith, Hogg and Lowe.

## ON PROHIBITION AND TEMPERANCE.

Messrs. McAboy (*Chairman*), Arnold, Burgess, Cobun, Coalter, Sinsel, Beckwith, Kump and Talbott.

## ON FORESTRY AND CONSERVATION.

Messrs. Godbey (*Chairman*), Billings, Arnold, Coalter, Cobun, Duty, Hogg, Frazier and Morton.

## ON THE VIRGINIA DEBT.

Messrs. Miller (*Chairman*), Godbey, Hawley, Dodson, McAboy, Gregory, Parrish, Fox, Lowe, Hogg and Morton.

## JOINT COMMITTEE ON PASSED BILLS ON PART OF THE SENATE.

Messrs. Arnold (*Chairman*), Carter, Parrish, Montgomery and Vencill.

## HOUSE OF DELEGATES

Speaker—JOSEPH S. THURMOND, Alderson.  
 Clerk—ROBERT L. HAMILTON, Grantsville.  
 Chief Assistant—WILL A. STRICKLEN, Ellenboro.  
 Sergeant-at-Arms—JOHN E. KENNA, Charleston  
 Door-Keeper—J. W. KIMB, Burnsville.

County.	Name.	Postoffice.
Barbour.....	Clyde Poling (R.).....	Berryburg.
Berkeley.....	Harry P. Henshaw (D.)..... John N. Parks (D.).....	Inwood. Martinsburg.
Boone.....	Luther R. Jones (R.).....	Bald Knob.
Braxton.....	Lee Rader (D.)..... L. T. Harvey (D.).....	Sutton. Frametown.
Brooke.....	T. J. Mahan (R.).....	Follansbee.
Cabell.....	W. C. W. Renshaw (D.)..... John L. Conner (D.)..... A. J. Baxter (D.)..... W. N. Clay (D.).....	Huntington. Huntington. Huntington. Barboursville.
Calhoun.....	Kenna Lester (D.).....	Pink.
Clay.....	Paul Hardman (D.).....	Nebo.
Doddridge.....	A. K. Fleming (R.).....	Center Point.
Fayette.....	J. Alfred Taylor (D.)..... Chas. J. Massau (D.)..... George H. Skaggs (D.)..... J. Wilbur Davis (D.).....	Fayetteville. Montgomery. Marvel. Macdonald.
Gilmer.....	E. E. Cottrill (D.).....	Sand Fork.
Grant.....	P. A. Dixon (R.).....	Bayard.
Greenbrier.....	A. B. C. Bray (D.)..... J. S. Thurmond (D.).....	Ronceverte. Alderson.
Hampshire.....	W. W. Carder (D.).....	Green Springs.
Hancock.....	J. Ness Porter (R.).....	Newell.
Hardy.....	J. D. Chipley (D.).....	Moorefield.
Harrison.....	S. R. Harrison, Jr. (R.)..... John Moore (R.)..... George W. Sturm (R.)..... Louis A. Johnson (D.).....	Clarksburg. Bridgeport. West Milford. Clarksburg.
Jackson.....	Kenna Casto (R.)..... Everett Hughes (R.).....	Belgrove. Sandyville.
Jefferson.....	Milton Burr (D.).....	Bardane.
Kanawha.....	L. V. Koontz (D.)..... J. F. Bunchelle (D.)..... Angus W. McDonald (D.)..... John Patrick (D.)..... O. F. Payne (D.)..... A. W. Price (D.).....	Clendenin. Charleston. Charleston. Charleston. Charleston. Blundon.
Lewis.....	James Bassel (D.).....	Weston.
Lincoln.....	Charles Cabell (D.).....	MacCorkle.
Logan.....	Robert Bland (D.).....	Logan.
Marion.....	Ira A. Akins (D.)..... Frank C. Haymond (D.)..... E. O. Murray (D.).....	Fairmont. Fairmont. Mannington.
Marshall.....	C. H. Hunter (R.)..... Geo. W. Byrnez (R.).....	Moundsville. Moundsville.



County.	Name.	Postoffice.
Mason.....	Pat M. Wilson (D.)..... W. D. Curry (R.).....	Beech Hill. Pint Pleasant.
Mercer.....	R. B. Ferguson (R.)..... W. B. Honaker (R.)..... A. F. Wysock (R.).....	Bluefield. Matoaka. Princeton.
Mineral.....	S. N. Moore (R.).....	Keyser.
Mingo.....	Joseph B. Straton (D.).....	Williamson.
Monongalia.....	Wm. S. John (R.)..... Perry C. McBee (R.).....	Morgantown. Morgantown.
Monroe.....	Clarence Symms (D.).....	Peterstown.
Morgan.....	W. H. Somers (R.).....	Berkeley Springs.
McDowell.....	Harvey Hagerman (R.)..... E. Howard Harper (R.)..... J. Buell Swope (R.)..... Floyd Waldron (R.).....	Welch. Keystone. Welch. Welch.
Nicholas.....	W. G. Graves (D.).....	Summersville.
Ohio.....	J. E. Emsley (R.)..... W. T. Otto (R.)..... Harry A. Weiss (R.)..... N. Price Whitaker (R.).....	West Liberty. Wheeling. Wheeling. Wheeling.
Pendleton.....	G. A. Hiner (D.).....	Franklin.
Pleasants.....	Gilbert D. Smith (D.).....	St. Marys.
Pocahontas.....	B. M. Yeager (D.).....	Marlinton.
Preston.....	W. H. Glover (R.)..... Leroy Shaw (R.).....	Terra Alta. Kingwood.
Putnam.....	C. W. Taylor (R.).....	Hurricane.
Raleigh.....	C. L. Heaberlin (R.)..... V. E. Sullivan (R.).....	Beckley. Raleigh.
Randolph.....	E. H. Arnold (D.)..... James W. Weir (D.).....	Elkins. Elkins.
Ritchie.....	B. R. Twyman (R.).....	Cairo.
Roane.....	A. M. Herzman (R.)..... G. T. Sarver (R.).....	Spencer. Ernest.
Summers.....	A. A. Riddleberger (D.).....	Hinton.
Taylor.....	J. Sidney Burdette (R.).....	Grafton.
Tucker.....	H. R. Werner (R.).....	Thomas.
Tyler.....	F. R. Hickman (R.).....	Middlebourne.
Upshur.....	John B. Hilleary (R.).....	Buckhannon.
Wayne.....	W. K. Ferguson (D.)..... F. W. Terrill (D.).....	Dunlow. Wayne.
Webster.....	W. T. Talbott (D.).....	Webster Springs.
Wetzel.....	Septimius Hall (D.)..... J. Friend Alley (D.).....	New Martinsville. Pine Grove.
Wirt.....	S. F. Wells (D.).....	Elizabethtown.
Wood.....	W. D. Price (D.)..... P. F. Wells (D.)..... John D. Sweeney (D.).....	Parkersburg. Belleville. Williamstown.
Wyoming.....	A. J. Mullins (R.).....	Mullens.

D..... Democrats.  
R..... Republicans.

52 Democrats.  
42 Republicans.

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## STANDING COMMITTEES OF THE HOUSE OF DELEGATES

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### ON ELECTIONS AND PRIVILEGES.

Messrs. Straton (*Chairman*), Bouchelle, Johnson, Renshaw, Smith, Haymond, Talbot, Clay, Hall, Taylor (of Putnam), John, Harrison, Burdette, Porter and Hersman.

### ON THE JUDICIARY.

Messrs. Johnson (*Chairman*), Bland, Haymond, Talbott, Straton, Arnold, Renshaw, McDonald, Bouchelle, Smith, Hall, John, Burdette, Harrison and Glover.

### ON FEDERAL RELATIONS.

Messrs. Arnold (*Chairman*); Bassel, Henshaw, Terrill, Wells (of Wirt), Massau, Wells (of Wood), Cabell, Rader, Patrick, Dixon, Byrnes, Hagerman, Moore (of Harrison) and Otto.

### ON TAXATION AND FINANCE.

Messrs. Renshaw (*Chairman*), Bray, Parks, Burr, Murray, Weir, Cottrill, Wells (of Wirt), Terrill, Hall, Shaw, Porter, Whitaker, Heaberlin and Wysong.

### ON MILITARY AFFAIRS.

Messrs. Bassel (*Chairman*), Price (of Kanawha), Arnold, Skaggs, Rader, Massau, Riddleberger, Clay, Hardman, Twyman, Hilleary, Curry, Harrison, Sarver and Taylor (of Fayette).

### ON PROHIBITION AND TEMPERANCE.

Messrs. L. T. Harvey (*Chairman*), Talbott, Price (of Wood), Parks, Ferguson (of Wayne), Alley, Bassel, Payne, Conner, Poling, Fleming, Dixon, Hickman, Mahan and Sullivan.

### ON EDUCATION.

Messrs. Sweeney (*Chairman*), Lester, Ferguson (of Wayne), Arnold, Henshaw, Alley, Hiner, Price (of Kanawha), Cottrill, Harvey, Fleming, McBee, Ferguson (of Mercer), Poling and Honaker.

### ON COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS.

Messrs. Bouchelle (*Chairman*), Straton, Ferguson (of Wayne), Sweeney, Symms, Alley, Lester, Henshaw, Chipley, Riddleberger, Sullivan, Otto, Ferguson (of Mercer), Fleming and Twyman.

## ON PRIVATE CORPORATIONS AND JOINT STOCK COMPANIES.

Messrs. Haymond (*Chairman*), Koontz, Bray, Alley, Graves, Price (of Wood), Davis, Hiner, Henshaw, Smith, Hunter, Glover, Hickman, Werner and Hughes.

## ON MEDICINE AND SANITATION.

Messrs. Werner (*Chairman*), Riddleberger, Taylor (of Fayette), Chipley, Conner, Massau, Henshaw, Price (of Kanawha), Weir, Baxter, Akins, Wysong, Otto, Sturm and Fleming.

## ON GAME AND FISH.

Messrs. Wilson (*Chairman*), Yeager, Arnold, Carder, Cabell, Cottrill, Harvey, Johnson, Lester, McDonald, Byrnes, Burdette, McBee, Curry and Wysong.

## ON INSURANCE.

Messrs. Patrick (*Chairman*), Hall, Straton, Clay, Davis, Lester, Sweeney, Symns, Wells (of Wirt), Yeager, Heaberlin, Taylor (of Putnam), Twyman, Moore (of Mineral) and Porter.

## ON STATE BOUNDARIES.

Messrs. Riddleberger (*Chairman*), Patrick, Rader, Ferguson (of Wayne), Burr, Cabell, Skaggs, Emsley, Sturm, Sarver, Swope, Waldron, Mullins, Harper and Chipley.

## ON RAILROADS.

Messrs. McDonald (*Chairman*), Weir, Riddleberger, Koontz, Conner, Yeager, Akins, Bland, Cabell, Bray, Terrill, Whitaker, John, Hunter and Somers.

## ON LABOR.

Messrs. Massau (*Chairman*), Bland, Parks, Carder, Harvey, Patrick, Symns, Renshaw, Yeager, Cottrill, Curry, Porter, Moore (of Harrison), Somers and Weiss.

## ON RULES.

Messrs. Thurmond (*Speaker*), Hall, Talbott, Koontz, Haymond and Honaker.

## ON ROADS AND INTERNAL NAVIGATION.

Messrs. Parks (*Chairman*), Burr, Rader, Payne, Lester, Baxter, Wilson, Symns, Price (of Wood), Cottrill, Byrnes, Glover, Emsley, Fleming and Harrison.

## ON FORFEITED AND UNAPPROPRIATED LANDS.

Messrs. Talbott (*Chairman*), Straton, Hall, McDonald, Bland, Haymond, Johnson, Baxter, Bray, Murray, Burdette, Mullins, Swope, Hagerman and Harper.

## ON CLAIMS AND GRIEVANCES.

Messrs. Chipley (*Chairman*), Akins, Conner, Price (of Wood), Terrill, Carder, Sweeney, Skaggs, Graves, Price (of Kanawha), Ferguson (of Mercer), Swope, Hughes, Emsley and Harper.

## ON HUMANE INSTITUTIONS AND PUBLIC BUILDINGS.

Messrs. Akins (*Chairman*), Clay, Bassel, Davis, Carder, Cottrill, Wells (of Wirt), Ferguson (of Wayne), Wells (of Wood), Henshaw, Honaker, Hughes, Moore (of Harrison), Mahan and Jones.

## ON PRINTING AND CONTINGENT EXPENSES.

Messrs. Taylor (of Fayette) (*Chairman*), Hardman, Johnson, Payne, Hiner, Sweeney, Weir, Smith, Cabell, Graves, Hilleary, Shaw, Hersman, Sturm and Sullivan.

## ON THE EXECUTIVE OFFICES AND LIBRARY.

Messrs. Koontz (*Chairman*), Bassel, Patrick, Hall, Akins, Parks, Clay, Rader, Hardman, Symns, Waldron, Mullins, Casto, Taylor (of Putnam) and Weiss.

## ON FORESTRY AND CONSERVATION.

Messrs. Baxter (*Chairman*), Riddleberger, Bouchelle, Bray, Burr, Murray, Skaggs, Talbott, Johnson, Graves, Wysong, Shaw, Heaberlin, Whitaker and Byrnes.

## ON ARTS, SCIENCE AND GENERAL IMPROVEMENTS.

Messrs. Henshaw (*Chairman*), Harvey, Graves, Hardman, Payne, Haymond, Conner, Massau, Taylor (of Fayette), Hiner, Waldron, Sarver, Moore (of Mineral), Jones and Otto.

## ON THE PENITENTIARY.

Messrs. Price (of Wood) (*Chairman*), Davis, Koontz, Smith, Weir, Harvey, Wilson, Yeager, Arnold, Terrill, Hunter, Casto, Weiss, Moore (of Mineral) and Werner.

## ON MINES AND MINING.

Messrs. Bland (*Chairman*), Haymond, McDonald, Wilson, Skaggs, Murray, Straton, Baxter, Renshaw, Davis, Sullivan, Curry, Honaker, Werner and Hunter.

## ON IMMIGRATION AND AGRICULTURE.

Messrs. Burr (*Chairman*), Murray, Henshaw, Chipley, Wilson, Alley, Carder, Wells (of Wood), Hiner, Hardman, Somers, Moore (of Harrison), Mahan, Hersman and Shaw.

## JOINT COMMITTEE ON PASSED AND ENROLLED BILLS.

Messrs. Weir (*Chairman*), Wells (of Wirt) and John on the part of the House.

## COMMITTEE ON VIRGINIA DEBT.

Messrs. Hall (*Chairman*), Bouchelle, Bland, Haymond, Yeager, Bray, Riddleberger, Hickman, Glover, Fleming, Hunter, McDonald, Johnson, Arnold and John.

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# LEGISLATURE OF WEST VIRGINIA

## ACTS OF 1917

### REGULAR SESSION

#### CHAPTER 1.

(House Bill No. 153.)

AN ACT making appropriations of public money on account of the contingent expenses of the legislature of one thousand nine hundred and seventeen.

[Passed January 24, 1917. In effect from passage. Approved by the Governor January 30, 1917.]

SEC.

1. Appropriation for contingent expenses of legislature.

2. Order for supplies, and how signed.

SEC.

3. Auditor authorized to issue warrants.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there is hereby appropriated out of the public treasury the following sums of money on account of the contingent expenses of the present session of the legislature:

For contingent expenses of the senate, one thousand five hundred dollars, or so much thereof as may be necessary for said purposes.

For contingent expenses of the house of delegates, two thousand five hundred dollars, or so much thereof as may be necessary for said purposes.

Sec. 2. No supplies shall be purchased for either house, except upon resolution or upon an order signed by the president of the senate and the clerk thereof, or by the speaker of the house and the clerk thereof.

Sec. 3. The auditor is hereby authorized and directed to issue his warrants upon the treasurer for such amounts as may be authorized by the resolution of either house to be paid.

## CHAPTER 2.

(House Bill No. 205.)

AN ACT making an appropriation of public money to defray the expenses incidental to the inauguration of Governor John J. Cornwell.

[Passed January 25, 1917. In effect from passage. Approved by the Governor February 5, 1917.]

Appropriation for inauguration expenses; available upon passage of bill.

*Be it enacted by the Legislature of West Virginia:*

That there be and there is hereby appropriated out of the 2 treasury, to defray the expenses incidental to the inauguration of 3 Governor John J. Cornwell, on March fifth, one thousand nine 4 hundred and seventeen, the sum of twenty five hundred (\$2500.- 5 00) dollars, or so much thereof as may be necessary, on requis- 6 tion of the governor on the auditor. The sum hereby appropri- 7 ated shall become available immediately upon the passage of this 8 bill.

## CHAPTER 3.

(House Bill No. 412.)

AN ACT making appropriations of public moneys for salaries of the officers of the government, in pursuance of the forty-second section of the sixth article of the constitution.

[Passed February 23, 1917. In effect from passage. Became a law without the Governor's approval.]

Sec.

1. Appropriations for fiscal years ending June 30, 1918-1919, respectively. Salary of governor and other state officers, adjutant general, compensation commissioner, state librarian, state tax commissioner, commissioner of agriculture; state historian and archivist; state commissioner of health; keeper of the rolls, janitor, commissioner of banking, de-

Sec.

partment of mines, bureau of labor, public service commission, forestry, fish and game warden, board of control, state board of regents. Salaries of Judges of supreme court and circuit courts.  
2. Column of figures in section one defined.  
3. The auditor directed to issue his warrants upon the treasury; how and when.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there shall be and are hereby appropriated 2 out of the treasury for the fiscal year ending June thirtieth, one 3 thousand nine hundred and eighteen, and the fiscal year ending 4 June thirtieth, one thousand nine hundred and nineteen, respec-

5 tively, the following sums of money to pay the salaries of the  
6 officers of the government:

7 *Executive Department.*

8	Fiscal year	Fiscal year	
9	ending June	ending June	
10	30th, 1918.	30th, 1919.	
11	To pay the salary of the governor....	\$5,000.00	\$5,000.00
12	To pay the salary of the auditor.....	4,500.00	4,500.00
13	To pay the salary of the treasurer.....	3,500.00	3,500.00
14	To pay the salary of the attorney		
15	general . . . . .	4,000.00	4,000.00
16	To pay the salary of the compensation		
17	commissioner . . . . .	6,000.00	6,000.00
18	To pay the salary of the superinten-		
19	dent of free schools . . . . .	4,000.00	4,000.00
20	To pay the salary of the secretary of		
21	state . . . . .	4,000.00	4,000.00
22	To pay the salary of the adjutant gen-		
23	eral . . . . .	3,600.00	3,600.00
24	To pay the salary of the state libra-		
25-27	rian . . . . .	1,800.00	1,800.00
28	To pay the salary of state tax commis-		
29	sioner . . . . .	4,000.00	4,000.00
30	To pay the salary of the commissioner		
31	of agriculture . . . . .	4,000.00	4,000.00
32	To pay the salary of the state historian		
33	and archivist . . . . .	2,700.00	2,700.00
34	To pay the salary of the state commis-		
35	sioner of health . . . . .	3,000.00	3,000.00

36 *Keeper of the Rolls.*

37	To pay the salary of the keeper of the		
38	rolls . . . . .	\$ 300.00	\$ 300.00
39	To pay the salary of the janitor.....	1,500.00	1,500.00

40 *Commissioner of Banking.*

41	To pay the salary of the commissioner		
42	of banking . . . . .	\$3,500.00	\$3,500.00

43	<i>Department of Mines.</i>	
44	To pay the salary of the chief of the	
45	department of mines .....	\$3,000.00      \$3,000.00
46	<i>Bureau of Labor.</i>	
47	To pay the salary of the commissioner	
48	of labor .....	\$2,400.00      \$2,400.00
49	<i>Public Service Commission.</i>	
50	To pay the salaries of the members of	
51	the public service commission.....	\$18,000.00      \$18,000.00
52-54	<i>Forestry, Fish and Game Warden.</i>	
55	To pay the salary of the forestry, game	
56	and fish warden .....	\$1,800.00      \$1,800.00
56-a	<i>Board of Control.</i>	
57	To pay the salaries of the members of	
58	the board of control .....	\$15,000.00      \$15,000.00
59	<i>State Board of Regents.</i>	
60	To pay the salaries of the four members	
61	of the board of regents.....	\$4,000.00      \$4,000.00
62	<i>Judicial Department.</i>	
63	To pay the salaries of the judges of the	
64	supreme court .....	\$27,500.00      \$27,500.00
65	To pay the salaries of the judges of the	
66	circuit court .....	79,200.00      79,200.00

Sec. 2. The first column of figures appearing in the foregoing section of this bill shall be deemed to indicate the amount intended to be appropriated by the legislature for the aforesaid salaries, respectively, for the fiscal year beginning July first, one thousand nine hundred and seventeen and ending June thirtieth, one thousand nine hundred and eighteen; and the second column of figures shall be deemed to indicate the amount intended to be appropriated by the legislature for the aforesaid salaries, respectively, for the fiscal year beginning July first, one thousand nine

10 hundred and eighteen, and ending on the thirtieth day of June,  
11 one thousand nine hundred and nineteen.

Sec. 3. The auditor is hereby authorized and directed, when  
2 properly demanded, to issue his warrants upon the treasury in the  
3 same manner as he would be required to if every item of the ex-  
4 penditure were directed to be paid to the creditor by name, and no  
5 money shall be drawn from the treasury for the purpose herein  
6 named during the fiscal year ending June thirtieth, one thousand  
7 nine hundred and eighteen, and June thirtieth, one thousand nine  
8 hundred and nineteen, respectively, beyond the amount hereby  
9 appropriated unless the same is authorized by the constitution or  
10 some general law.

## CHAPTER 4.

(House Bill No. 434.)

AN ACT making appropriations of public money to pay the per diem ,  
of the members of the legislature for the regular session of one  
thousand nine hundred and seventeen, and for salaries of the  
officers and attaches thereof.

[Passed February 23, 1917. In effect from passage. Became a law without the  
Governor's approval.]

### SEC.

1. Appropriations; per diem and mileage of members of the House of Delegates;  
per diem of officers, assistant clerks and other attaches of the House of Delegates;  
per diem and mileage of members of the Senate;

### SEC.

- per diem of officers, assistant clerks and other attaches of the Senate.  
per diem of janitor, assistants and charwomen during regular session.
2. Authorizing auditor to issue warrants.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there be and are hereby appropriated out  
2 of the public treasury for the payment of the per diem of the  
3 members of the legislature for the session of one thousand nine  
4 hundred and seventeen and the per diem of the officers and at-  
5 taches thereof the following sums of money:

6 *House of Delegates.*

7 To pay the per diem of the members, seventeen thousand and  
8 ten dollars.

9 To pay the mileage of members, three thousand, three hun-  
10 dred, ninety-seven dollars and forty cents.

- 11 To pay the per diem of the clerk, five hundred and fifty dol-  
12 lars.
- 13 To pay the per diem of the sergeant-at-arms, two hundred  
14 and twenty-five dollars.
- 15 To pay the per diem of the assistant sergeant-at-arms, one  
16 hundred and eighty dollars.
- 17 To pay the per diem of the doorkeeper, one hundred and  
18 eighty dollars.
- 19 To pay the per diem of the assistant doorkeeper, one hun-  
20 dred and eighty dollars.
- 21 To pay the per diem of the gallery doorkeeper, one hundred  
22 and eighty dollars.
- 23 To pay the per diem of the three cloak room keepers, one  
24 hundred and thirty-five dollars each, four hundred and five  
25 dollars.
- 26 To pay the per diem of the day watchman, one hundred and  
27 eighty dollars.
- 28 To pay the per diem of the night watchman, one hundred  
29 and eighty dollars.
- 30 To pay the per diem of eight committee clerks, one thousand,  
31 four hundred and forty dollars.
- 32 To pay the per diem of the clerk of the committee on taxa-  
33 tion and finance, two hundred and seventy dollars.
- 34 To pay the per diem of the clerk of the judiciary committee,  
35 two hundred and seventy dollars.
- 36 To pay the per diem of the seven floor pages, six hundred  
37 and thirty dollars.
- 38 To pay the per diem of the mailing and banking page, one  
39 hundred and thirty-five dollars.
- 40 To pay the per diem of the five floor stenographers, nine hun-  
41 dred dollars.
- 42 To pay the per diem of the five journal clerks, nine hundred  
43 dollars.
- 44 To pay the per diem of the stenographer of the committee on  
45 taxation and finance, two hundred and seventy dollars.
- 46 To pay the per diem of the stenographer of the committee on  
47 the judiciary, two hundred and seventy dollars.
- 48 To pay the per diem of the stenographer to the speaker, two  
49 hundred and seventy dollars.

50 To pay the per diem of five printing clerks, one thousand,  
51 three hundred and fifty dollars.

52 To pay the per diem of clerk to sergeant-at-arms, twenty  
53 days, eighty dollars.

54 To pay the per diem of four stenographers to clerk, one  
55 thousand, and eighty dollars.

56 To pay the per diem of bill record clerk, two hundred and  
57 seventy dollars.

58 To pay the per diem of assistant bill record clerk, two hun-  
59 dred and seventy dollars.

60 To pay the per diem of two desk clerks, five hundred and  
61 forty dollars.

62 To pay the per diem of one reading clerk, two hundred and  
63 seventy dollars.

64 To pay the per diem of four assistant clerks, one thousand,  
65 and eighty dollars.

66 To pay the per diem of five assistant janitors, six hundred  
67 and seventy-five dollars.

68 To pay the per diem of the toilet room keeper, one hundred  
69 and thirty-five dollars.

70-71 To pay the per diem of one journal page, twenty-two days,  
72-73 forty-four dollars.

74 To pay the per diem of the clerk of the committee on en-  
75 grossed bills, two hundred and seventy dollars.

76 To pay the per diem of the charwoman, one hundred and  
77 thirty-five dollars.

78 To pay the per diem of the chaplain of the house of delegates,  
79 ninety dollars.

80

*Senate.*

81 To pay the per diem of the members, five thousand four hun-  
82 dred and ninety dollars.

83 To pay the mileage of the members, one thousand one hun-  
84 dred and seventy-nine dollars and seventy cents.

85 To pay the per diem of the chief clerk, five hundred and  
86 fifty dollars.

87 To pay the per diem of the sergeant-at-arms and one assist-  
88 ant, two hundred and twenty-five dollars each, four hundred and  
89 fifty dollars.

90 To pay the per diem of the doorkeeper, two assistant door-



91 keepers, and the gallery doorkeeper, seven hundred and twenty  
92 dollars.

93 To pay the per diem of the chief assistant clerk, minute clerk,  
94 reading clerk, and stenographer to the clerk, ten hundred and  
95 eighty dollars.

96 To pay the per diem of the supervisor of printing engrossed  
97 and enrolled bills and his assistant, a bill editor and his assistant,  
98 ten hundred and eighty dollars.

99 To pay the per diem of the roll clerk, voucher clerk, book-  
100 keeper, and senate bill abstract clerk, ten hundred and eighty  
101 dollars.

102 To pay the per diem of the printing clerk in charge of cor-  
103 recting and printing the senate journal, two assistants, and two  
104 copyholders, thirteen hundred and fifty dollars.

105 To pay the per diem of the printing clerk in charge of  
106 printing senate bills, two assistants, and two copyholders, thir-  
107 ten hundred and fifty dollars.

108 To pay the per diem of the senate bill record clerk, house bill  
109 record clerk, and the clerk and his assistant on the part of the  
110 senate to the joint committee on passed and enrolled bills, ten  
111 hundred and eighty dollars.

112 To pay the clerk and his assistant on engrossed bills, and  
113 two general stenographers, ten hundred and eighty dollars.

114 To pay six general assistant clerks, sixteen hundred and  
115 twenty dollars.

116 To pay the page to the clerk and the messenger to the  
117 clerk, two hundred and seventy dollars.

118 To pay the secretary to the president and stenographer to  
119 the president, five hundred and forty dollars.

120 To pay the clerk to the committee on finance, and his  
121 assistant, and the stenographer to the committee, eight hundred  
122 and ten dollars.

123 To pay the messenger to the finance committee, one hun-  
124 dred and eighty dollars.

125 To pay the clerk to the committee on the judiciary and the  
126 stenographer to the committee, five hundred and forty dollars.

127 To pay twenty-two committee clerks, three thousand nine  
128 hundred and sixty dollars.

129 To pay eight floor stenographers, fourteen hundred and  
130 forty dollars.

131 To pay the mailing and banking page and three journal  
132 pages, five hundred and forty dollars.

133 To pay eleven floor pages, nine hundred and ninety dollars.

134 To pay the per diem of the librarian, one day watchman  
135 and one night watchman, five hundred and forty dollars.

136 To pay the per diem of two cloakroom keepers and toilet-  
137 room attendant, four hundred and five dollars.

Sec. 2. The auditor of this state is hereby authorized and  
2 directed to issue his warrants upon the treasury from time to  
3 time for such amounts as are or may become due to the several  
4 members, officers and attaches of the senate and the house of  
5 delegates and janitor's help, upon the request of the clerk of the  
6 senate and the sergeant-at-arms of the house of delegates, re-  
7 spectively.

## CHAPTER 5.

(Senate Bill No. 108.)

AN ACT to amend and re-enact section eight of chapter seventeen of  
the code, relating to time appropriations shall expire.

[Passed February 13, 1917. In effect ninety days from passage. Approved by the  
Governor February 23, 1917.]

SEC.

8. Appropriations or so much as re-  
main undrawn at end of year

SEC.

9. deemed expired.  
Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section eight of chapter seventeen of the code be amended  
and re-enacted so as to read as follows:

Section 8. Every appropriation which is payable out of gen-  
2 eral revenue, or so much thereof as may remain undrawn at the  
3 end of the year for which made, shall be deemed to have expired  
4 and no warrant shall thereafter be issued upon it. *Provided, how-*  
5 *ever,* that warrants may be drawn during a period of sixty days  
6 after the end of the year for which the appropriation is made, if  
7 the warrants are in payment of former years' bills; and, *provided,*  
8 *further,* that appropriations for buildings and land shall remain  
9 in effect, and shall not be deemed to have expired until the end of  
10 three years after the passage of the act by which such appropria-  
11 tions were made.

Sec. 9. All acts or parts of acts inconsistent with this act  
2 are hereby repealed.

## CHAPTER 6.

(House Bill No. 5.)

AN ACT to amend and re-enact chapter seventy-five (75) of the code of West Virginia of one thousand nine hundred and thirteen, entitled "lien for purchase money, and lien of mechanics, laborers, and others."

[Passed February 16, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

- | SEC.  | SEC.   |
|---|--|
| <p>1. Liens for purchase money to be reserved by deed</p>   | <p>do so releases lien against owner.</p>  |
| <p>2. (a) Lien on building and ground to secure payment to.</p> <p>(b) Lien to laborer: for material furnished.</p> <p>(c) Lien for material, machinery or other equipment.</p> <p>(d) Lien for material equipment or supplies.</p> <p>(e) Lien for workman, mechanic, artisan or laborer.</p> <p>(f) Lien for workman or sub-contractor.</p>   | <p>(b) A notice to owner before work is done or material furnished, that he will be held for payment if employer fails to pay obviates other notices.</p>  |
| <p>3. (a) Lien discharged if not perfected and preserved, as provided.</p> <p>(b) General contractor shall cause to be recorded in clerk's office notice; time; form of notice; fee.</p> <p>(c) Sub-contractors shall give notice to owner or agent within sixty days; form of notice; shall within ninety days have recorded a notice of said lien.</p> <p>(d) Materialman or furnisher shall have recorded in office of clerk of county court notice; time.</p> <p>(e) Materialman or furnisher of machinery or equipment shall give notice; form of notice; furnish itemized account; form for account; shall have notice recorded in county court clerk's office.</p> <p>(f) To perfect lien, workman, artisan, mechanic or other person shall have recorded in county court clerk's office, notice; time to give notice and itemized account to owner; forms.</p> <p>(g) What failures shall operate as a discharge of lien.</p> <p>(h) When publication of notice and posting shall be done as to non-residents or "not found."</p> | <p>7. Payment by owner to contractor, etc. does not impair lien of others.</p> <p>8. How an owner may limit his liability.</p> <p>9. How owner may be exempt from more than contract price.</p> <p>10. Form of bond.</p> <p>11. When lien is sought to be enforced, duty of court.</p> <p>12. Contractors for construction of, or repairs on public buildings; required to file bond.</p> <p>13. Who shall be parties to a suit.</p> <p>14. When contractor is deemed an agent of owner.</p> <p>15. Clerk of county court shall enter notice in mechanic's lien docket.</p> <p>16. Proof as to use of material or machinery in building.</p> <p>17. Furnishing for or working on one building secures liens on all, upon notice.</p> <p>18. Failure of owner to perform his part of contract, causing contractor to fall in part, lien for reasonable compensation is held by contractor.</p> <p>19. Workman or laborers for incorporated companies has lien to secure payment.</p> <p>20. Such liens shall be discharged unless person ceased to work and files with clerk of the county court notice of such lien.</p> <p>21. Duty of clerk of county court.</p> <p>22. Time limit of suits to enforce lien.</p> <p>23. If lien is established duty of court; effect of decree.</p> <p>24. How common law lien enforced.</p> <p>25. When debt secured by lien is paid, creditor to cause clerk to enter discharge.</p> <p>26. Citizens of this state shall have lien on steamboats; etc., for labor, material, etc.</p> <p>27. The owner of any stallion, jack or bull shall have lien on foal or calf; when; how collected.</p> |
| <p>4. One contract construed.</p>   |  |
| <p>5. Priority of liens.</p>  |  |
| <p>6. (a) Owner by notice in writing may require person working on building furnishing material, etc., to furnish account of work done, etc.; a failure to</p>  |  |

*Be it enacted by the Legislature of West Virginia:*

That chapter seventy-five (75) of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 1. If any person convey any real estate and the

2 purchase money or part thereof remain unpaid at the time of  
3 the conveyance he shall not thereby have a lien for such unpaid  
4 purchase money, unless such lien is expressly reserved on the  
5 face of the conveyance.

Sec. 2. (a) Every person, firm or corporation, which shall  
2 erect, build, construct, alter, remove or repair any building or  
3 other structure, or other improvement appurtenant to any such  
4 building or other structure, under and by virtue of a contract  
5 with the owner or his authorized agent for such erection, building,  
6 construction, alteration, removal or repair, either for an agreed  
7 lump sum or upon any other basis of settlement and payment,  
8 under a contract with the owner or his authorized agent, shall  
9 have a lien upon such building or other structure or improve-  
10 ment appurtenant thereto, and upon the interest of the owner  
11 thereof in the lot of land whereon the same stands, to secure  
12 the payment of said contract price or other compensation there-  
13 for.

14 (b) Every person, firm or corporation who, under and by  
15 virtue of a contract with such general contractor or with a sub-  
16 contractor for part of said work, either for an agreed contract  
17 price or by day or by piece, or other basis of payment shall furnish  
18 any part of the materials, machinery or other necessary supplies  
19 or equipment, or shall perform any labor or do any work necessary  
20 to the completion of said general contract, in the erection, construc-  
21 tion, building, alteration, repair or removal of any building or other  
22 structure or improvement appurtenant thereto, as provided in  
23 such general contract, shall have a lien upon such building or  
24 other structure or improvement appurtenant thereto, so built,  
25 erected, constructed, repaired or removed thereunder, and upon  
26 the interest of the owner thereof in the lot or tract of land whereon  
27 the same stands.

28 (c) Every person, firm or corporation, which shall furnish  
29 to any owner, for use in the erection, construction, alteration,  
30 repair or removal of any building or other structure or improve-  
31 ment appurtenant thereto, any materials, machinery or other  
32 equipment or supplies necessary to the completion of such build-  
33 ing or other structure or improvement, shall have a lien upon the  
34 said building or other structure or improvement thereto, and  
35 upon the interest of the owner thereof in the lot or tract of  
36 land whereon the same stands, to secure the payment of the

37 value of his said materials, machinery or other equipment or  
38 supplies.

39 (d) Every person, firm or corporation, which shall furnish  
40 to any such general contractor or to any such sub-contractor, any  
41 materials, machinery or other equipment or supplies necessary  
42 to the completion of such building or other structure, or im-  
43 provement appurtenant thereto, for use in the erection, construc-  
44 tion, repair or removal thereof, by virtue of a contract between  
45 such general or sub-contractor and the materialman or furnisher  
46 of machinery, or other supplies or equipment necessary to the  
47 completion of said general contract, shall have a lien upon  
48 such building or other structure or improvement thereto and  
49 upon the interest of the owner in the lot or tract of land whereon  
50 the same stands to secure the payment of the value of such  
51 materials, machinery and other equipment and supplies.

52 (e) Every workman, artisan, mechanic, laborer or other  
53 person, who shall perform any work or labor in the erection, con-  
54 struction, repair or removal of any building or other structure  
55 or improvement appurtenant thereto, by virtue of contract for  
56 such work and labor directly with the owner thereof, shall have  
57 a lien upon the said building, or other structure, or improvement  
58 thereto, and upon the interest of the owner in the land upon  
59 which the same stands, to secure the payment of the value of  
60 such work and labor.

61 (f) Every workman, artisan, mechanic, laborer or other  
62 person, who shall perform any work or labor under the employ-  
63 ment of any general contractor or of any sub-contractor in the  
64 erection, construction, repair or removal of any building or other  
65 structure, or improvement thereto necessary to the completion of  
66 said general contract, shall have a lien upon such building, or  
67 other structure, or improvement appurtenant thereto, and upon  
68 the interest of the owner in the lot or tract of land whereon the  
69 same stands, to secure the payment of the value thereof.

Sec. 3. (a) But the lien created and authorized by para-  
2 graph (a) of section two shall be discharged from and after ninety  
3 days from the completion of said contract, and the lien created  
4 and authorized by paragraph (b) of section two shall be dis-  
5 charged from and after sixty days from the completion of said  
6 sub-contract, and the lien created and authorized by paragraph (c)  
7 of section two shall be discharged from and after ninety days  
8 from the furnishing of the last of said materials, machinery or

9 other supplies and equipment, and the lien created and authorized  
 10 by paragraph (d) of section two shall be discharged from and  
 11 after sixty days from the date of the furnishing of the last of  
 12 said materials, machinery or other equipment or supplies, and  
 13 the lien created and authorized by paragraph (e) of section two  
 14 shall be discharged from and after ninety days from the date of  
 15 the performing of the last of said work and labor, and the lien  
 16 created and authorized by paragraph (f) of section two shall be  
 17 discharged from and after sixty days from the date of the per-  
 18 forming of the last of said work and labor, unless within the said  
 19 respective periods, the claimant of any such lien shall have per-  
 20 fected and preserved the same, as hereinafter provided.

21 (b) For the purpose of perfecting and preserving his said  
 22 lien, any such general contractor as provided in paragraph  
 23 (a) of section two, within ninety days after the com-  
 24 pletion of his work provided for in said contract, shall  
 25 cause to be recorded in the office of the clerk of the county  
 26 court of the county wherein such property is situate, a notice  
 27 of such lien, which notice shall be sufficient if in form and effect  
 28 as follows:

29 *Notice of Mechanic's Lien.*

30 To.....

31 State of West Virginia,

32 County of.....

33 Notice is hereby given, in accordance with the laws of the  
 34 state of West Virginia, that the undersigned claims a lien to  
 35 secure the payment of the sum of \$. . . . . upon the interest  
 36 in and to lot number' . . . . . of block  
 37 number . . . . . as shown on the official map of the city  
 38 of . . . . . (or other adequate and ascertainable de-  
 39 scription of the real estate to be charged), and upon the follow-  
 40 ing buildings, structures and improvements thereon: (list the  
 41 buildings, structures or improvements sought to be charged.)

42 Given under my hand this . . . . . day of . . . . . 19 . . . . .

43 . . . . .  
 44 . . . . . being first duly sworn upon

45 his oath says that the statements contained in the foregoing notice  
 46 of lien are true, as he verily believes.

47 Given under my hand this . . . . . day of . . . . ., 19. . . .

48 My commission expires . . . . .

49 . . . . .

50 (Official Capacity.)

51 For the recordation whereof, the clerk of the said county court  
52 shall be entitled to receive a fee, payable in advance by the person  
53 claiming such lien, of the sum of fifty cents.

54 (c) For the purpose of perfecting and preserving his said  
55 lien, if he desire to do so, every such sub-contractor within sixty  
56 days after the completion of his sub-contract shall give to the owner  
57 or his authorized agent, by any of the methods provided by law, for  
58 the service of legal notices or summons, a notice of lien, which  
59 notice shall be sufficient if in form and effect as follows:

60 *Notice of Mechanic's Lien.*

61 To. . . . .

62 You will please take notice that the undersigned . . . . .  
63 . . . . . was and is sub-contractor with  
64 . . . . ., who was and is general contractor  
65 for the furnishing of materials and doing of the work and labor,  
66 necessary to the completion of (here describe the nature of the  
66-a sub-contract) on that certain building (or other structure or im-  
67 provement as the case may be), owned by you and situate on  
68 lot number . . . . . of block number . . . . . as shown  
69 on the official map of . . . . . (or other definite  
70 and ascertainable description of the real estate) and that the con-  
71 tract price and value of said work and materials is \$. . . . .

72 You are further notified that the undersigned has not been paid  
73 therefor (or has been paid only \$. . . . . thereof) and that  
74 he claims and will claim a lien upon the said building (or other  
75 structure or improvement) and upon your interest in the said  
76 lot, (or tract) of land, to secure the full payment thereof.

77 . . . . .

78 State of West Virginia,

79 County of . . . . .

80 . . . . ., being first duly sworn, upon his  
81 oath says that the statements in the foregoing notice of mechanic's  
82 lien are true, as he verily believes:

83 Taken, subscribed and sworn to before me this . . . . . day of  
84 . . . . ., 19. . . . .

85 My commission expires .....

86 .....

87 (Official Capacity.)

88 But said lien shall be discharged and avoided, unless within  
89 ninety days after the completion of his said sub-contract as afore-  
90 said the said sub-contractor shall cause to be recorded in the office  
91 of the clerk of the county court of the county wherein such prop-  
92 erty is situate a notice of his said lien, which notice shall be  
93 sufficient if in form and effect as that provided in paragraph (b)  
94 of section three of this act.

95 (d) For the purpose of perfecting and preserving his said  
96 lien, every such materialman or furnisher of machinery or other  
97 necessary equipment, under a contract with the owner or his  
98 authorized agent, shall cause to be recorded in the office of the  
99 clerk of the county court of the county wherein such property is  
100 situate, within ninety days from the date when he shall have  
101 ceased to furnish material or machinery or other necessary  
102 equipment, a notice of his said lien, which notice shall be suffi-  
103 cient if in form and effect as that provided in paragraph (b)  
104 of section three of this act.

105 (e) For the purpose of perfecting and preserving his said  
106 lien, every such materialman or furnisher of machinery or other  
107 necessary equipment, who shall have furnished such material,  
108 machinery or equipment under a contract with any such contrac-  
109 tor or with any such sub-contractor, within sixty days after he shall  
110 have ceased to furnish such material or machinery or other equip-  
111 ment, shall give to the owner, or with his authorized agent, by any  
112 of the methods provided by law for the service of legal notices or  
113 summons, a notice of his said lien, which notice shall be sufficient  
114 if in form and effect as follows:

115 *Notice of Mechanic's Lien.*

116 To.....

117 You will please take notice that the undersigned.....  
118 has furnished and delivered to .....  
119 who was contractor with you (or sub-contractor with.....,  
120 who was contractor with you, as the case may be) for use in the  
121 erection and construction (or repair, removal, improvement, as  
122 the case may be) of (here list the buildings or other structure  
123 or improvement to be charged) on the real estate known as (here  
124 insert adequate and ascertainable description of the real estate  
125 to be charged) and that said materials were of the nature, were



126 furnished on the dates and in the quantities and at the price  
127 as shown in the following account thereof:

128 (Here insert itemized account.)

129 You are further notified that the undersigned has not been  
130 paid the sum of \$..... (or that there is still due and  
131 owing to the undersigned thereon the sum of \$.....  
132 and that he claims a lien upon your interest in the said lot (or  
133 tract) and upon the said buildings, structures and improvements  
134 thereon, to secure the payment of the said sum.

135 .....

136 State of West Virginia,

137 County of .....

138 ....., being first duly sworn upon his oath  
139 says that the statements in the foregoing notice of lien con-  
140 tained are true, as he verily believes.

141 Taken, subscribed and sworn to before me, this ..... day of  
142 ....., 19....

143 My commission expires.....

144 .....

145 (Official Capacity.)

146 But such lien shall be discharged and avoided, unless within  
147 ninety days after such materialman or other furnisher of machin-  
148 ery or other necessary equipment, shall have ceased to furnish  
149 such materials or machinery or other equipment, he shall cause  
150 to be recorded in the office of the clerk of the county court of  
151 the county wherein the said property is situate a notice of his  
152 said lien, which notice shall be sufficient if in form and effect  
153 as that provided in paragraph (b) of section three of this act,  
154 and which said recorded notice need not include said itemized  
155 account.

156 (f) For the purpose of perfecting and preserving his said  
157 lien every such workman, artisan, mechanic, laborer or other per-  
157-a son who shall have done any work or performed any labor upon  
158 any such building or improvement, under a contract direct with  
159 the owner thereof or his authorized agent, shall cause to be record-  
160 ed in the office of the clerk of the county court of the county where-  
161 in the said property is situate within ninety days after he shall  
162 have ceased to perform any such work or labor a notice of his  
163 said lien, which notice shall be sufficient if in form and effect  
164 as that provided in paragraph (b) of section three of this act.

165 (g) For the purpose of perfecting and preserving his said

166 lien, every such workman, artisan, mechanic, laborer or other  
 167 person who shall have performed any work or labor upon such  
 168 building or improvement thereto, under a contract with any gen-  
 169 eral contractor or with any sub-contractor, shall cause to be given  
 170 to the owner, by any of the methods provided by law for the  
 171 service of legal summons or notices, within sixty days after he  
 172 shall have ceased to perform any such work or labor, a notice of  
 173 his said lien, which notice shall be sufficient, if in form and  
 174 effect as follows:

175 *Notice of Mechanic's Lien.*

176 To .....

177 You will please take notice that the undersigned has per-  
 178 formed work and labor under a contract with .....  
 179 who was general contractor with you (or who was sub-contractor  
 180 with ....., who was general contractor  
 181 with you) in the erection and construction (or removal, repair,  
 182 improvement or otherwise, as the case may be) of a certain build-  
 183 ing (or other structure or improvement) on real estate known  
 184 as (here insert adequate and ascertainable description of the real  
 185 estate to be charged) and that said work and labor was of the  
 186 kind, was performed on the dates, for the purposes and at the  
 187 prices, as shown in the following itemized account thereof:

188 *(Here insert itemized account.)*

189 You are further notified that the undersigned has not been  
 190 paid the sum of \$..... (or that there is still due and  
 191 owing to the undersigned thereon the sum of \$.....) and  
 192 that he claims a lien upon your interest in the said lot (or tract)  
 193 of land and upon the said buildings (or structure or other im-  
 194 provement) to secure the payment of the said sum.

195 .....

196 State of West Virginia,

197 County of .....

198 ....., being first duly sworn upon  
 199 his oath says that the statements in the foregoing notice of me-  
 200 chanic's lien contained are true, as he verily believes.

200-a .....

201 Taken, subscribed and sworn to before me, this ..... day  
 202 of ....., 19.....

203 My commission expires .....

204 .....

205 (Official Capacity.)

206 But said lien shall be discharged, unless said workman,  
207 artisan, mechanic, laborer or other person shall cause to be re-  
208 corded in the office of the clerk of the county court wherein the  
209 said property is situate, within ninety days after he shall have  
210 ceased to do work or perform labor upon the said building or  
211 improvement thereto, a notice of his said lien, which notice shall  
212 be sufficient if in form and effect as that provided in paragraph  
213 (b) of section three of this act, and which said recorded notice  
214 need not include said itemized account.

215 (h) The failure of any such contractor or person dealing  
216 directly with the owner or his authorized agent to cause such  
217 notice to be recorded within ninety days, as above provided,  
218 or the failure of any such sub-contractor or any person dealing  
219 with any such contractor or sub-contractor to cause to be given  
220 to the said owner within sixty days as above provided, the notice  
221 herein required to be given and to be recorded in the office of the  
222 clerk of the county court, within ninety days, as above provided,  
223 the notice hereinbefore required to be recorded, or the failure  
224 of any such claimant of any such lien to comply substantially  
225 with all of the requirements of this act, for the perfecting and  
226 preservation of his said lien, within the time herein provided  
227 therefor, shall operate as a complete discharge of the said owner  
228 and of his said property from all liens for claims and charges of  
229 any such contractor, sub-contractor, materialman or laborer, for  
230 any work claimed to have been performed and for any materials,  
231 machinery or other necessary equipment claimed to have been  
232 furnished, in connection with said work.

233 (i) In the event that any such owners upon whose real  
234 estate or improvement thereof, it is desired to take such lien  
235 should be non-residents of this state, or in the event that any  
236 officer of this state authorized by law to execute legal process  
237 should make return, "not found" upon any notice of mechanics  
238 lien, which may be presented to him for service, then it shall  
239 be sufficient service of any such notice of mechanics lien upon  
240 such non-resident owner, or upon such owner, as to whom any such  
241 return of "not found" shall be made by any such officer, to  
242 publish a copy of such notice for two successive weeks in some  
243 newspaper of general circulation in said county, and to post  
244 a copy of such notice in a conspicuous place upon the property  
245 sought to be charged thereby, which publishing and posting

246 shall be sufficient if commenced within the period provided by  
247 this act for the filing of such notice.

Sec. 4. For the purposes of this act, all materials furnished  
2 and all work done by any one person, firm or corporation, upon  
3 any one building or the improvements appurtenant thereto shall  
4 be deemed and considered one contract, whether or not all of  
5 said material was bought at one time, or under one general  
6 agreement or otherwise and whether or not all of said work  
7 and labor was contracted for at one time or otherwise.

Sec. 5. All of the liens authorized and created by this act  
2 shall have priority over any and all other liens created by trust  
3 deed or otherwise, on such building or other structure and im-  
4 provements appurtenant thereto and on the interest of the  
5 owner upon the lot of ground whereon the same stands or to  
6 which the same may have been removed, subsequently to the  
7 time when such labor shall have begun to be performed, or  
8 such material or machinery or other necessary equipment shall  
9 have begun to be furnished. Such laborers, artisans, mechanics,  
10 workmen and furnishers of material, machinery and other neces-  
11 sary equipment shall have first liens, and the lien of all such  
12 persons, when perfected and preserved as required by this act,  
13 shall take precedence over any lien taken or to be taken by the  
14 contractor indebted to them for labor, material, machinery or  
15 other equipment, and every assignment or transfer by any such  
15-a head contractor of his contract with the owner or by any such  
16 sub-contractor of his contract with the contractor or any pro-  
17 ceeding in attachment or otherwise against such head contractor  
18 or sub-contractor, with the purpose of incumbering or subjecting  
19 his interest in said contract, shall be subject and subsequent to  
20 the perfected liens of all such laborers, workmen, artisans, ma-  
21 terialmen and furnishers of machinery and other necessary  
22 equipment. But all of the perfected liens of such laborers and  
23 workmen and of such materialmen and furnishers of machinery  
24 and of such contractors and sub-contractors shall be of equal  
25 dignity without priority among themselves, except as herein  
26 otherwise provided.

Sec. 6. (a) The said owner may, at any time, by notice in  
2 writing, require such laborer, mechanic, workman or other per-  
3 son doing work or labor upon said building or other structure or  
4 improvement appurtenant thereto, or to any such materialman  
5 or other person furnishing materials, machinery or other necessary

6 equipment for such work to file with said owner an itemized  
7 account of the work done by said laborer or other person or of  
8 the materials or machinery or other equipment furnished  
9 by said materialman or other person for the said work,  
10 to show the dates upon which said work was done or said ma-  
11 terials were furnished, the price charged therefor and the nature  
12 of such work or materials, and the neglect or failure of any  
13 such laborer, mechanic or other person furnishing materials, ma-  
14 chinery or other necessary equipment for the doing of the same,  
15 so to file the said itemized statement with the said owner, within  
16 ten days after the receipt by him of the said written notice so  
17 to do, shall release the said owner from all responsibility and his  
18 property from all lien or charge for all labor done and for all  
19 materials furnished by the person so failing to file such required  
20 itemized statement, prior to the giving of said notice.

21 (b) Any laborer or other person employed to do any work  
22 or furnish any materials or machinery for the erection, construc-  
23 tion, alteration, repair or removal of any building or other struc-  
24 ture, or any improvement appurtenant thereto, by another who  
25 may have contracted with the owner therefor may, before doing  
26 any work or furnishing any material or machinery, give the  
27 owner of such building or other structure or improvement thereto  
28 notice in writing that if he is not paid therefor by the person  
29 employing him, he will look to the owner for payment; and it  
30 shall not be necessary for the person who has given such notice  
31 in writing to file the account and notice with the owner within  
32 sixty days of the date of the doing of the last work or of the  
33 furnishing of the last of said materials or machinery, unless he  
34 is required by the owner in writing within sixty days to do so, and  
35 his neglect or failure to file such notice and account within sixty  
36 days, unless so required to do so, shall in no way affect or impair  
37 his said lien, if it be otherwise perfected and preserved.

Sec. 7. No payment by the owner or by his authorized agent  
2 to any such contractor or sub-contractor of any part or all of the  
3 contract price for the erection and construction of any such build-  
4 ing, structure or improvement appurtenant thereto or for any  
5 part or section of said work shall affect, impair or limit the lien  
6 of the laborer, or materialman or furnisher of machinery or other  
7 necessary material or equipment, as provided for in this act,  
8 except as herein provided.

Sec. 8. Any such owner may limit his liability upon such

2 building contract to the sum agreed therein to be paid therefor,  
 3 by recording his said contract with the said general contractor  
 4 in the office of the clerk of the county court of the county wherein  
 5 such building or other structure is situate, prior to the beginning of  
 6 the building, erection and construction thereof, and by requiring to  
 7 be given by his general contractor and by recording with his  
 8 said general contract a valid and solvent bond, in a penalty  
 9 equal to the contract price, with solvent surety, conditioned that  
 10 in the event any such laborer, materialman or other person, having  
 11 perfected his lien as allowed by this act, be deprived by the  
 12 recordation of his contract from receiving from said owner the  
 13 amount of his said lien, then the said bond and the sureties  
 14 thereon shall be responsible to said lien or for the amount of  
 15 said lien account, or for any balance thereof not collected by said  
 16 lien or from said owner and from his said property.

Sec. 9. Any such owner who shall cause his said general  
 2 contract to be recorded in the said clerk's office and who shall  
 3 cause to be executed and recorded the bond therewith as pro-  
 4 vided by the next preceding section shall be exempt from the  
 5 payment of more than said contract price, and his said property  
 6 shall likewise be exempt therefrom, and all such liens created  
 7 by this act as are not fully satisfied and discharged by the said  
 8 owner, by reason of the limitation of said recordation, shall be  
 9 paid by said contractor and his said sureties on the said bond.

Sec. 10. The bond referred to in section eight of this act  
 2 shall be sufficient if in form and effect as follows:

3 Know all men by these presents:  
 5 ..... as surety are held and  
 6 firmly bound unto .....  
 7 in the just and full sum of \$....., to the payment whereof  
 8 well and truly to be made, we bind ourselves, our heirs, adminis-  
 9 trators and assigns, jointly and severally by these presents.

10 Sealed with our seals and dated this.....day of  
 11 ....., 19....

12 The condition of the above obligation is such:  
 13 That *whereas*, the said ..... has  
 14 entered into a certain contract with.....  
 15 for the building and erection by the said.....  
 16 for the said.....of a certain  
 17 ....., to be situated.....;  
 18 *and whereas*, it is agreed between the above named principal

19 and surety that no change or modification of such contract shall  
 20 operate to discharge the surety upon this bond; *now, therefore,*  
 21 if the said .....shall well and truly  
 22 perform his said contract, shall pay off, satisfy and discharge  
 23 all claims of sub-contractors, laborers, materialmen and all per-  
 24 sons furnishing material or doing work upon said building, and  
 25 shall save the said ..... and his property  
 26 harmless from any and all liability, over and above the contract  
 27 price thereof, between the said owner and the said contractor,  
 28 for all of said labor and materials, and shall fully pay off and  
 29 discharge and secure the release of any and all mechanic's liens  
 30 which may be placed upon said property by any such sub-contrac-  
 31 tor, laborer or materialman, then this obligation shall be null  
 32 and void. Otherwise to remain in full effect and virtue.

33 ..... (Seal)

34 ..... (Seal)

35 ..... (Seal)

36 Acknowledged before the subscriber, a notary public in and  
 37 for the state of West Virginia and county of.....,  
 38 this.....day of....., 19....

39 My commission expires .....

40 .....

41 Notary Public.

42 No change or modification of any such contract between such  
 43 owner and such general contractor shall operate to discharge or  
 44 release the obligation of the surety or sureties upon any such bond.

Sec. 11. Whenever a lien, perfected and preserved under this  
 2 act, is sought to be enforced against any property outside of any  
 3 city, town or village, it shall be the duty of the court before  
 4 which any suit for the enforcement of such lien is pending, in  
 5 its discretion to determine how much land surrounding any such  
 6 building shall be subject to such lien. In any event, not more  
 7 of such land shall be so subject to such lien than shall be rea-  
 8 sonably necessary to the full enjoyment of the said building or  
 9 other improvement.

Sec. 12. It shall be the duty of the state board of control,  
 2 and of all county courts, boards of education, boards of trustees,  
 3 and other legal bodies having authority to contract for the  
 4 erection, construction, improvement, alteration or repair of any  
 5 public building or other structure, or any building or other  
 6 structure used or to be used for public purposes, to require of

7 every person to whom it shall award, and with whom it shall  
8 enter into, any contract for the erection, construction, improve-  
9 ment, alteration or repair of any such public building or other  
10 structure used or to be used for public purposes, that said con-  
11 tractor shall cause to be executed and delivered to the secretary  
12 of said board or other legal body, or other proper and designated  
13 custodian of the papers and records thereof, a good, valid, solvent  
14 and sufficient bond, in the penal sum equal at the least to the  
15 reasonable cost of the materials, machinery, equipment and labor  
16 required for the completion of said contract, and conditioned  
17 that in the event such contractor shall fail to pay in full for  
18 all such materials, machinery, equipment and labor used by  
19 him in the erection, construction, improvement, alteration or  
20 repair of such public building or other structure, or building  
21 or other structure used or to be used for public purposes, then  
22 said bond and the sureties thereon shall be responsible to said  
23 materialmen, furnisher of machinery or equipment, and furnisher  
24 or performer of said labor, or their assigns, for the full payment  
25 of the full value thereof.

Sec. 13. Whenever it shall be necessary for suit to be  
2 brought for the enforcement of any of the liens contemplated  
3 by this act, as hereinafter provided, the said contractor and the  
4 sureties upon the said bond shall be made parties thereto and  
5 all matters arising upon said bond and the liabilities thereunder  
6 shall be litigated and determined in the said lien suit and it  
7 shall not be necessary for judgment upon said bond to be taken  
8 at law, but all such proceedings as are necessary to enforce liability  
9 upon such bond shall be had in said court of chancery, according  
10 to the usual and ordinary course of proceeding therein.

Sec. 14. In the event any such owner should fail to record  
2 such contract and bond, or should record such contract without  
3 bond, or in the event the penalty of said bond should not be  
4-5 equal to the contract price or in the event the said bond  
6 should be not solvent at the time when given, then the  
7 said contractor shall be deemed to be the agent of the said  
8 owner and the building or other structure and the improvements  
9 appurtenant thereto, together with the interest of the owner  
10 thereof in and to the lot of land whereon the same stands or  
11 to which it is removed, shall be held liable and subject to such  
12 perfected liens, for the full and true value of all work and labor  
13 done and of all materials, machinery and equipment furnished



14 therefor, although the same may exceed in the aggregate the  
15 price stipulated in the contract between the owner and the con-  
16 tractor.

Sec. 15. It shall be the duty of the clerk of the county  
2 court of the county to enter every such notice of lien in a book  
3 by him to be kept for that purpose, to be called "Mechanic's  
4 Lien Record," which book shall be well and properly indexed,  
5 so as to show the names of the parties, the amount and char-  
6 acter of the claim, when filed, and the description of the property  
7 to be charged by said lien, for which service he shall receive  
8 fifty cents, to be paid in advance by the person claiming the  
9 lien.

Sec. 16. Proof of the sale to any such owner, contractor  
2 or sub-contractor of any materials, machinery or other equipment  
3 for use in the performance of any such contract, and of the  
4 delivery of such materials, machinery or other equipment to  
5 the said contractor, sub-contractor or his authorized agent on the  
6 premises shall be prima facie proof of the use of said materials,  
7 machinery or equipment in the erection and construction of the said  
8 building or other structure and of the improvements appurtenant  
9 thereto, and upon the proving of such facts, the burden of showing  
10 that such materials, machinery and equipment were not used in  
11 the said building or other structure or improvement appurtenant  
12 thereto shall be upon the owner or other person disputing the  
13 said use thereof.

Sec. 17. Any materialman or furnisher of machinery or  
2 other equipment necessary to the performance of any one such  
3 general or sub-contract, who shall furnish such materials, ma-  
4 chinery or other equipment in quantities for use in more than  
5 one building or other structure or improvement appurtenant  
6 thereto, and any workmen, laborer or other person who shall  
7 perform work or labor upon more than one such building or  
8 other structure or improvement appurtenant thereto, provided  
9 for in such contract, shall have a lien upon all of such buildings  
10 and other structures and improvement into which his materials  
11 were put or upon which his work and labor was expended and  
12 upon the interest of the owner in and to the lot of ground upon  
13 which all of such buildings and structures stand or to which  
14 they may be removed, and such lien may be perfected and  
15 preserved by one notice thereof to such owner and by one recorda-  
16 tion thereof, and it shall not be necessary for such lienor to give

17 and record notice against each separate building or structure or  
18 improvement thereto.

Sec. 18. When the owner fails to perform his part of the  
2 contract and by reason thereof the other party, without his own  
3 default, is prevented from completely performing his part, he  
4 shall be entitled to reasonable compensation for so much as he  
5 shall have performed, in proportion to the price stipulated for the  
6 whole, and shall have a lien upon the building or other structure  
7 upon which his work may have been performed or for which  
8 his material or machinery was furnished, and upon the interest  
9 of the owner in the lot of ground whereon the same stands, to  
10 secure payment thereof, when properly perfected and preserved  
11 according to the provisions of this act.

Sec. 19. Every workman, laborer or other person who shall  
2 do or perform any work or labor, for any incorporated company  
3 doing business in this state, by virtue of a contract either directly  
4 with such incorporated company or with its general contract  
5 or with any sub-contractor shall have a lien for the value of  
6 such work or labor upon all real estate and personal property  
7 of said company, and such lien shall have priority over any lien  
8 created by deed or otherwise on such real estate or personal  
9 property, subsequent to the time when the said labor was per-  
10 formed, but there shall be no priority of lien as between the  
11 parties claiming under the provisions of this section.

Sec. 20. Such lien shall be discharged unless the person  
2 desiring to avail himself thereof, within ninety days from the  
3 time he shall have ceased to work or labor for such incorporated  
4 company or for such contractor, shall file with the clerk of the  
5 county court of the county in which such work or labor was  
6 performed, or in which the principal office, works, real estate  
7 or personal property of such incorporated company is situated,  
8 a notice of lien containing the amount due him after allowing  
9 all credits, which notice shall be sworn to by the person claim-  
10 ing them, or by some one in his behalf.

Sec. 21. The clerk of the county court, to whom such  
2 notice of lien is presented, shall record the same in the mechanic's  
3 lien record and for which service he shall receive fifty cents, to be  
4 paid by the person claiming the lien.

Sec. 22. Unless a suit to enforce any lien, authorized by  
2 this act, is commenced within six months after the person de-  
3 siring to avail himself thereof, shall have filed his notice in the

4 clerk's office, as hereinbefore provided, such lien shall be dis-  
5 charged; but a suit commenced by any person having such lien,  
6 shall for the purpose of preserving the same, inure to the benefit  
7 of all other persons having a lien under this chapter on the  
8 same property.

Sec. 23. If the lien is established in favor of any of the  
2 creditors whose claims are presented in such suit, the court shall  
3 order a sale of the property on which the lien is established, or  
4 so much thereof as may be sufficient to satisfy such claims as  
5 in like manner as in other suits in chancery, and the court may,  
6 in addition, give a personal decree in favor of such creditors  
7 for the amount of their claims against any party so to whom  
8 they may be established; such decree to have the effect of, and  
9 to be enforced as other decrees for money.

Sec. 24. Any common law lien may be enforced against  
2 any personal property upon which the same may exist, in the  
3 same manner and by the same methods now or hereafter au-  
4 thorized by law to be used by a landlord to enforce the pay-  
5 ment of rent due, and the owner of such property may defend  
6 and protect his rights therein in the same manner and by the  
7 same methods now or hereafter authorized by law to be used  
8 by a tenant in case of distress for rent.

Sec. 25. When a debt secured by such lien is fully paid  
2 at any time after such creditor shall have filed his account in  
3 the office of the clerk of the county court, such creditor shall  
4 cause the clerk to enter a discharge of such lien in the margin  
5 of the book in which such account is entered and immediately  
6 opposite thereto, or shall execute a release thereof, which may  
7 be recorded in the book in which the account is entered.

Sec. 26. The citizens of this state shall have a lien upon  
2 all domestic steamboats, steamers, and vessels, propelled wholly  
3 or in part by steam, gas, fluid, naphtha, or electricity, which  
4 ply upon the navigable waters of this state, and which are reg-  
5 istered in this state, for all work and labor done upon said  
6 vessels, and for all materials, goods, wares and merchandise fur-  
7 nished said vessels; said lien to be enforced by appropriate rem-  
8 edy in courts having jurisdiction of the subject matter.

Sec. 27. That the owner of any stallion, jack or bull, shall  
2 have a lien upon the foal or calf thereof, whenever the service  
3 of such stallion, jack or bull was had by contract with the  
4 owner or agent of the owner, of the dam or cow of such foal

5 or calf, at time of such service. Such lien shall cease unless  
 6 the person desiring to avail himself thereof, shall within the six  
 7 months from the birth of such foal or calf, file before some  
 8 justice in the county in which the said foal or calf may be,  
 9 his own affidavit, or that of some credible person, stating the  
 10 amount of his lien against such foal or calf, and that such  
 11 amount is due by contract, also a description of the foal or calf  
 12 upon which such lien is claimed. Upon the filing of such  
 13 affidavit, the justice shall issue a warrant to the sheriff or any  
 14 constable of any county whose duty it shall be under such warrant  
 15 to distrain for the amount claimed in said affidavit, and such dis-  
 16 tress shall be levied upon such foal, and the same shall be dis-  
 17 posed of in the same manner as if taken under a distress for rent.

## CHAPTER 7.

(House Bill No. 10.)

**AN ACT** authorizing and permitting members of a mining partner-  
 ship to compel the payment of delinquent members without dis-  
 solution of such mining partnership.

[Passed February 19, 1917. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

SEC.

1. Any member of mining partnership  
 may sue for accounting without

SEC.

dissolution thereof; what the  
 court shall do.

2. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Any member or members of a mining partnership  
 2 may institute and prosecute to final decree a suit in equity for an  
 3 accounting among the members of the partnership without the  
 4 dissolution thereof. Upon such accounting the court shall decree  
 5 the sale of the undivided interest or interests of such member or  
 6 members, as may be ascertained to be indebted to any member  
 7 or members, or to the partnership, without decreeing the dissolu-  
 8 tion thereof, unless such dissolution shall be necessary to enable  
 9 a fair sale of such undivided interest or interests to be made in  
 10 such suit.

Sec. 2. All acts or parts of acts inconsistent herewith are  
 2 hereby repealed.

## CHAPTER 8.

(House Bill No. 37.)

AN ACT to adopt uniform warehouse receipts throughout the state of West Virginia and prescribe how such receipts shall be issued and the legality of such receipts when issued.

[Passed February 8, 1917. In effect ninety days from passage. Approved by the Governor February 19, 1917.]

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| <p><b>SEC.</b></p> <ol style="list-style-type: none"> <li>1. Who may issue warehouse receipts.</li> <li>2. What receipt must embody in its terms; warehouseman liable for damage caused by omission from receipt.</li> <li>3. Other terms and conditions governing receipts.</li> <li>4. Non-negotiable receipt.</li> <li>5. Negotiable receipt.</li> <li>6. "Duplicate" receipt to be so marked; liable for damage upon failure to so mark.</li> <li>7. "Non-negotiable" receipt to be so marked; exceptions.</li> <li>8. Provisions as to delivery of goods; must establish lawful excuse for refusal to do so.</li> <li>9. To whom warehouseman is justified in delivering goods.</li> <li>10. Provisions as to delivery of goods to one not lawfully entitled to them.</li> <li>11. If warehouseman falls to cancel negotiable receipt, he shall be liable to purchaser for failure to deliver goods.</li> <li>12. Liable for failure to cancel negotiable receipt after delivery of part of goods.</li> <li>13. Alteration of receipts.</li> <li>14. When court may order delivery of goods; payment of costs and fees; order of court not to relieve warehouseman from liability.</li> <li>15. Receipt marked "duplicate," warranty of its accuracy.</li> <li>16. Title not to excuse warehouseman from liability for refusing to deliver goods.</li> <li>17. Defense for non-delivery; may require claimants to interplead.</li> <li>18. Investigation of adverse claims to possession of goods.</li> <li>19. No right or title of third person shall be defense to an action against warehouseman for failure to deliver goods.</li> <li>20. Liability in case of non-existence of goods; incomplete receipts shall not make warehouseman liable.</li> <li>21. Warehouseman liable for loss or injury to goods; no liability in absence of agreement.</li> <li>22. Goods to be kept separate for purpose of identification.</li> <li>23. Goods may be mingled by agreement of custom; provisions as to ownership.</li> <li>24. Warehouseman liable to each depositor.</li> <li>25. Not liable to attachment by garnishment; or levy; retain possession of goods until receipt is surrendered to him.</li> <li>26. When creditors may invoke aid of courts.</li> </ol> | <p><b>SEC.</b></p> <ol style="list-style-type: none"> <li>27. Lien of warehouseman on goods; lien for other charges.</li> <li>28. Provisions as to enforcement of lien.</li> <li>29. When warehouseman may lose lien upon goods.</li> <li>30. Warehouseman to have no lien if negotiable receipt is issued; exception.</li> <li>31. Valid lien cause for refusal to deliver goods.</li> <li>32. Warehouseman entitled to remedies allowed by law to creditor against debtor.</li> <li>33. How warehouseman's claim for lien may be satisfied; what notice shall contain; sale of goods by auction may be had to satisfy claim for lien; application of proceeds of sale; claimant to goods may satisfy lien before goods are sold.</li> <li>34. Disposition of goods of a perishable nature; proceeds of sale.</li> <li>35. Remedy for enforcing lien herein provided not to preclude other remedies allowed by law.</li> <li>36. If goods are lawfully sold, warehouseman not liable for failure to deliver goods.</li> <li>37. When a negotiable receipt may be negotiated by delivery.</li> <li>38. Receipt may be negotiated by endorsement; form of endorsement.</li> <li>39. When a receipt may be transferred; non-negotiable receipt cannot be negotiated.</li> <li>40. By whom a negotiable receipt may be negotiated.</li> <li>41. Person to whom negotiable receipt has been negotiated acquires title and obligation of warehouseman to hold goods.</li> <li>42. Person to whom receipt is transferred acquires title, subject to agreement; if non-negotiable receipt, warehouseman to be notified of transfer; transfer of non-negotiable receipt defeated by attachment or execution.</li> <li>43. Endorsement of transferee essential for negotiation; when negotiation shall take effect.</li> <li>44. What is warranted by transfer of a receipt by endorsement or delivery.</li> <li>45. Endorsement not to make endorser liable for failure of warehouseman to fulfill obligations.</li> <li>46. Mortgagee who receives payment of debt not deemed to warrant genuineness of receipt.</li> <li>47. Validity of negotiation of a receipt not impaired by being breach of duty or that owner was induced by fraud to entrust custody of receipt.</li> </ol> |
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| <p>48. Person selling goods for which negotiable receipt has been issued, then selling or pledging receipt representing goods, continuing in possession of receipt, subsequent negotiation thereof for value has same effect as if first purchaser had authorized negotiation.</p> <p>49. When negotiable receipt is issued, seller's lien shall not defeat rights of purchaser; warehouseman not obliged to deliver goods to unpaid seller unless receipt is surrendered.</p> <p>50. Warehouseman or agent issuing receipt for goods not received, guilty of crime; penalty.</p> <p>51. Warehouseman or agent fraudulently issuing receipts, guilty of crime; penalty.</p> <p>52. Warehouseman or agent issuing duplicate negotiable receipt without marking same, guilty of crime; penalty.</p> | <p>53. Warehouseman or agent owning goods, and issuing receipt without stating ownership, guilty of crime; penalty.</p> <p>54. Warehouseman or agent delivering goods, knowing that receipt is uncanceled, guilty of crime; penalty.</p> <p>55. Person depositing goods to which he has no title, taking receipt which he afterwards negotiates, guilty of crime; penalty.</p> <p>56. Other cases not herein provided for, governed by rules of law and equity.</p> <p>57. How act shall be interpreted and construed.</p> <p>58. (1) Definition of descriptive terms used in act; (2) construction of term "In good faith."</p> <p>59. Provisions not to apply to receipts prior to act.</p> <p>60. Inconsistent acts repealed.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. Warehouse receipts may be issued by any warehouseman.

Sec. 2. Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms—

- 4 (a) The location of the warehouse where the goods are stored.
- 5 (b) The date of issue of the receipt.
- 6 (c) The consecutive number of the receipt.
- 7 (d) A statement whether the goods received will be delivered
- 8 to the bearer, to a specified person, or to a specified person or his
- 9 order.
- 10 (e) The rate of storage charges.
- 11 (f) A description of the goods or of the packages containing
- 12 them.
- 13 (g) The signature of the warehouseman, which may be made
- 14 by his authorized agent.
- 15 (h) If the receipt is issued for goods of which the warehouse-
- 16 man is owner, either solely or jointly or in common with others,
- 17 the fact of such ownership, and
- 18 (i) A statement of the amount of advances made and of lia-
- 19 bilities incurred for which the warehouseman claims a lien. If
- 20 the precise amount of such advances made or of such liabilities
- 21 incurred is, at the time of the issue of the receipt, unknown to
- 22 the warehouseman or to his agent who issues it, a statement of the
- 23 fact that advances have been made or liabilities incurred and the
- 24 purpose thereof is sufficient.

25 A warehouseman shall be liable to any person injured there-

26 by, for all damage caused by the omission from a negotiable re-  
27 ceipt of any of the terms herein required.

Sec. 3. A warehouseman may insert in a receipt, issued by  
2 him, any other terms and conditions, provided that such terms  
3 and conditions shall not—

4 (a) Be contrary to the provisions of this act.

5 (b) In any wise impair his obligation to exercise that degree  
6 of care in the safe-keeping of the goods entrusted to him which  
7 a reasonably careful man would exercise in regard to similar goods  
8 of his own.

Sec. 4. A receipt in which it is stated that the goods re-  
2 ceived will be delivered to the depositor, or to any other specified  
3 person, is a non-negotiable receipt.

Sec. 5. A receipt in which it is stated that the goods received  
2 will be delivered to the bearer, or to the order of any person  
3 named in such receipt is a negotiable receipt.

4 No provision shall be inserted in a negotiable receipt that it  
5 is non-negotiable. Such provision, if inserted, shall be void.

Sec. 6. When more than one negotiable receipt is issued for  
2 the same goods, the word "duplicate" shall be plainly placed upon  
3 the face of every such receipt, except the one first issued. A  
4 warehouseman shall be liable for all damage caused by his failure  
5 so to do to any one who purchased the subsequent receipt for value  
6 supposing it to be an original, even though the purchase be after  
7 the delivery of the goods by the warehouseman to the holder of  
8 the original receipt.

Sec. 7. A non-negotiable receipt shall have plainly placed  
2 upon its face by the warehouseman issuing it "non-negotiable,"  
3 or "not negotiable." In case of the warehouseman's failure so  
4 to do, a holder of the receipt who purchased it for value suppos-  
5 ing it to be negotiable, may, at his option, treat such receipt as  
6 imposing upon the warehouseman the same liabilities he would  
7 have incurred had the receipt been negotiable.

8 This section shall not apply, however, to letters, memoranda,  
9 or written acknowledgments of an informal character.

Sec. 8. A warehouseman, in the absence of some lawful  
2 excuse provided by this act, is bound to deliver the goods upon a  
3 demand made either by the holder of a receipt for the goods or by  
4 the depositor, if such demand is accompanied with—

5 (a) An offer to satisfy the warehouseman's lien.

6 (b) An offer to surrender the receipt if negotiable, with such

7 indorsements as would be necessary for the negotiation of the  
8 receipt, and

9 (c) A readiness and willingness to sign, when the goods are  
10 delivered, an acknowledgment that they have been delivered, if  
11 such signature is requested by the warehouseman.

12 In case the warehouseman refuses or fails to deliver the goods  
13 in compliance with a demand by the holder or depositor so ac-  
14 companied, the burden shall be upon the warehouseman to estab-  
15 lish the existence of a lawful excuse for such refusal.

Sec. 9. A warehouseman is justified in delivering the goods,  
2 subject to the provisions of the three following sections, to one  
3 who is—

4 (a) The person lawfully entitled to the possession of the  
5 goods, or his agent,

6 (b) A person who is either himself entitled to delivery by the  
7 terms of a non-negotiable receipt issued for the goods, or who has  
8 written authority from the person so entitled either endorsed upon  
9 the receipt or written upon another paper, or

10 (c) A person in possession of a negotiable receipt by the  
11 terms of which the goods are deliverable to him or order or to  
12 bearer, or which has been endorsed to him or in blank by the  
13 person to whom delivery was promised by the terms of the receipt  
14 or by his mediate or immediate indorsee.

Sec. 10. Where a warehouseman delivers the goods to one  
2 who is not in fact lawfully entitled to the possession of them, the  
3 warehouseman shall be liable as for conversion to all having a  
4 right of property or possession in the goods if he delivered the  
5 goods otherwise than as authorized by sub-divisions (b) and (c)  
6 of the preceding section and though he delivered the goods as  
7 authorized by said sub-divisions he shall be so liable, if prior to  
8 such delivery he had either—

9 (a) Been requested, by or on behalf of the person lawfully  
10 entitled to a right of property or possession in the goods, not to  
11 make such delivery, or

12 (b) Had information that the delivery about to be made was  
13 to one not lawfully entitled to the possession of the goods.

Sec. 11. Except as provided in section thirty-six, where a  
2 warehouseman delivers goods for which he had issued a negotiable  
3 receipt, the negotiation of which would transfer the right to the  
4 possession of the goods, and fails to take up and cancel the receipt,  
5 he shall be liable to any one who purchases for value in good



6 faith such receipt, for failure to deliver the goods to him, whether  
7 such purchaser acquired title to the receipt before or after the  
8 delivery of the goods by the warehouseman.

Sec. 12. Except as provided in section thirty-six, where a  
2 warehouseman delivers part of the goods for which he had issued  
3 a negotiable receipt and fails either to take up and cancel such  
4 receipt, or to place plainly upon it a statement of what goods or  
5 packages have been delivered he shall be liable, to any one who  
6 purchases for value in good faith such receipt, for failure to  
7 deliver all the goods specified in the receipt, whether such pur-  
8 chaser acquired title to the receipt before or after the delivery or  
9 any portion of the goods by the warehouseman.

Sec. 13. The alteration of a receipt shall not excuse the  
2 warehouseman who issued it from any liability if such alteration  
3 was

- 4 (a) Immaterial,
- 5 (b) Authorized, or
- 6 (c) Made without fraudulent intent

7 If the alteration was authorized, the warehouseman shall  
8 be liable according to the terms of the receipt as altered. If the  
9 alteration was unauthorized, but made without fraudulent intent,  
10 the warehouseman shall be liable according to the terms of the  
11 receipt, as they were before alteration.

12 Material and fraudulent alteration of a receipt shall not ex-  
13 cuse the warehouseman who issued it from liability to deliver,  
14 according to the terms of the receipt as originally issued, the  
15 goods for which it was issued, but shall excuse him from any  
16 other liability to the person who made the alteration and to any  
17 person who took, with notice of the alteration. Any purchaser  
18 of the receipt for value without notice of the alteration shall  
19 acquire the same rights against the warehouseman which such  
20 purchaser would have acquired if the receipt had not been altered  
21 at the time of the purchase.

Sec. 14. Where a negotiable receipt has been lost or destroy-  
2 ed, a court of competent jurisdiction may order the delivery of  
3 the goods upon satisfactory proof of such loss or destruction and  
4 upon the giving of a bond with sufficient sureties to be approved  
5 by the court to protect the warehouseman from any liability or  
6 expense, which he or any person injured by such delivery may  
7 incur by reason of the original receipt remaining outstanding.

8 The court may also in its discretion order the payment of the  
9 warehouseman's reasonable costs and counsel fees.

10 The delivery of the goods under an order of the court as  
11 provided in this section, shall not relieve the warehouseman from  
12 liability to a person to whom the negotiable receipt has been or  
13 shall be negotiated for value without notice of the proceedings or  
14 of the delivery of the goods.

Sec. 15. A receipt upon the face of which the word "dupli-  
2 cate" is plainly placed is a representation and warranty by the  
3 warehouseman that such receipt is an accurate copy of an original  
4 receipt properly issued and uncanceled at the date of the issue of  
5 the duplicate, but shall impose upon him no other liability.

Sec. 16. No title or right to the possession of the goods, on  
2 the part of the warehouseman, unless such title or right is derived  
3 directly or indirectly from a transfer made by the depositor at  
4 the time of or subsequent to the deposit for storage, or from the  
5 warehouseman's lien, shall excuse the warehouseman from liabil-  
6 ity for refusing to deliver the goods according to the terms of the  
7 receipt.

Sec. 17. If more than one person claims the title or pos-  
2 session of the goods, the warehouseman may, either as a defense  
3 to an action brought against him for non-delivery of the goods,  
4 or as an original suit, whichever is appropriate, require all known  
5 claimants to inter-plead.

Sec. 18. If some one other than the depositor or person  
2 claiming under him has a claim to the title or possession of the  
3 goods, and the warehouseman has information of such claim, the  
4 warehouseman shall be excused from liability for refusing to de-  
5 liver the goods, either to the depositor or person claiming under  
6 him or to the adverse claimant, until the warehouseman has had  
7 a reasonable time to ascertain the validity of the adverse claim or  
8 to bring legal proceedings to compel all claimants to interplead.

Sec. 19. Except as provided in the two preceding sections  
2 and in sections nine and thirty-six, no right or title of a third  
3 person shall be a defense to an action brought by the depositor or  
4 person claiming under him against the warehouseman for failure  
5 to deliver the goods according to the terms of the receipt.

Sec. 20. A warehouseman shall be liable to the holder of a  
2 receipt for damages caused by the non-existence of the goods or  
3 by the failure of the goods to correspond with the description  
4 thereof in the receipt at the time of its issue. If, however, the

5 goods are described in a receipt merely by a statement of marks  
6 or labels upon them, or upon packages containing them, or by a  
7 statement that the goods are said to be goods of a certain kind,  
8 or that the packages containing the goods are said to contain  
9 goods of a certain kind, or by words of like purport, such state-  
10 ments, if true, shall not make liable the warehouseman issuing  
11 the receipt, although the goods are not of the kind which the  
12 marks or labels upon them indicate, or of the kind they were said  
13 to be by the depositor.

Sec. 21. A warehouseman shall be liable for any loss or  
2 injury to the goods caused by his failure to exercise such care  
3 in regard to them as a reasonably careful owner of similar goods  
4 would exercise, but he shall not be liable, in the absence of an  
5 agreement to the contrary, for any loss or injury to the goods  
6 which could not have been avoided by the exercise of such care.

Sec. 22. Except as provided in the following section, a  
2 warehouseman shall keep the goods so far separate from goods of  
3 other depositors, and from other goods of the same depositor for  
4 which a separate receipt has been issued, as to permit at all times  
5 the identification and re-delivery of the goods deposited.

Sec. 23. If authorized by agreement or by custom, a ware-  
2 houseman may mingle fungible goods with other goods of the  
3 same kind and grade. In such case the various depositors of the  
4 mingled goods shall own the entire mass in common and each  
5 depositor shall be entitled to such portion thereof as the amount  
6 deposited by him bears to the whole.

Sec. 24. The warehouseman shall be severally liable to each  
2 depositor for the care and re-delivery of his share of such mass to  
3 the same extent and under the same circumstances as if the goods  
4 had been kept separate.

Sec. 25. If goods are delivered to a warehouseman by the  
2 owner or by a person whose act in conveying the title to them to a  
3 purchaser in good faith for value would bind the owner, and a  
4 negotiable receipt is issued for them, they can not thereafter, while  
5 in the possession of the warehouseman, be attached by garnish-  
6 ment or otherwise, or be levied upon under an execution, unless  
7 the receipt be first surrendered to the warehouseman, or its nego-  
8 tiation enjoined. The warehouseman shall in no case be com-  
9 pelled to deliver up the actual possession of the goods until the  
10 receipt is surrendered to him or impounded by the court.

Sec. 26. A creditor whose debtor is the owner of a negotia-

2 ble receipt shall be entitled to such aid from courts of appropriate  
3 jurisdiction, by injunction and otherwise, in attaching such re-  
4 ceipt or in satisfying the claim by means thereof as is allowed at  
5 law or in equity, in regard to property which can not readily be  
6 attached or levied upon by ordinary legal process.

Sec. 27. Subject to the provisions of section thirty, a ware-  
2 houseman shall have a lien on goods deposited or on the proceeds  
3 thereof in his hands, for all lawful charges for storage and  
4 preservation of the goods; also for all lawful claims for money  
5 advanced, interest, insurance, transportation, labor, weighing,  
6 cooping and other charges and expenses in relation to such  
7 goods; also for all reasonable charges and expenses for notice,  
8 and advertisements of sale, and for sale of the goods where de-  
9 fault has been made in satisfying the warehouseman's lien.

Sec. 28. Subject to the provisions of section thirty a ware-  
2 houseman's lien may be enforced—

3 (a) Against all goods, whenever deposited, belonging to the  
4 person who is liable as debtor for the claim in regard to which the  
5 lien is asserted, and

6 (b) Against all goods belonging to others which have been  
7 deposited at any time by the person who is liable as debtor for  
8 the claims in regard to which the lien is asserted if such person  
9 has been so entrusted with the possession of the goods that a  
10 pledge of the same by him at the time of the deposit to one who  
11 took the goods in good faith for value would have been valid.

Sec. 29. A warehouseman loses his lien upon goods—

2 (a) By surrendering possession thereof, or

3 (b) By refusing to deliver the goods when a demand is made  
4 with which he is bound to comply under the provisions of this  
5 act.

Sec. 30. If a negotiable receipt is issued for goods, the ware-  
2 houseman shall have no lien thereon, except for charges for stor-  
3 age of those goods subsequent to the date of the receipt, unless  
4 the receipt expressly enumerates other charges for which a lien is  
5 claimed. In such case there shall be a lien for the charges  
6 enumerated so far as they are within the terms of section twenty-  
7 seven, although the amount of the charges so enumerated is not  
8 stated in the receipt.

Sec. 31. A warehouseman having a lien valid against the  
2 person demanding the goods may refuse to deliver the goods to  
3 him until the lien is satisfied.

Sec. 32. Whether a warehouseman has or has not a lien upon the goods, he is entitled to all remedies allowed by law a creditor against his debtor, for the collection from the depositor of all charges and advances which the depositor has expressly or impliedly contracted with the warehouseman to pay.

Sec. 33. A warehouseman's lien for a claim which has become due may be satisfied as follows:

The warehouseman shall give a written notice to the person on whose account the goods are held, and to any other person known by the warehouseman to claim an interest in the goods. Such notice shall be given by delivery in person or by registered letter addressed to the last known place of business or abode of the person to be notified. The notice shall contain—

(a) An itemized statement of the warehouseman's claim, showing the sum due at the time of the notice and the date or dates when it became due,

(b) A brief description of the goods against which the lien exists,

(c) A demand that the amount of the claim as stated in the notice, and of such further claim as shall accrue, shall be paid on or before a day mentioned, not less than ten days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination, according to the due course of post, if the notice is sent by mail, and

(d) A statement that unless the claim is paid within the time specified the goods will be advertised for sale and sold by auction at a specified time and place.

In accordance with the terms of a notice so given, a sale of the goods by auction may be had to satisfy any valid claim of the warehouseman for which he has a lien on the goods. The sale shall be had in the place where the lien was acquired, or, if such place is manifestly unsuitable for the purpose, at the nearest suitable place. After the time for the payment of the claim specified in the notice to the depositor has elapsed, an advertisement of the sale, describing the goods to be sold, and stating the name of the owner or person on whose account the goods are held, and the time and place of the sale, shall be published once a week for two consecutive weeks in a newspaper published in the place where such sale is to be held. The sale shall not be held less than fifteen days from the time of the first publication. If there is no newspaper published in such place, the advertisement shall be

37 posted at least ten days before such sale in not less than six  
38 conspicuous places therein.

39 From the proceeds of such sale the warehouseman shall  
40 satisfy his lien, including the reasonable charges of notice, ad-  
41 vertisement, and sale. The balance, if any, of such proceeds  
42 shall be held by the warehouseman, and delivered on demand to  
43 the person to whom he would have been bound to deliver or justified  
44 in delivering the goods.

45 At any time before the goods are so sold any person claim-  
46 ing a right of property or possession therein may pay the ware-  
47 houseman the amount necessary to satisfy his lien and to pay  
48 the reasonable expenses and liabilities incurred in serving notices  
49 and advertising and preparing for the sale up to the time of such  
50 payment. The warehouseman shall deliver the goods to the per-  
51 son making such payment if he is a person entitled, under the  
52 provisions of this act, to the possession of the goods on payment  
53 of charges thereon. Otherwise the warehouseman shall retain  
54 possession of the goods according to the terms of the original  
55 contract of deposit.

Sec. 34. If goods are of a perishable nature, or by keeping  
2 will deteriorate greatly in value, or by their odor, leakage, in-  
3 flamability, or explosive nature, will be liable to injure other  
4 property, the warehouseman may give such notice to the owner,  
5 or to the person in whose name the goods are stored, as is reason-  
6 able and possible under the circumstances, to satisfy the lien  
7 upon such goods, and to remove them from the warehouse, and  
8 in the event of the failure of such person to satisfy the lien and  
9 to remove the goods within the time so specified, the warehouse-  
10 man may sell the goods at public or private sale without advertis-  
11 ing. If the warehouseman after a reasonable effort is unable to  
12 sell such goods, he may dispose of them in any lawful manner,  
13 and shall incur no liability by reason thereof.

14 The proceeds of any sale made under the terms of this sec-  
15 tion shall be disposed of in the same way as the proceeds of sales  
16 made under the terms of the preceding section.

Sec. 35. The remedy for enforcing a lien herein provided  
2 does not preclude any other remedies allowed by law for the  
3 enforcement of a lien against personal property nor bar the right  
4 to recover so much of the warehouseman's claim as shall not be  
5 paid by the proceeds of the sale of the property.

Sec. 36. After goods have been lawfully sold to satisfy a

2 warehouseman's lien, or have been lawfully sold or disposed of  
3 because of their perishable or hazardous nature, the warehouse-  
4 man shall not thereafter be liable for failure to deliver the goods  
5 to the depositor, or owner of the goods, or to a holder of the  
6 receipt given for the goods when they were deposited, even if  
7 such receipt be negotiable.

Sec. 37. A negotiable receipt may be negotiated by de-  
2 livery—

3 (a) Where, by the terms of the receipt, the warehouseman  
4 undertakes to deliver the goods to the bearer, or

5 Where, by the term of a negotiable receipt, the goods are  
6 deliverable to bearer or where a negotiable receipt has been in-  
7 dorsed in blank or to bearer, any holder may indorse the same  
8 to himself or to any other specified person, and in such case the  
9 receipt shall thereafter be negotiated only by the indorsement of  
10 such indorsee.

Sec. 38. A negotiable receipt may be negotiated by the in-  
2 dorsement of the person to whose order the goods are, by the  
3 terms of the receipt, deliverable. Such indorsement may be in  
4 blank, to bearer or to a specified person. If indorsed to a speci-  
5 fied person, it may be again negotiated by the indorsement of  
6 such person in blank, to bearer, or to another specified person.  
7 Subsequent negotiation may be made in like manner.

Sec. 39. A receipt which is not in such form that it can be  
2 negotiated by delivery may be transferred by the holder by de-  
3 livery to a purchaser or donee.

4 A non-negotiable receipt can not be negotiated, and the in-  
5 dorsement of such a receipt gives the transferee no additional  
6 right.

Sec. 40. A negotiable receipt may be negotiated—

2 (a) By the owner thereof, or

3 (b) By any person to whom the possession or custody of  
4 the receipt has been entrusted by the owner, if, by the terms of  
5 the receipt, the warehouseman undertakes to deliver the goods to  
6 the order of the person to whom the possession or custody of the  
7 receipt has been entrusted, or if at the time of such entrusting  
8 the receipt is in such form that it may be negotiated by delivery.

Sec. 41. A person to whom a negotiable receipt has been  
2 duly negotiated acquires thereby—

3 (a) Such title to the goods as the person negotiating the  
4 receipt to him had or had ability to convey to a purchaser in good

5 faith for value, and also such title to the goods as the depositor  
6 or person to whose order the goods were to be delivered by the  
7 terms of the receipt had or had ability to convey to a purchaser  
8 in good faith for value, and

9 (b) The direct obligation of the warehouseman to hold  
10 possession of the goods for him according to the terms of the  
11 receipt as fully as if the warehouseman had contracted directly  
12 with him.

Sec. 42. A person to whom a receipt has been transferred  
2 but not negotiated, acquires thereby, as against the transferor,  
3 the title of the goods, subject to the terms of any agreement with  
4 the transferor.

5 If the receipt is non-negotiable such person also acquires the  
6 right to notify the warehouseman of the transfer to him of such  
7 receipt, and thereby to acquire the direct obligation of the ware-  
8 houseman to hold possession of the goods for him according to  
9 the terms of the receipt.

10 Prior to the notification of the warehouseman by the trans-  
11 feror or transferee of a non-negotiable receipt, the title of the  
12 transferee to the goods and the right to acquire the obligation of  
13 the warehouseman may be defeated by the levy of an attachment  
14 or execution upon the goods by a creditor of the transferor, or  
15 by a notification to the warehouseman by the transferor or a  
16 subsequent purchaser from the transferor of a subsequent sale  
17 of the goods by the transferor.

Sec. 43. Where a negotiable receipt is transferred for value  
2 by delivery, and the indorsement of the transferor is essential for  
3 negotiation, the transferee acquires a right against the transferor  
4 to compel him to indorse the receipt unless a contrary intention  
5 appears. The negotiation shall take effect as of the time when  
6 the indorsement is actually made.

Sec. 44. A person who for value negotiates or transfers a  
2 receipt by indorsement or delivery, including one who assigns for  
3 value a claim secured by a receipt, unless a contrary intention  
4 appears, warrants—

- 5 (a) That the receipt is genuine,
- 6 (b) That he has a legal right to negotiate or transfer it,
- 7 (c) That he has knowledge of no fact which would impair  
8 the validity or worth of the receipt, and
- 9 (d) That he has a right to transfer the title to the goods  
10 and that the goods are merchantable or fit for a particular pur-



11 pose whenever such warranties would have been implied, if the  
12 contract of the parties had been to transfer without a receipt the  
13 goods represented thereby.

Sec. 45. The indorsement of a receipt shall not make the  
2 indorser liable for any failure on the part of the warehouseman  
3 or previous indorsers of the receipt to fulfill their respective  
4 obligations.

Sec. 46. A mortgagee, pledgee or holder for security of a  
2 receipt who in good faith demands or receives payment of the debt  
3 for which such receipt is security, whether from a party to a  
4 draft drawn for such debt or from any other person, shall not by  
5 so doing be deemed to represent or to warrant the genuineness of  
6 such receipt or the quantity or quality of the goods therein de-  
7 scribed.

Sec. 47. The validity of the negotiation of a receipt is not  
2 impaired by the fact that such negotiation was a breach of duty  
3 on the part of the person making the negotiation, or by the fact  
4 that the owner of the receipt was induced by fraud, mistake, or  
5 duress to entrust the possession or custody of the receipt to such  
6 person, if the person to whom the receipt was negotiated, or a  
7 person to whom the receipt was subsequently negotiated, paid  
8 value therefor, without notice of the breach of duty, or fraud,  
9 mistake or duress.

Sec. 48. Where a person having sold, mortgaged, or pledg-  
2 ed goods which are in a warehouse and for which a negotiable  
3 receipt has been issued, or having sold, mortgaged, or pledged the  
4 negotiable receipt representing such goods, continues in posses-  
5 sion of the negotiable receipt, the subsequent negotiation thereof  
6 by that person under any sale, or other disposition thereof to any  
7 person receiving the same in good faith, for value and without  
8 notice of the previous sale, mortgage or pledge, shall have the  
9 same effect as if the first purchaser of the goods or receipt had  
10 expressly authorized the subsequent negotiation.

Sec. 49. Where a negotiable receipt has been issued for  
2 goods, no seller's lien or right or stoppage in transitu shall de-  
3 feat the rights of any purchaser for value in good faith to whom  
4 such receipt has been negotiated, whether such negotiation be  
5 prior or subsequent to the notification to the warehouseman who  
6 issued such receipt of the seller's claim to a lien or right of  
7 stoppage in transitu. Nor shall the warehouseman be obliged to  
8 deliver or justified in delivering the goods to an unpaid seller  
9 unless the receipt is first surrendered for cancellation.

Sec. 50. A warehouseman, or any officer, agent or servant of a warehouseman, who issues or aids in issuing a receipt knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his actual control at the time of issuing such receipt, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

Sec. 51. A warehouseman, or any officer, agent or servant of a warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

Sec. 52. A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate," except in the case of a lost or destroyed receipt after proceedings as provided for in section fourteen, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years or by a fine not exceeding five thousand dollars, or by both.

Sec. 53. Where there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents or servants who, knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

Sec. 54. A warehouseman, or any officer, agent or servant of a warehouseman who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in the cases provided for in sections fourteen and thirty-six, be guilty of a crime, and upon conviction shall be punished

9 for each offense by imprisonment not exceeding one year, or by a  
10 fine not exceeding one thousand dollars, or by both.

Sec. 55. Any person who deposits goods to which he has  
2 not title, or upon which there is a lien or mortgage, and who takes  
3 for such goods a negotiable receipt which he afterwards nego-  
4 tiates for value with intent to deceive and without disclosing  
5 his want of title or the existence of the lien or mortgage shall be  
6 guilty of a crime, and upon conviction shall be punished for each  
7 offense by imprisonment not exceeding one year, or by a fine not  
8 exceeding one thousand dollars, or by both.

Sec. 56. In any case not provided for in this act, the rules  
2 of law and equity, including the law merchant, and in particular the  
3 rules relating to the law of principal and agent and to the effect  
4 of fraud, misrepresentation, duress or coercion, mistake, bank-  
5 ruptcy, or other invalidating cause, shall govern.

Sec. 57. This act shall be so interpreted and construed as  
2 to effectuate its general purpose to make uniform the law of  
3 those states which enact it.

Sec. 58. (1) In this act, unless the context or subject  
2 matter otherwise requires—

3 "Action" includes counter claim, set-off, and suit in equity.

4 "Delivery" means voluntary transfer of possession from one  
5 person to another.

6 "Fungible goods" means goods of which any unit is, from  
7 its nature or by mercantile custom, treated as the equivalent of  
8 any other unit.

9 "Goods" means chattels or merchandise in storage, or which  
10 has been or is about to be stored.

11 "Holder" of a receipt means a person who has both actual  
12 possession of such receipt and a right of property therein.

13 "Order" means an order by indorsement on the receipt.

14 "Owner" does not include mortgagee or pledgee.

15 "Person" includes a corporation or partnership of two or  
16 more persons having a joint or common interest.

17 To "purchase" includes to take as mortgagee or as pledgee.

18 "Purchaser" includes mortgagee and pledgee.

19 "Receipt" means a warehouse receipt.

20 "Value" is any consideration sufficient to support a simple  
21 contract. An antecedent or pre-existing obligation, whether for  
22 money or not, constitutes value where a receipt is taken either in  
23 satisfaction thereof or as security therefor.

24 "Warehouseman" means a person lawfully engaged in the  
25 business of storing goods for profit.

26 (2) A thing is done "in good faith" within the meaning of  
27 this act, when it is in fact done honestly, whether it be done  
28 negligently or not.

Sec. 59. The provisions of this act do not apply to receipts  
2 made and delivered prior to the taking effect of this act.

Sec. 60. All acts or parts of acts inconsistent with this act  
2 are hereby repealed.

## CHAPTER 9.

(House Bill No. 52.)

AN ACT to authorize the county court of any county the territory  
whereof is separated from the territory of any other state by a  
river to appropriate money, lay levies and expend money procured  
by bonds or otherwise, for the construction and maintenance of  
an interstate bridge or bridges over said river or rivers; and to au-  
thorize any such county court to enter into agreements with the  
proper authorities of any such state or any county of said state for  
the erection and maintenance jointly of said bridge or bridges.

[Passed February 8, 1917. In effect from passage. Approved by the Governor  
February 15, 1917.]

<p>SEC. 1. County court has power to lay levy for bridges.</p> <p>2. Authorized to supervise expenditure;</p>		<p>SEC. to make agreements with author- ities of another state separated by river from West Virginia.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of any county of West Virginia,  
2 where the territory of said county is separated from the territory  
3 of any other state by a river, is hereby authorized and empowered  
4 to appropriate money, lay levies and expend money procured by  
5 bond or otherwise, for the construction and maintenance of bridges  
6 over said river, in the same manner and to the same extent as such  
7 county courts are now authorized by law to appropriate money,  
8 lay levies and expend funds for the construction and maintenance  
9 of bridges over streams lying wholly within the territory of such  
10 counties.

Sec. 2. The county court of any such county is authorized  
2 and empowered to supervise the expenditure of such money and to  
3 make such or any agreements with the proper authorities of any

4 state, or any counties thereof, so separated by a river from the state  
5 of West Virginia, to provide for the erection and maintenance  
6 jointly of such a bridge, although the whole of the structure of  
7 such a bridge exclusive of approaches may lie without the terri-  
8 tory of the state of West Virginia.

## CHAPTER 10.

(House Bill No. 53.)

AN ACT to create in the state department of agriculture, a bureau  
to be known as the "Bureau of Markets."

[Passed February 17, 1917. In effect ninety days from passage. Approved by the  
Governor February 23, 1917.]

SEC.	SEC.
<p>1. Bureau of markets. The commissioner of agriculture with approval of the governor, may appoint chief of bureau of markets; board of control to fix compensation.</p>	<p>5. To inspect and determine grade of farm produce.</p>
<p>2. Acting under direction of commissioner of agriculture, co-operating with bureau of federal department of agriculture; duties of.</p>	<p>6. May prescribe zone from which farm produce may be consigned; safeguarding of food produce; shall proceed to sell; what to be done in case it cannot be sold at auction; proceeds of sale.</p>
<p>3. Chief may cause to be established auction markets; notice; products consigned to licensed auctioneer of bureau; chief has power.</p>	<p>7. As far as practicable a daily bulletin shall be published giving quotations; best method of standardizing, etc. list of producers, etc.</p>
<p>4. License may issue to such persons as qualify as official auctioneers; how license may issue; bond required; commissions; duties of commissioner of agriculture.</p>	<p>8. Investigate delays in transportation; prevent restraint of trade, unlawful combinations etc.</p>
	<p>9. Any licensed auctioneer, fails to account for, market conditions, purchase, false statements, excessive charges, penalty.</p>
	<p>10. Commissioner of agriculture to call upon county and state officials; their duty.</p>

*Be it enacted by the Legislature of West Virginia:*

Section 1. There is hereby established in the state department of agriculture a bureau of markets. The head of such bureau shall be known as the chief of the bureau of markets. The commissioner of agriculture may appoint, subject to the approval of the governor, the chief of the bureau of markets and the board of control shall fix his compensation, at a salary not to exceed twenty-four hundred dollars per annum.

Sec. 2. Acting under the general direction of the commissioner of agriculture and co-operating with the bureau of markets of the federal department of agriculture, it shall be the duty of the chief in the bureau of markets to investigate the cost of food production and marketing in all its phases; to aid and assist in the organization of co-operative societies among producers and consumers for

6 the purpose of securing more direct business relations between  
7 them, of promoting and conserving the interests of producers, and  
8 reducing the cost of living to consumers, to hear complaints and  
9 suggestions, take testimony of witnesses and obtain evidence,  
10 and, for the exercise of such powers may issue subpoenas and  
11 compel the attendance of witnesses and the production of evi-  
12 dence; to advise and assist in the location and establishment of  
13 local markets whenever it is determined that public necessity or  
14 the welfare of the community requires such markets provided he  
15 shall be satisfied that such markets will be successfully operated  
16 by a co-operative company; to have power to make rules and  
17 regulations for the grading, packing, handling, storage and sale  
18 of all food stuffs within the state, not contrary to law, and to  
19 enforce such rules and regulations by actions or proceedings in  
20 any court of competent jurisdiction.

Sec. 3. The chief in the bureau of markets may cause to be  
2 established at such points in the state as may be deemed ad-  
3 visable, auction markets, and for such purpose may lease premises  
4 therefor. Upon the establishment of such a market the chief  
5 in the bureau of markets shall cause a notice to be published in  
6 such manner as he deems proper stating that such market has  
7 been established and that farm products may be consigned to a  
8 licensed auctioneer at such market for sale at public auction  
9 by such licensed auctioneer of the bureau of markets at such  
10 market, as hereinafter provided. The chief of the bureau of  
11 markets shall have power to make regulations, not inconsistent  
12 with law, for operating the facilities in such auction markets,  
13 leasing space therein and otherwise regulating the management  
14 thereof.

Sec. 4. Upon the establishment of an auction market, the  
2 commissioner of agriculture may issue a license to such persons as  
3 qualify, as hereinafter provided, in the city, town or village in which  
4 such market is located, authorizing them to act as official auc-  
5 tioneers for the bureau of markets, in the sale of such goods  
6 consigned to them. Such license may be issued upon written  
7 application to the commissioner of agriculture, stating the full  
8 name of the person applying for such license, his address, and  
9 such other facts as to his character, responsibility and experience,  
10 as the commissioner shall require. The issuance of such license  
11 shall be in the discretion of the commissioner of agriculture and  
12 shall be without charge. The commissioner shall require a per-

13 son licensed as an auctioneer pursuant to this section to execute  
14 and deliver to him a bond with satisfactory sureties in such sum  
15 as the commissioner may determine, not less than one thousand  
16 dollars, conditioned for the faithful performance of his duties  
17 and the faithful accounting to a consignor of all moneys to  
18 which such consignor may be entitled after the deduction of  
19 commissions and other expenses authorized by this act. Such  
20 auctioneers shall receive no compensation from the state but  
21 shall be entitled to charge commissions for the sale of farm  
22 produce in accordance with the schedules of the bureau of mar-  
23 kets. Every shipper consigning food produce to such licensed  
24 auctioneers for sale shall be charged in addition to the com-  
25 mission of the licensed auctioneer, as above provided, an addi-  
26 tional commission of three per centum of the gross amount re-  
27 ceived for such produce, which shall be paid into the state treas-  
28 ury and applied to the support of the bureau of markets.

29 The commissioner of agriculture shall adopt, and may from  
30 time to time amend, a schedule of commissions which official  
31 auctioneers shall be authorized to charge for the sale of farm  
32 produce at public auction under the jurisdiction of the bureau  
33 of markets. Such commissions may vary according to the quality  
34 and character of the produce; *provided, however*, that nothing  
35 herein contained shall prevent any owner of farm produce from  
36 selling in person or by order without charge. The commissioner  
37 shall also establish a schedule of charges for inspection by the  
38 bureau of markets.

Sec. 5. The bureau of markets shall have power to inspect  
2 and determine the grade and condition of farm produce at col-  
3 lecting centers, receiving centers and shipping points.

Sec. 6. The commissioner of agriculture may, in the es-  
2 tablishment of an auction market, also prescribe the zone from  
3 which farm produce may be consigned thereto. The chief of the  
4 bureau of markets shall make arrangement for the proper place  
5 and be responsible for the safeguarding of food produce con-  
6 signed to auction markets. Farm produce so consigned to an  
7 auction market shall be received by the licensed auctioneer or  
8 auctioneers of the bureau of markets, who shall proceed to sell  
9 such produce at public auction as auctioneers for the consignor  
10 at the best price obtainable therefor. If for any reason such  
11 an auctioneer be unable to sell it at auction at a satisfactory  
12 price, such unsold portion may be distributed and sold at private

13 sale at the best price obtainable therefor. After such sale, such  
14 auctioneer shall deduct his commissions and other authorized  
15 charges, and promptly transmit the balance to the consignør.

Sec. 7. So far as may be practicable the chief in the bureau  
2 of markets shall publish a daily bulletin, setting forth the quota-  
3 tions for which produce has been sold for the preceding day in  
4 all the principal markets of the state, including the auction mar-  
5 kets, and also giving advice as to the available supplies of the  
6 principal farm produce, and as to the demand in the several  
7 markets for local as well as foreign produce. He shall also pre-  
8 pare from time to time bulletins as to the most efficient methods  
9 of standardization, packing and transportation, and cause notice  
10 thereof to be distributed in such manner as the commissioner of  
11 agriculture may determine. He shall also investigate the source  
12 of supply of food produce and prepare and publish lists of the  
13 names and addresses of producers and consignors and supply the  
14 same to persons applying therefor.

Sec. 8. The commissioner of agriculture in pursuance of  
2 the purposes of this act may investigate delays in transporta-  
3 tion, and may cause to be initiated proper proceedings to pre-  
4 vent restraint of trade and of unlawful combinations to fix prices  
5 on agricultural products when notified by producers, that food  
6 products produced within the state seem likely to spoil for  
7 lack of a ready market, make such suggestions to such pro-  
8 ducers or take such steps as seem advisable for facilitating the  
9 sale thereof.

Sec. 9. Any licensed auctioneer doing business at an auction  
2 market established under the provisions of this act, who shall  
3 impose false charges for handling or services in connection with  
4 farm produce; or

5 2. Fails to account for such farm produce promptly and  
6 properly and to make settlements therefor, with intent to de-  
7 fraud; or

8 3. Make false or misleading statement or statements as to  
9 market conditions with intent to deceive; or

10 4. Directly or indirectly purchases for his own account  
11 goods received by him upon consignment; or

12 5 Make false statements as to grade, conditions, markings,  
13 quality or quantity of goods shipped or packed in any manner  
14 with intent to deceive; or

15 6. Makes any charge for commissions, or otherwise, in ex-



16 cess of those authorized by the department of agriculture, is  
 17 guilty of a misdemeanor and upon conviction thereof shall be fined  
 18 not more than one hundred dollars for the first offense and not less  
 19 than one hundred dollars for each subsequent offense, and the com-  
 20 missioner shall forthwith revoke the license granted to such auc-  
 21 tioneer and direct his bond to be forfeited.

Sec. 10. In pursuance of the purposes of this act, it shall be  
 2 the duty of the commissioner of agriculture to obtain all facts  
 3 and statistics bearing upon the subject of agriculture and he may  
 4 call upon all state and county officials having in possession such  
 5 information whose duty it shall be without delay to supply in-  
 6 formation requested under schedules provided by the commis-  
 7 sioner of agriculture.

## CHAPTER 11.

(House Bill No. 57.)

AN ACT to amend and re-enact section eighty-one-a-XVII of chap-  
 ter fifty-four of the code of West Virginia, one thousand nine  
 hundred and thirteen, relating to banks and other institutions,  
 and making it a felony for any officer or agent thereof to embez-  
 zle, abstract, or wilfully misapply any of the money, funds or  
 credits of such institution, or otherwise to act without authority  
 of the directors of such bank or institution with intent to in-  
 jure or defraud any such institution, company, body politic, or  
 corporate, or any person, and fixing the penalty therefor.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

Sec.  
 81-a XVII. Penalty for embezzlement, deceit or false statement.

*Be it enacted by the Legislature of West Virginia:*

That section eighty-one-a XVII of chapter fifty-four of the code  
 of West Virginia, one thousand nine hundred and thirteen, be amend-  
 ed and re-enacted so as to read as follows:

Section 81-a XVII. Every president, director, cashier, teller,  
 2 clerk or agent of any institution mentioned in this act who em-  
 3 bezzles, abstracts or wilfully misapplies any of the money, funds  
 4 or credits of the institution, or who, without authority from the  
 5 directors, issues or puts in circulation any of the notes of any  
 6 bank or other institution, or who, without such authority,

7 issues or puts forth any certificates of deposits, draws any order  
 8 or bill of exchange, makes any acceptance, assigns any note, bond,  
 9 draft, bill of exchange, mortgage, judgment or decree; or who  
 10 makes any false entry in any book, report, or statement of the  
 11 institution, with intent, in either case, to injure or defraud the  
 12 institution or any other company, body politic or corporate, or  
 13 any individual person, or to deceive any officer of any bank or  
 14 other institution or any agent appointed to examine the affairs  
 15 of such bank or other institution, and every person who with like  
 16 intent, in any way aids or abets any officer, clerk or agent in the  
 17 violation of this section, shall be deemed guilty of a felony, and  
 18 on conviction thereof shall be imprisoned in the penitentiary not  
 19 less than five nor more than ten years.

## CHAPTER 12.

(House Bill No. 61.)

AN ACT for the control and eradication of dangerously contagious  
 and infectious diseases among honey bees in West Virginia, and  
 providing for their inspection and eradication.

[Passed February 7, 1917. In effect ninety days from passage. Approved by the  
 Governor February 16, 1917.]

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| <p><b>SEC.</b><br/>         1. "Commissioner" defined; "entomologist" defined; "inspector" defined.<br/>         2. Entomologist to examine apiaries; instructions as to treatment of diseases; to burn colonies of bees if necessary.<br/>         3. To sell apiary if disease exists, a misdemeanor; penalty.</p> | <p><b>SEC.</b><br/>         4. Authorized agents to have ingress and egress to apiaries; to hinder officers, a misdemeanor; penalty.<br/>         5. Duty of persons raising and selling queen bees; requirement as to proper inspection; violation of provisions, a misdemeanor; penalty.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. (a) The word "commissioner" as used in this  
 2 act shall mean the state commissioner of agriculture.

3 (b) The word "entomologist" as used in this act shall mean  
 4 the state entomologist, who is in charge of the enforcement of  
 5 law for the control and eradication of crop pest and plant diseases.

6 (c) The word "inspector" as used in this act shall mean  
 7 the commissioner of agriculture, the state entomologist, or any  
 8 person duly authorized and employed to carry out any of the  
 9 provisions of this act.

Sec. 2. The entomologist or other person duly authorized  
 2 by the commissioner shall, so far as practicable, upon information,  
 3 examine all reported apiaries and other apiaries in that locality

4 not reported, to ascertain the existence of any of the aforesaid  
5 diseases affecting bees, and if satisfied of the existence of any  
6 such diseases, he shall give the owner or person in charge of  
7 the diseased apiary, full instructions how to treat them. The  
8 entomologist or assistant shall visit all said diseased apiaries a  
9 second time after a period of ten days, and if necessary, burn  
10 all colonies of bees that he may find not properly treated and  
11 cured of such diseases, together with all honey and appliances  
12 which would spread diseases.

Sec. 3. If the owner of an apiary, honey or appliances  
2 wherein diseases exist, shall sell, barter or give away or remove,  
3 without the consent of the inspector, any such diseased or infected  
4 bees (be they queens, workers, colonies) honey or appliances, or  
5 expose other bees to the danger of such diseases, or fail to notify  
6 the inspector of the existence of such diseases, said owner shall  
7 be guilty of a misdemeanor and upon conviction before a justice  
8 of the peace, shall be liable to a fine not to exceed one hundred  
9 dollars in the discretion of the court.

Sec. 4. For the enforcement of the provisions of this act the  
2 commissioner, the entomologist, the inspector, or other duly au-  
3 thorized agents, shall have access, ingress and egress, to all apiaries  
4 or places where bees are kept, and any person who shall resist  
5 or hinder in any way the said officers in the discharge of their  
6 duties under the provisions of this act, shall be guilty of a mis-  
7 demeanor, and upon conviction thereof, shall be liable to a fine  
8 not to exceed one hundred dollars in the discretion of the court.

Sec. 5. It shall be the duty of any person in West Virginia  
2 engaged in the raising of queen bees for sale to boil for at least  
3 thirty minutes the honey used in the mailing cages for the trans-  
4 portation of honey bees. Any such person engaged in the raising  
5 and selling of queen bees shall have his queen raising apiary  
6 inspected at least twice during the summer season, by the ento-  
7 mologist or any other duly authorized person, and upon the dis-  
8 covery of the existence of any of said diseases injurious to bees in  
9 their egg, larval, pupal or adult stages, such person shall at once  
10 cease to ship queen bees from such apiary until the inspector  
11 shall declare the same to be free from said diseases.

12 Any person engaged in raising queen bees for sale who shall  
13 violate the provisions of this section shall be guilty of a misde-  
14 meanor and subject to a fine of not more than one hundred dollars  
15 in the discretion of the court.

## CHAPTER 13.

(House Bill No. 77.)

AN ACT to regulate the public service of stallions and jacks and provide a penalty for the violation thereof.

[Passed February 17, 1917. In effect April 1, 1917. Approved by the Governor February 24, 1917.]

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| <p>SEC.</p> <ol style="list-style-type: none"> <li>1. Offering stallion or jack for public service shall have him enrolled and license shall be secured: word stallion.</li> <li>2. Duty of commissioner of agriculture.</li> <li>3. How license is secured; what disqualifies stallion or jack from public service: certificate of soundness; commissioner of agriculture may in case of emergency.</li> <li>4. Complaint, how made; investigation.</li> <li>5. Commissioner shall use as standard for action.</li> <li>6. Certificate of enrollment shall be posted; how printed and what it shall contain; what illegal.</li> </ol> | <p>SEC.</p> <ol style="list-style-type: none"> <li>7. License certificate, form.</li> <li>8. Owner of bull, ram or boar kept for public service may cause the same to be registered; he may forward to the commissioner; whose duty then.</li> <li>9. Fees; certificate to be renewed annually; duplicates may be issued, when.</li> <li>10. Transfer of ownership; license may be transferred; fee.</li> <li>11. Penalty for fraud or misrepresentation.</li> <li>12. Funds accruing from fees how applied.</li> <li>13. Inconsistent acts repealed.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. Every person, association, firm, or corporation standing or offering any stallion or jack for public service in this state, shall cause the name, description and pedigree of such stallion or jack to be enrolled by the commissioner of agriculture and shall secure a license from said commissioner as provided for in section three of this act. The word "stallion" wherever used in this act shall be construed to include the word "jack."

Sec. 2. It shall be the duty of the commissioner of agriculture to verify and enroll the breeding and pedigrees of all stallions; to inspect certificates of conditions of soundness; to issue stallion license certificates and to provide suitable forms for the same; to make all necessary rules and regulations and to perform such other duties as may be necessary to carry out the provisions of this act.

Sec. 3. In order to secure the license certificate herein provided for, the owner, owners, part owners or keeper of each stallion shall obtain a certificate of the condition of soundness of said stallion signed by a practicing veterinarian approved by the commissioner of agriculture, who shall make oath to said certificate before a notary public or any officer duly authorized to administer oaths, and shall forward this certificate of the condition of soundness, together with the original stud book certificate of registry of pedi-

9 gree of the stallion in case of pure bred stallions, and a certified  
10 statement of the breeding in all other cases, and in all cases other  
11 necessary papers relating to his breeding and ownership to the  
12 office of the commissioner of agriculture, the presence of faulty  
13 conformation, and of any one of the following named diseases shall  
14 disqualify a stallion or jack for public service; cataract, amaurosis  
15 (glass eye); peripodic ophthalmia (moon blindness); laryngeal  
16 hemiplegia (roaring or whistling); pulmonary emphysema (heaves,  
17 broken wind); chorea (St. Vitus' dance, crampiness, shivering,  
18 string halt); bone spavin; ringbone; sidebone; navicular disease  
19 (disease of coffin joint); bog spavin; curb, with curby formation  
20 of hock; glanders; farcy; maladie de coit; urethral gleet; mange;  
21 melanosis; and the commissioner of agriculture is authorized to  
22 refuse his certificate of enrollment to any stallion or jack effected  
23 with any one of the diseases hereby specified and to revoke the  
24 previously issued enrollment certificate of any stallion or jack  
25 found upon investigation by the commissioner or his agents to be  
26 so affected. Certificate of the condition of soundness shall be made  
27 upon the application for the first certificate of enrollment, and  
28 every two years thereafter until the stallion is ten years old, and  
29 after the date of the issuance of the first certificate of enrollment,  
30 certificate of the condition of soundness shall not be required again  
31 if the stallion is ten years old or over. The commissioner of agri-  
32 culture is authorized in case of emergency to grant temporary  
33 license certificate without a veterinary examination on receipt of  
34 an affidavit made by the owner to the effect that to the best of his  
35 knowledge said stallion is free from infectious, contagious or trans-  
36 missible diseases or unsoundness. Temporary license certificates  
37 shall be valid until veterinary examination can be reasonably made  
38 and not to exceed ninety days.

Sec. 4. When a specific complaint signed by three responsi-  
2 ble parties is made to the commissioner of agriculture that a stal-  
3 lion is unsound, and, on investigation an examination is by the  
4 commissioner deemed necessary, such examination shall be made  
5 by a veterinarian, but the owner of the stallion shall have the  
6-7 right to employ a legally qualified and reputable graduate veter-  
8 inarian to act with the veterinarian representing the commissioner,  
9 and in case these two shall fail to agree they shall appoint a third  
10 graduate veterinarian to act as referee, and his decision shall be  
11 final.

Sec. 5. The commissioner of agriculture whose duty it shall

2 be to pass upon the merits of each pedigree submitted shall use  
3 as his standard for action (1) the stud books and signatures of  
4 the duly authorized officers of the following foreign horse pedigree  
5 registry associations, societies, or companies, recognized by  
6 the department of agriculture, Washington, D. C., in  
7 bureau of animal industry order number one hundred and seventy-  
8 five, November twenty-five, nineteen hundred and ten, and amend-  
9 ment number one, thereto, December thirty, nineteen hundred and  
10 ten; Belgian, Stud Book des Chevaux de trait Belges, Societe le  
11 Cheval de Trait Clydesdale, Clydesdale Studbook, Clydesdale Horse  
12 Society of the United Kingdom of Great Britain and Ireland,  
13 French Draft, Studbook des Chevaux de Trait Franceis, Societe  
14 des Agriculture de France; Hackney, Hackney studbook; Hackney  
15 Horse society; percheron, Studbook Percheronne de France, So-  
16 ciete Hippique Perceronne de France; shetland pony; shetland  
17 pony studbook; Shetland Pony Studbook Society; shire, Shire  
18 Horse Society Studbook; Shire Horse Society; suffolk. suffolk  
19 studbook, Suffolk Horse Society; thoroughbred, Australian gen-  
20 eral studbook; Welsh Pony and Cob, Welsh Pony and Cob stud-  
21 book, The Welsh Pony and Cob Society; Belgian, Clydesdale, Hack-  
22 ney, Shire, Suffolk, and Welsh Pony and Cob, Canadian National  
23 Records, Ottawa, Canada: (2) the stud books and signature of  
24 the duly authorized officers of the following American horses and  
25 jack pedigree registry associations, societies or companies, certi-  
26 fied by the department of agriculture, Washington, D. C., in bureau  
27 of animal industry order number one hundred and thirty-six, June  
28 twenty, nineteen hundred and six, and in the amendments thereto.  
29 American Trotter, American Trotting Register, American Trot-  
30 ting Register association; Arabian, the Arabian national stud-  
31 book, the Arabian Horse Club of America; Belgian, National  
32 Register of Belgian Draft Horses, the American Association of  
33 Importers and Breeders of Belgian Draft Horses; Cleveland Bay,  
34 American Cleveland Bay Studbook, Cleveland Bay Society of  
35 America; Clydesdale, American Studbook, American Clydesdale  
36 association; French Coach, French Coach Studbook of America,  
37 French Coach Horse Society of America; French Draft, Na-  
38 tional Register of French Draft Horses, National French Draft  
39 Horse Association of America; German; Hanoverian and Olden-  
40 burg Coach, German, Hanoverian and Oldenburg Coach Horse  
41 Studbook, German, Hanoverian and Oldenburg Coach Horse As-  
42 sociation of America, Hackney, American Hackney Studbook,

43 American Hackney Horse Society; Morgan, American Morgan  
44 Register; American Morgan Register association; Percheron,  
45 Percheron Studbook of America, Percheron Society of America;  
46 Saddle Horse, American Saddle Horse Register, American Sad-  
47 dle Horse Breeders' association; Shetland Pony, American Shet-  
48 land Pony Studbook, American Shetland Pony club; Shire, Amer-  
49 ican Shire Horse Studbook, American Shire Horse association;  
50 Suffolk, American Suffolk Horse Studbook, American Suffolk  
51 Horse association; Thoroughbred, American Studbook, the Jockey  
52 club; Welsh Pony and Cob, Welsh Pony and Cob Studbook, the  
53 Welsh Pony and Cob Society of America; Jacks and Jennets,  
54 American Jack Stock Studbook, American Breeders' Associa-  
55 tion of Jacks and Jennets; Jacks and Jennets, Standard Jack and  
56 Jennet Registry of America, Standard Jack and Jennet Registry  
57 association, and any other recognized American or foreign horse  
58 associations and societies or companies. The said commissioner  
59 of agriculture shall accept as pure bred and entitled to a license  
60 certificate as such each stallion or jack for which the pedigree  
61 registry certificate is furnished bearing the signatures of the fully  
62 authorized officers of one of the above named American associa-  
63 tions, societies or companies.

Sec. 6. The owner of any stallion used for public service  
2 in the state, shall post and keep affixed correct copies of the cer-  
3 tificate of enrollment of such stallion issued under the pro-  
4 visions of this act, in conspicuous places both within and upon  
5 the outside of his home stable, and the stables or buildings where  
6 the stallion is used for public service at any farm or place away  
7 from his home. Every bill or poster issued by the owner of any  
8 stallion enrolled under this act, or used by him or his agent for  
9 advertising such stallion, shall contain a correct copy of his en-  
10 rollment certificate printed in bold-face type not smaller than  
11 "small pica" and the first mention on said bill or poster of the  
12 name of the stallion, shall be preceded by the words, "pure-bred,"  
13 "grade," "cross-bred," "standard-bred," "non-standard bred" or  
14 "scrub," and the condition of soundness of said stallion indicated  
15 by the word "sound," or "unsound," in accordance with the  
16 wording of the enrollment certificate, and it shall be illegal to  
17 print upon any poster any misleading reference to the breeding  
18 or condition of soundness of said stallion, his sire or dam, or to use  
18-a upon any such bill or poster, or in any other advertising mat-  
19 ter whatsoever, the portrait of a stallion in a misleading manner;





26 STATE OF WEST VIRGINIA  
 27 Department of Agriculture.  
 28 Certificate of Graded Stallion No.....  
 29 The pedigree of the grade (breed).....stallion (named)  
 30 .....owned by..... P. O.....  
 31 County.....color and marks.....  
 32 .....sire or dam (name and number).....  
 33 has been examined by the commissioner of agriculture or his duly  
 34 authorized agent, and it is found that the said stallion is not of  
 35 pure breeding and is, therefore, not eligible for registration in  
 36 any stud book recognized by the said commissioner.

37 (Signature) .....  
 38 Commissioner of Agriculture.

39 Dated at Charleston, West Virginia, this....day of.....  
 40 3. The license certificate issued for a stallion whose sire  
 41 and dam are pure bred, but not of the same breed, shall be in the  
 42 following form:

43 STATE OF WEST VIRGINIA  
 44 Department of Agriculture.  
 45 Certificate of Cross Bred Stallion No.....  
 46 The pedigree of the (breed).....cross bred stallion  
 47 (named).....owned by..... P. O.  
 48 .....county....., color and marks  
 49 foaled in .....has been examined by the commis-  
 50 sioner of agriculture or his duly authorized agent, and it is found  
 51 that his sire is registered in the.....and his dam in  
 52 the.....and the said stallion is, therefore, not  
 53 eligible for registration in any stud book recognized by the said  
 54 commissioner of agriculture.

55 The above named stallion has been examined by.....  
 56 a legally qualified veterinarian, duly authorized by the state com-  
 57 missioner of agriculture to make such examination, and by him  
 58 found to be sound.

59 (Signature) .....  
 60 Commissioner of Agriculture.

61 Dated at Charleston, West Virginia, this....day of.....  
 62 4. The license certificate issued for a non-standard bred  
 63 stallion shall be in the following form:

64 STATE OF WEST VIRGINIA  
 65 Department of Agriculture.  
 66 Certificate of Non-Standard Bred Stallion No.....

67 The pedigree of the non-standard bred (breed).....stallion  
 68 (named).....owned by..... P. O.  
 69 ..... county, .....color and marks.....  
 70 foaled in.....has been examined by the commis-  
 71 sioner of agriculture or his duly authorized agent, and it is found  
 72 that the said stallion is not eligible for registration as standard  
 73 bred, and for the purpose of this certificate is not pure bred, al-  
 74 though recorded in the non-standard department of the American  
 75 Trotting Register.

76 The above named stallion has been examined by.....,  
 77 a legally qualified veterinarian duly authorized by the commissioner  
 78 of agriculture to make such examination and by him found to be  
 79 sound.

80 (Signature) .....  
 81 Commissioner of Agriculture.

82 Dated at Charleston, West Virginia, this....day of.....

83 5. The license certificate for a stallion that has neither sire  
 84 nor dam of pure breeding, shall be in the following form:

85 STATE OF WEST VIRGINIA

86 Department of Agriculture.

87 Certificate of Mongrel or Scrub Stallion No.....

88 The breeding of the stallion (named).....owned by.....

89 .....P. O. ....county..... color and marks

90 .....foaled in.....has been examined by the com-

91 missioner of agriculture or his duly authorized agent and it is

92 found that the said stallion is of mongrel or scrub breeding and is,

93 therefore, not eligible, for registration in any stud book recognized

94 by the said commissioner of agriculture.

95 The above named stallion has been examined by....., a

96 legally qualified veterinarian duly authorized by the commissioner

97 of agriculture to make such examination, and by him found to be

98 sound.

99 (Signature) .....  
 100 Commissioner of Agriculture.

Sec. 8., Any owner or keeper of any bull, ram, or boar, kept  
 2 for public service within the state of West Virginia, or any owner  
 3 or keeper of any bull, ram or boar, kept for sale, exchange or  
 4 transfer, who represents such animal to be pure bred, may cause  
 5 the same to be registered in some herd, flock or record book as the  
 6 case may be, recognized by the United States department of agri-  
 7 culture at Washington, D. C. for the registration of pedigrees,

8 and obtain a certificate of registration of such animal. He may  
9 then forward the same to the commissioner of agriculture of the  
10 state of West Virginia, whose duty it shall be to examine and  
11 pass upon the correctness or genuineness of such certificate filed for  
12 enrollment. In making such examination said commissioner of  
13 agriculture shall use as his standard the record books recognized  
14 by the United States department of agriculture at Washington,  
15 D. C., and shall accept and enroll as pure bred, any animal regis-  
16 tered in any such record books. If such registration is found to  
17 be correct and genuine, he shall issue a certificate of enrollment  
18 under the seal of the department of agriculture of the state of  
19 West Virginia, which certificate shall set forth the name, breed,  
20 age and color of the animal, also the volume and page of the  
21 herd, flock or swine record book in which said animal is regis-  
22 tered. Any owner or keeper of any bull, ram, or boar, kept for  
23 public service within the state of West Virginia, who represents  
24 or holds such animal as pure bred, may place on the door or stall  
25 where the animal is usually kept, a copy of the certificate of en-  
26 rollment from the commissioner of agriculture as provided in sec-  
27 tion one of this act.

Sec. 9. A fee of not to exceed two dollars shall be paid to the  
2 commissioner of agriculture for the examination of a license  
3 certificate in accordance with the breeding of any stallion, and  
4 one dollar for the enrollment and certificate of any bull, ram or  
5 boar. All license certificates shall expire with the first of Janu-  
6 ary of each year following date of issuance, and must be renewed  
7 annually before the first of April following and a fee of fifty cents  
8 shall be paid to the commissioner of agriculture for the renewal  
9 of certificates. Duplicates of license certificates issued by the  
10 commissioner of agriculture which have been lost, destroyed or  
11 mutilated shall be furnished upon return of the old certificate or  
12 part thereof to the said commissioner of agriculture or upon the  
13 proper showing by affidavit that the original certificate was lost or  
14 destroyed and for each of said duplicates as issued the commis-  
15 sioner of agriculture shall charge a fee of ten dollars.

Sec. 10. Upon transfer of ownership of any stallion, bull,  
2 ram or boar licensed under the provisions of this act, the license  
3 may be transferred by the commissioner of agriculture to the  
4 transferee upon the submission of satisfactory proof of such trans-  
5 fer of ownership and the payment of fifty cents.

Sec. 11. Any person who shall fraudulently represent any

2 animal, horse, cattle, sheep or swine to be pure bred, or any per-  
 3 son who shall post or publish, or cause to be posted or published  
 4 any false pedigree or certificate, or shall use any stallion for  
 5 public service, exchange or transfer any such animal for service  
 6 within the state of West Virginia, representing such animal to be  
 7 pure bred without first having such animal registered, and ob-  
 8 taining the certificate of the commissioner of agriculture as here-  
 9 inbefore provided, or who shall violate any of the provisions of  
 10 this act, shall be guilty of a misdemeanor and be punished by a  
 11 fine of not more than one hundred dollars, or be imprisoned in  
 12 the county jail not exceeding thirty days, or by both fine and im-  
 13 prisonment, and it is hereby made the duty of the prosecuting  
 14 attorney of the county in which the violation takes place to prose-  
 15 cute the action.

Sec. 12. The funds accruing from the fees provided for in  
 2 this act shall be paid into the state treasury and shall be held by  
 3 the state treasurer as a separate fund to be distributed only in  
 4 payment of the expenses involved in the administration of this  
 5 act, and said fund is hereby appropriated for said purpose, and  
 6 the state auditor shall issue his warrant on the state treasury for  
 7 payment out of said funds of any bills approved by the commis-  
 8 sioner of agriculture, and it is here made the duty of the commis-  
 9 sioner of agriculture to publish annually and have on hand for  
 10 distribution a list, by counties, of all pure bred male animals so  
 11 listed with the department of agriculture as required by the pro-  
 12 visions of this act, together with the name and post office addresses  
 13 of their respective owners.

Sec. 13. All acts or parts of acts in conflict with this act  
 2 are hereby repealed. This act shall become effective April 1, 1918.

## CHAPTER 14.

(House Bill No. 82.)

AN ACT requiring railroad companies to provide suitable space for  
 the transportation of the sick and injured.

[Passed February 19, 1917. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

SEC.

1. Railroad companies required to provide suitable space for transportation of sick and injured persons.
2. No charges in excess of regular first-class shall be collected.

SEC.

3. Space in baggage car a compliance with this statute; passenger assumes additional risk.
4. Railroad companies may exclude from trains persons with contagious diseases.
5. Penalty for violation of this act.

*Be it enacted by the Legislature of West Virginia:*

Section 1. All railroad companies operating regular trains  
2 in this state are hereby required to provide suitable space for the  
3 transportation of sick and injured persons who present themselves  
4 for travel on cots or stretchers who declare themselves unable to  
5 travel in any other manner; *provided*, that such cot or stretcher  
6 shall not be more than three feet wide and six and one half feet  
7 long.

Sec. 2. For the transportation of any such sick or injured  
2 person on cots or stretchers no railroad company shall make any  
3 charge in excess of the regular first-class fare charged for one  
4 passenger; *provided*, that in case such sick or injured passenger  
5 needs one or more attendants, the railroad company shall have the  
6 right to charge the regular first-class passenger fare for each of  
7 such attendants.

Sec. 3. It shall be deemed a satisfactory compliance with  
2 the provisions of this act if said railroad company shall offer a  
3 sufficient amount of space in the baggage car of any train for  
4 the accommodation of any such sick or injured person traveling  
5 on a cot or stretcher; and any person who becomes a passenger in  
6 such baggage car shall in all cases, be held to have thereby assumed  
7 all additional risk of death or injury that may come from occupancy  
8 of such baggage car, instead of any ordinary passenger coach.

Sec. 4. Nothing in this act shall be held to prevent any  
2 railroad company from excluding from its trains persons who are  
3 ill of diseases considered contagious under the laws of this state,  
4 and persons whose illness is of such a character that their trans-  
5 portation in such trains would be, under the laws of this state, a  
6 menace to the public health.

Sec. 5. Any railroad company or any responsible agent  
2 thereof violating any of the provisions of this act shall be guilty  
3 of a misdemeanor, and on conviction thereof, shall be fined not  
4 less than one hundred dollars nor more than five hundred dollars  
5 for each offense.

## CHAPTER 15.

(House Bill No. 87.)

AN ACT to amend and re-enact clause (e) of section two and section ninety-five of chapter thirty-two of the code of West Virginia relating to license taxes and particularly relating to tax on

merchandise brokers; and to repeal clause (f) of said section two and to make it unlawful to carry on what is commonly known as a bucket shop, or other transactions of like or similar character.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

<p>Sec. (e) Defining real estate agent or broker. 95. License fee for stock broker; for real estate agent; term real estate agent defined. Any person carrying on a bucket shop or</p>	<p>Sec. act as agent for person or firm doing so, guilty of felony; penalty; clause (f) and inconsistent acts repealed.</p>
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*Be it enacted by the Legislature of West Virginia:*

That clause (e) of section two and section ninety-five of chapter thirty-two of the code of West Virginia be and the same are hereby amended and re-enacted so as to read as hereinafter set out, and that clause (f) of said section two be and the same is hereby repealed.

(e) Practice the business of real estate agent, stock broker, or other broker, by buying or selling for others, stocks, securities or any other property, for a commission or reward; or

Section 95. On every license to practice the business of stock  
2 broker, or other broker (other than that of a pawn broker) by  
3 buying or selling for others, stocks, securities, or property, for com-  
4 mission or reward, fifty dollars.

5 On every license to practice the business of real estate agent,  
6 or real estate broker, fifty dollars, in addition to all other taxes  
7 prescribed by this chapter or by any other law.

8 The term real estate agent shall include any person or cor-  
9 poration, that, for a commission, compensation or reward, is en-  
10 gaged in the selling of or who negotiates sale of real estate belong-  
11 ing to another or others, or obtains or places loans for others on  
12 real estate, or advertises for sale or solicits the sale of real estate  
13 belonging to another or others, or collects rent and attends to the  
14 letting and sale of houses and land.

15 If any person shall carry on in this state what is commonly  
16 known as a bucket shop, or act as agent for any person, firm or  
17 corporation carrying on such business; or engaged in transactions  
18 for the purchase or sale for others of grain, provisions, stocks, secur-  
19 ities, merchandise or other property wherein the parties thereto  
20 or the broker intend that such transactions shall be settled accord-  
21 ing to the public market quotations on any board of trade or ex-  
22 change, and without a *bona fide* transaction on such board of trade  
23 or exchange, or intend that such transaction may be deemed ter-

24 minated when such public market quotations shall reach a cer-  
 25 tain figure, or intend that such property shall be re-sold before  
 26 or at the time fixed in such transaction for the delivery of such  
 27 property and that the difference between the contract price and  
 28 the market price thereof shall be paid or received without the  
 29 prior receipt or delivery of such property under the former sale,  
 30 he shall be guilty of a felony, and upon conviction thereof shall  
 31 be confined in the state penitentiary not less than two nor more  
 32 than five years.

33 Clause (f) of section two of chapter thirty-two of the code  
 34 is hereby repealed, and all acts and parts of acts inconsistent here-  
 35 with are also hereby repealed.

## CHAPTER 16.

(House Bill No. 135.)

AN ACT to provide for the survey, establishment and marking of the  
 state line between the county of Hardy, State of West Virginia,  
 and the counties of Frederick, Shenandoah and Rockingham,  
 State of Virginia.

[Passed February 15, 1917. In effect from passage. Approved by the Governor  
 February 23, 1917.]

SEC.	SEC.
1. Governor to appoint commission to cause boundary surveyed be- tween States of Virginia and West Virginia. 2. Duty of commissioners. 3. Compensation of commissioners;	may employ surveyors; keep ac- counts; governor to issue war- rant. 4. Governor authorized to communi- cate with Governor of Virginia. 5. Appropriation.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the governor be, and he is hereby author-  
 2 ized and required, to appoint a commission composed of three  
 3 persons who, together with a like commission, appointed on the  
 4 part of the state of Virginia, shall cause the boundary line be-  
 5 tween the county of Hardy, state of West Virginia and the coun-  
 6 ties of Frederick, Shenandoah and Rockingham, state of Vir-  
 7 ginia, to be accurately surveyed, traced and marked.

Sec. 2. That it shall be the duty of the commissioners so ap-  
 2 pointed, after surveying, locating, establishing and marking the  
 3 said boundary line between the said counties, to make a report to  
 4 the governor setting forth all of the facts touching the same, ac-  
 5 companied by such maps, drafts, exhibits and evidence as may be  
 6 necessary to a clear understanding thereof; and the governor shall

7 transmit the proceedings of said commission to the legislature at  
8 the session next after the same shall have been completed, for con-  
9 firmation or rejection.

Sec. 3. That the commissioners for West Virginia, appointed  
2 as aforesaid, shall each receive five dollars per day while so em-  
3 ployed, and they are hereby authorized and empowered to employ  
4 a surveyor or surveyors, and such other persons as are necessary  
5 to carry out the provisions of this act. It shall be the duty of  
6 said commissioners to ascertain and keep a correct account of the  
7 work done by the surveyors and others employed by said com-  
8 mission, and transmit the same to the governor for his approval,  
9 and when approved by him he shall issue his warrant upon the  
10 state auditor for payment of the same.

Sec. 4. The governor of this state is authorized to com-  
2 municate with the governor of the state of Virginia with a view  
3 to having a commission created by the said state of Virginia to  
4 act in conjunction with the commission hereby appointed.

Sec. 5. The sum of one thousand dollars, or so much there-  
2 of as may be necessary, is hereby appropriated to pay the salary  
3 and expenses incurred by said commission.

## CHAPTER 17.

(House Bill No. 146.)

**AN ACT** to prevent the introduction and spread and to provide  
for the control of the San Jose scale and other dangerous in-  
sects and dangerously injurious plant diseases affecting nurs-  
ery, orchard, forest and shade trees, shrubs, vines, cuttings,  
seeds and bulbs, or affecting plants or parts of plants of any  
kind, or such as may harbor such injurious insect pests or  
plant diseases; to provide for the sale of trees, vines and shrub-  
bery, and to require agents to be licensed and to pay a fee  
therefor; to prevent false labeling and misrepresentations; to  
provide penalties for the violation of its provisions; to repeal all  
acts or parts of acts inconsistent therewith.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

**SEC.**  
1. The commissioner of agriculture  
with consent of governor shall  
appoint state entomologist and  
other employees and fix com-  
pensation; published.

**SEC.**  
2. Terms construed.  
3. Harboring pests and disposing of  
infected stock.  
4. Infested trees marked and owner  
notified to treat or destroy same.



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|---|--|
| <p>5. Appeal from order of state entomologist.</p> <p>6. Compensation for destruction of property; payment of expenses for treating infested premises.</p> <p>7. Permission to enter upon public or private property.</p> <p>8. Local inspectors to be paid by county court; how; amount not to exceed.</p> <p>9. Nursery inspection.</p> <p>10. Quarantine removal of infected material.</p> <p>11. Application for inspection of nursery stock.</p> <p>12. Notice concerning receipt of nursery stock from foreign countries.</p> | <p>13. Permit tags and duties of transportation companies.</p> <p>14. Registration of nurserymen.</p> <p>15. Dealer's registration certificates.</p> <p>16. Names of agents and copy of registration certificate required.</p> <p>17. Grade, character and quality of trees.</p> <p>18. Fines for violation of act.</p> <p>19. Duties of prosecuting attorney.</p> <p>20. Disposal of monies received by the state auditor.</p> <p>21. Form of vouchers prescribed by commissioner.</p> <p>22. Commissioner to make report.</p> <p>23. Inconsistent acts repealed.</p> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That the commissioner of agriculture, hereinafter called the commissioner, by and with the consent of the governor, shall appoint a qualified entomologist and plant pathologist, hereinafter called the state entomologist, and such other assistants, inspectors, special agents, clerks, or other employees necessary to carry out the provisions of this act, and shall fix their compensation by and with the consent of the governor. Traveling expenses incurred on account of services herein prescribed by the commissioner and the said appointees shall be paid out of any funds available for the enforcement of this act. The said commissioner shall from time to time make and publish a list of dangerously injurious insects and diseases attacking plants, which he believes to be necessary to control or eradicate. Said commissioner shall also from time to time make and publish rules and regulations to more fully carry out the intent of this act, and said rules and regulations shall have full force and effect of law.

Sec. 2. The terms used in this act shall be construed as follows:

(a) The terms "plant" or "plants" shall include nursery stock, orchard, fruit and shade trees, vines, cuttings, seeds and bulbs, plants or parts of plants, or any products of the foregoing.

(b) The terms "insects and plant diseases" appearing in this act shall be construed to include any stage or stages of development of the aforesaid insects and plant diseases.

(c) The term "nursery stock" shall include all field-grown florist stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees and shrubs, and other plants and plant products for propagation, ex-

14 cept field, vegetable, and flower seeds, bedding plants, and other  
15 herbaceous bulbs and roots.

16 (d) The term "nursery" shall be construed to mean any  
17 grounds or premises on or in which nursery stock is propagated  
18 and grown for sale, or any grounds or premises on or in which  
19 nursery stock is being fumigated, treated, packed or stored.

20 (e) The term "nurseryman" shall mean the person who  
21 owns, leases, manages or is in charge of a nursery.

22 (f) The term "dealer" shall be construed to apply to  
23 any person not a grower of nursery stock who buys nursery  
24 stock for the purpose of re-selling and re-shipping, independently  
25 of any control to a nursery.

26 (g) The term "agent" shall be construed as applying to  
27 any person selling nursery stock under the partial or full con-  
28 trol of a nurseryman, or of a dealer or other agent. This term  
29 shall also apply to any person engaged with a nurseryman, deal-  
30 er or agent in handling nursery stock on a co-operative basis.

#### *Harboring Pests and Disposing of Infected Stock.*

Sec. 3. It shall be unlawful for any person in this state  
2 knowingly to permit any dangerous insects or plant diseases to  
3 exist in or on his premises, unless efforts are being made to  
4 eradicate such dangerous insects or plant diseases as may exist.  
5 It shall also be unlawful to sell or offer for sale any stock infest-  
6 ed or infected with such insect or disease.

#### *Infested Trees Marked and Owners Notified to Treat or Destroy Same.*

Sec. 4. That should the state entomologist, his assistants  
2 or local inspectors, find any plants infested or diseased with or  
3 harboring insects or diseases published by the commissioner as  
4 dangerously injurious, the aforesaid officers shall mark or tag or  
5 otherwise specifically designate all such plants infested with or  
6 harboring the aforesaid insects or disease. The state entomolo-  
7 gist shall have power, under the rules and regulations of said  
8 commissioner to determine the nature and method of treatment,  
9 including destruction, to which such infested or diseased plants  
10 harboring dangerously injurious insects or plant diseases shall  
11 be subjected, and he shall give notice of his findings in print or  
12 writing to the owner of the infested premises or plants, his  
13 agents or tenants or persons in charge of the infested premises,

14 and a copy of such notice shall be submitted to the commis-  
15 sioner, and there shall accompany each and every such notice  
16 specific directions as to the treatment or destruction of the in-  
17 fested plants harboring such dangerously injurious insects or  
18 plant diseases, which directions may be in printing or writing.  
19 Service of such notice may be made by mail or in the manner  
20 prescribed by chapter one hundred and twenty-one of the code  
21 for the service of notices, except, that should the person upon  
22 whom it is desired that notice should be served be a non-resi-  
23 dent, or a foreign corporation, then the notice may be served by  
24 delivering a copy thereof to the tenant or other person in  
25 charge of the premises, or if the tenant or other person in charge  
26 be not found, then upon any member of their family, or by post-  
27 ing the notice at the usual place of abode the same as though the  
28 tenants or other person in charge should be the owner; or if  
29 there be no tenant or other person in charge, notice posted at  
30 two conspicuous places on the affected premises shall be regard-  
31 ed as sufficient service five days next after the posting of such  
32 notice.

*Appeal from Order of State Entomologist.*

Sec. 5. In case of objection to the order of the state en-  
2 tomologist for the reason that no disease or infection exists, an  
3 appeal shall lie from said order to the commissioner, which ap-  
4 peal, however, must be made within ten days next after the ser-  
5 vice to notice. The owner shall notify the commissioner of his  
6 appeal by mail, addressed to the place or point indicated in the  
7 rules and regulations of the commissioner, and the appeal shall  
8 proceed under the rules and regulations of the commissioner,  
9 and shall act as a stay of proceedings until it is heard and de-  
10 cided.

11 All hearings or appeals brought before the commissioner  
12 shall be heard at such point convenient to the complainant, as  
13 the commissioner shall decide. The commissioner shall have  
14 power to summon witnesses, administer oaths and hear testi-  
15 mony, *provided, however,* that if the commissioner for any rea-  
16 son cannot be present in person at any such hearings he may  
17 appoint a suitable person to conduct said hearings in his stead,  
18 which person so appointed to conduct said hearings shall per-  
19 form the same duties and have the same powers as are herein  
20 vested in the commissioner. If an appeal be taken because such

21 infestation or disease does not exist and the appeal dismissed,  
22 and such person or persons so notified shall not within ten days  
23 after notification of the dismissal of the appeal, as hereinbefore  
24 set out, destroy or treat the same in accordance with said notice,  
25 then the state entomologist, his assistants or employees shall de-  
26 stroy or treat all such plants.

*Compensation for Destruction of Property.*

Sec. 6. If any owner finds objection to the order of the  
2 state entomologist for the reason that said order will cause to  
3 be destroyed property which is of value to said owner, then the  
4 owner shall thereupon notify the state entomologist, in writ-  
5 ing, the amount of damages he will claim by reason of de-  
6 struction of the said property. The filing of said notice, how-  
7 ever, shall not act as a stay of said proceedings, but the state  
8 entomologist or his assistants, shall proceed to appraise the  
9 damage to said property, and if the said state entomologist or his  
10 assistants, and the owner agree upon the damage for which in-  
11 demnity is claimed, then each of them shall sign a statement to  
12 that effect, which shall be forwarded to the commissioner. If  
13 the amount of damage cannot be agreed upon by the state ento-  
14 mologist, and the owner, then on the same day the owner shall  
15 notify the state entomologist, or his assistants, in writing, of his  
16 disagreement. The amount of damages shall then be deter-  
17 mined by arbitrators, one to be appointed by the state entomol-  
18 ogist, or his assistants, and one by the owner, and these two ar-  
19 bitrators shall select a third arbitrator, the decision of any two  
20 of whom shall be final, subject, however, to appeal by either par-  
21 ty to the circuit court of the county in which the property so  
22 ordered to be destroyed is located. A copy of the award of the  
23 arbitrators shall immediately be forwarded to the commissioner,  
24 which appeal shall be heard and determined by said circuit  
25 court in accordance with the usual rules of procedure. If the  
26 circuit court on hearing and determining such appeal finds for  
27 the property owner the amount of damages so ascertained, it  
28 shall be paid to the property owner by the county court of the  
29 county in which the property is located, out of the general  
30 fund of the county treasury. The county shall be re-imbursed  
31 for one-half of the damages paid by it, and the county court shall  
32 draw its warrant against the commissioner for one-half of the  
33 damages paid by said county court, which shall, when approved

34 by the commissioner, be paid as other bills against said commis-  
35 sioner; *provided, however*, that when in his judgment, the in-  
36 terest of the state warrants such action, the commissioner may  
37 reimburse the county for more than one-half of the damage  
38 paid.

39 No action of any character taken shall abate the damages,  
40 if any, suffered by any person by reason of the owner's prem-  
41 ises harboring injurious insects, or plant diseases. Arbitrators  
42 shall be paid not to exceed three dollars per diem, which amount  
43 shall be paid by the commissioner from funds appropriated for  
44 the purpose of carrying out the provisions of this act, if the de-  
45 cision made is more than that offered to the owner by the state  
46 entomologist, or his assistants. But if the compensation is no  
47 more than that offered by the state entomologist or his assist-  
48 ants, then the owner shall pay the cost of arbitration. Arbi-  
49 trators must be citizens of the state, of good moral character  
50 and owners of real estate.

*Payment of Expenses for Treating Infested Premises.*

51 The necessary expense shall be paid by the owner or own-  
52 ers of the real estate from which said infestation has been re-  
53 moved in pursuance of this act. The state entomologist shall as-  
54 certain the amount of such charge, cause to be served upon said  
55 owner or anyone in possession and in charge of such real estate,  
56 a notice stating the amount of said charge, or if no person be  
57 found in charge, by posting the notice as set out in this section,  
58 by items, and further stating that if said charge be not paid to  
59 the sheriff of the county wherein said real estate is located with-  
60 in twenty days from date of service of said notice, that the same  
61 shall become a lien upon the real estate. Copy of said notice in-  
62 cluding the amount of said charge together with the proof of  
63 service shall be at once filed with the sheriff, and if said amount  
63-a is not paid to the sheriff within the time herein stated said  
64 amount shall become a lien on said real estate and shall be collected  
65 as delinquent taxes are collected; the sheriff adding thereto a com-  
66 mission of ten per cent of the entire amount as compensation to  
67 him for collection, and said real estate shall be sold for non-pay-  
68 ment of said charges, the same as now, or may hereafter be pro-  
69 vided by law for sale of real estate for delinquent taxes, and at  
70 the same time. If the sheriff is unable to collect the same with-  
71 in thirty days next after the twenty days shall have expired, the

72 county court shall draw an order and pay such charges out of  
73 the general fund of the county. When said amount is collected  
74 by the sheriff it shall be paid back into the general fund of  
75 said county. The sheriff shall forward to the state treasurer on  
76 the first of each month all amounts due the commissioner. These  
77 amounts shall be paid into the general fund of the commissioner.  
78 When a copy of the notice is sent to the sheriff, the state  
79 entomologist shall forward a copy also to the county clerk of  
80 said county, and the same shall be entered upon the proper  
81 judgment lien docket, and, when so received and indexed by  
82 the clerk, shall be notice to all subsequent purchasers and cred-  
83 itors. This lien created by this section shall be superior to all  
84 other liens upon the property, except taxes, and in incorporated  
85 cities, towns and villages, the lien shall be superior to all other  
86 liens, except taxes and assessment for sewerage, paving and other  
87 public improvements. The lien, when paid, shall be released by  
88 the sheriff.

*Permission to Enter Upon Public or Private Property.*

Sec. 7. The commissioner, his agents or employees, the  
2 state entomologist, assistants, local inspectors, and all other per-  
3 sons in their employ, are hereby empowered with authority, dur-  
4 ing reasonable working hours, to enter upon any public or private  
5 premises for the purpose of inspecting, destroying or treating  
6 insects or plant diseases determined and published by the com-  
7 missioner to be dangerously injurious, or such plants as may  
8 harbor such injurious insect pests or plant diseases as pre-  
9 scribed in section one of this act. Any person who shall re-  
10 fuse to allow inspection of premises under his care or control,  
11 or who shall obstruct or hinder the commissioner, his agents, or  
12 employees, the state entomologist, assistants, local inspectors, and  
13 all persons in their employ, in the discharge of their duties, shall  
14 be guilty of a misdemeanor. A mandatory injunction brought  
15 in the name of the commissioner will also lie against the owner  
16 to compel submission to such inspection.

Sec. 8. A local inspector shall be paid by the county  
2 court. The county court shall also pay his expenses. Local  
3 inspectors shall file with the commissioner of agriculture, on  
4 blanks to be furnished by him and under such regulations as he  
5 may prescribe, itemized accounts of the expenses and costs in-

6 curred in the performance of their duties, and a statement of  
7 the days actually occupied in the performance of the duties here-  
8 inbefore prescribed, and the same, if found to be correct, shall  
9 be approved by him and forwarded to the county court of the  
10 county in which said inspector is employed, and shall be allowed  
11 and paid by said court out of the general funds of said county,  
12 except that the said county court shall not be compelled to pay  
13 on account of local inspectors more than two hundred and fifty  
14 dollars in any one year; but the county court of any county may  
15 pay any sum in excess of two hundred and fifty dollars that it  
16 may deem proper.

#### *Nursery Inspection.*

Sec. 9. Prior to October fifteenth of each year, the state  
2 entomologist, or his assistants, shall inspect all nursery stock  
3 grown in the state, and the state entomologist shall issue a cer-  
4 tificate stating the condition of the said nursery and the number  
5 of acres or fraction thereof, in such form as may be prescribed  
6 by the commissioner, but the said certificate shall not be issued  
7 to any nurseryman until he has fully complied with section four-  
8 teen of this act.

#### *Quarantine Against Removal of Infested Plant Material.*

Sec. 10. The state entomologist with the approval of the  
2 commissioner is hereby empowered to prohibit and prevent the  
3 removal or shipment or transportation of plant material and  
4 any other material into the state or from any private or public  
5 property, or property owned or controlled by the state, or any  
6 area of the state, which in his judgment may contain dangerously  
7 infested or infected nursery stock, or plant or other material of  
8 any kind for such periods and under such conditions as in his  
9 judgment seems necessary in order to prevent the further spread  
10 of the infestation or infection, giving such notice thereof as may  
11 be prescribed by the commissioner, and during the existence of  
12 such order no person shall remove or ship from such area any  
13 such material whatsoever, except by special permission or direc-  
14 tion (certificate) of the state entomologist. In case the state  
15 entomologist, his assistants or a local inspector shall find pres-  
16 ent on any nursery or dealer's premises or any packing ground  
17 or in any cellar or building used for storage, or sale of nursery

18 stock, any injurious insect or plant disease, he shall notify the  
19 owner or person having charge of the premises, in writing to  
20 that effect, and shall withhold his certificate hereinafter provided  
21 for, until the premises are freed from such injurious insect or  
22 plant disease, as hereinafter provided. It shall be unlawful for  
23 any person after receiving such notice to ship or deliver or cause  
24 to be shipped or delivered any nursery stock from such aforesaid  
25 premises.

*Application for Inspection of Nursery Stock.*

Sec. 11. Persons desiring to sell or ship nursery stock  
2 shall make application in writing before July first of each year  
3 to the state entomologist for inspection of their stock. Persons  
4 failing to comply with this section shall be liable for charges to  
5 cover traveling expenses of the inspector.

*Notice Concerning Receipt of Nursery Stock from Foreign  
Countries.*

Sec. 12. Every person receiving directly or indirectly any  
2 nursery stock from foreign countries shall notify the state en-  
3 tomologist of the arrival of such shipments, the contents thereof  
4 and the name of the consignor; and also hold such shipment  
5 unopened until duly inspected or released by the inspector. In  
6 case any infested or infected stock is discovered in such ship-  
7 ment, the shipment shall be subject to the provisions of this  
8 act.

*Permit Tags and Duties of Transportation Companies.*

Sec. 13. It shall be unlawful for any nurseryman to deliv-  
2 er or give away, within the boundaries of this state, plants com-  
3 monly known as nursery stock, which have not been duly in-  
4 spected in accordance with the provisions of this act and do not  
5 carry plainly attached to each car load, box, bale or package, a  
6 copy of a certificate or permit as herein provided, except that  
7 in case of nursery stock shipped into the state from without, the  
8 commissioner shall provide by regulation for the acceptance of  
9 proper certificates, from other states, and when so accepted, the  
10 state entomologist shall issue an official tag designating the  
11 fact, which tag must be attached to all such shipments, but no  
12 nursery stock shall be sold or shipped under the certificate is-



13 sued as provided herein that was not raised in the nursery for  
14 or to which the said certificate was issued, until such stock has  
15 been duly examined, as provided herein, and found to be ap-  
16 parently free from any dangerously injurious insect pest or  
17 plant disease. All transportation companies and common car-  
18 riers bringing nursery stock into this state shall immediately,  
19 upon receiving such consignment, notify the state entomologist of  
20 the fact that such consignment is in their possession or enroute  
21 to some point within the state, and give the names of the con-  
22 signor and consignee, the point of shipment and the destination  
23 of such consignment and whether it bears the official tag here-  
24 inbefore required.

25 It shall be unlawful after the promulgation of the rules  
26 and regulations provided for in this act, for any person to trans-  
27 port by land or water, plants commonly known as nursery stock,  
28 in violation of the same, and every such offense shall constitute  
29 a misdemeanor.

#### *Registration of Nurserymen.*

Sec. 14. It shall be unlawful for any person, either for  
2 himself or as agent for another, to offer for sale, sell, deliver or  
3 give away, within the bounds of this state, any plants known as  
4 nursery stock, unless such person shall have first procured from  
5 the commissioner a certificate of registration, which certificate  
6 shall contain such rules and regulations concerning the sale of  
7 nursery stock as the commissioner may prescribe, and be ap-  
8 proved and countersigned by the state entomologist, who shall  
9 have full power, and is hereby authorized and required to can-  
10 cel and withdraw any certificate upon satisfactory evidence that  
11 any rules and regulations governing the sale of nursery stock  
12 within this state have been violated by the holder of the same.  
13 The commissioner shall not issue any certificate of registration,  
14 except upon the payment of the sum of twenty dollars, and shall  
15 forward all certificates to the state entomologist for his approv-  
16 al and countersignature, before allowing same to the party mak-  
17 ing application therefor, and all such certificates as may be  
18 granted shall expire and become null and void June thirtieth  
19 next succeeding the issue thereof, and any person either for him-  
20 self or as agent for another who shall sell, offer for sale, deliver  
21 or give away any plants, commonly known as nursery stock,  
22 without exhibiting a copy of the certificate of registration as

23 herein provided for to each and every person to whom he shall  
24 sell, offer for sale, deliver or give away any such plants shall be  
25 deemed guilty of a misdemeanor.

26 This act shall not be construed so as to prevent a neighbor  
27 from giving away a plant or tree which is not from a nursery.

#### *Dealers' Registration Certificates.*

Sec. 15. All dealers within the meaning of this act, lo-  
2 cated either within or without the state, engaged in selling  
3 nursery stock within this state, or soliciting orders for nursery  
4 stock within this state shall secure a dealer's certificate by fur-  
5 nishing a sworn affidavit that he will buy and sell only stock  
6 which has been duly inspected and certified by an official state in-  
7 spector; and that he will maintain with the inspector a list of  
8 all sources from which he secures his stock. Said certificate  
9 shall expire and become null and void June thirtieth next suc-  
10 ceeding date of issue thereof, and before said certificate is is-  
11 sued the dealer shall pay to the commissioner a fee of twenty  
12 dollars.

#### *Names of Agents and Copy of Registration Certificate Required.*

Sec. 16. Any person growing or dealing in nursery stock  
2 before receiving the above certificate of registration shall file  
3 with the state entomologist the names of all traveling salesmen  
4 or agents representing such person in this state, and shall subse-  
5 quently file with the state entomologist the names of any other  
6 traveling salesmen or agents when so employed.

7 Any person, firm or corporation acting as an agent for an-  
8 other in the sale of fruit-bearing trees in this state shall carry  
9 with him, at all times when engaged in selling trees, a certifi-  
10 cate in writing signed by his principal, and properly acknowl-  
11 edged, showing his authority to act as such an agent, and upon  
12 request, shall exhibit the same to the purchaser and shall leave  
13 with the purchaser a copy of the contract.

#### *Grade, Character and Quality of Trees.*

Sec. 17. Wilful misrepresentation of grade, character, va-  
2 riety or quality of stock in a nursery or offered for sale by any  
3 nursery dealer or agent, or a false declaration of acreage, or any  
4 concealment of stock from inspection, shall constitute a misde-

5 meanor. All persons selling nursery stock in the state shall, if  
6 required, furnish the state entomologist copies of all their lit-  
7 erature, which is printed or otherwise duplicated, including cat-  
8 alogues, price lists, order forms, contracts and agreements, which  
9 are furnished for the use of agents or customers or both.

*Fines for Violation of Act.*

Sec. 18. Any person violating any section of this act or  
2 any rule or regulation promulgated under this act, shall be  
3 guilty of a misdemeanor and liable to a fine not to exceed one  
4 hundred dollars in the discretion of the court.

*Duties of Prosecuting Attorney.*

Sec. 19. It shall be the duty of each prosecuting attorney  
2 to whom the commissioner shall present evidence of violation  
3 of any provision of this act, to institute and prosecute without  
4 delay appropriate proceedings for its enforcement, and to de-  
5 fend any actions brought against the commissioner. Justices  
6 of the peace shall have concurrent jurisdiction with the circuit  
7 court to enforce the misdemeanor penalties hereinbefore pre-  
8 scribed.

*Disposals of Moneys Received by the State Auditor.*

Sec. 20. The state auditor shall set aside and reserve all  
2 moneys coming into his hands in pursuance of the provisions  
3 of this act, and shall from time to time, pay the same into the  
4 state treasury to be placed to the credit of the commissioner as  
5 a fund of the same, to be used as part payment of services and  
6 expenses incurred under this act.

*Form of Vouchers Prescribed by Commissioner.*

Sec. 21. All charges against any appropriations for car-  
2 rying out the provisions of this act shall be upon properly item-  
3 ized vouchers as may be prescribed by the commissioner, and  
4 shall be certified by the state entomologist and the commissioner.

Sec. 22. It shall be the duty of the commissioner to make  
2 a detailed biennial report to the governor of all operations under  
3 this act, together with an itemized statement of all receipts and  
4 disbursements of funds and appropriations.

Sec. 23. All acts or parts of acts inconsistent with this act  
2 are hereby repealed.

**CHAPTER 18.**

(House Bill No. 183.)

AN ACT relating to automobile insurance coverage by fire insurance companies.

[Passed February 21, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 1. Authority to insure automobiles ; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Any fire insurance company now or hereafter authorized to do business in this state may, in addition to insurances now authorized, include insurances upon automobiles and other motor-vehicles, whether stationary or being operated under their own power, against any or all of the hazards of fire, explosion, transportation, collision, loss by legal liability for damage to property resulting from the maintenance and use of automobiles, and loss by burglary or theft or both, but shall not include insurance against loss by reason of bodily injury to the person, upon filing with the insurance department official notification of their purpose so to do.

All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

**CHAPTER 19.**

(House Bill No. 198.)

[Passed February 15, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC. 9-10. Marriage within certain degree of relationship prohibited.

AN ACT to amend and re-enact sections nine and ten of chapter sixty-three of the code of West Virginia, relating to marriages, being serial sections numbered three thousand six hundred and nine and three thousand six hundred and ten of Hogg's annotated code of West Virginia, edition of one thousand nine hundred and thirteen.

*Be it enacted by the Legislature of West Virginia:*

That sections nine and ten of chapter sixty-three of the code of West Virginia, being serial sections numbered three thousand six hundred and nine and three thousand six hundred and ten of Hogg's annotated code of West Virginia, edition of one thousand nine hun-

dred and thirteen, be amended and re-enacted so as to read as follows:

Section 9. No man shall marry his mother, grand-mother, 2 step-mother, sister, daughter, grand-daughter, half sister, aunt, 3 son's wife, wife's daughter, or her grand-daughter or step-daughter, 4 brother's daughter, sister's daughter, first cousin, double cousin, 5 or wife of his brother's or sister's son. If any man has heretofore 6 married his brother's widow, uncle's widow, first cousin or double 7 cousin, such marriage is hereby declared to be legal and valid 8 and exempt from penalties prescribed by former laws.

Sec. 10. No woman shall marry her father, grand-father, 2 step-father, brother, son, grand-son, half-brother, uncle, daughter's 3 husband, husband's son, or his grand-son or step-son, brother's 4 son, sister's son, first cousin, double cousin, or husband of her 5 brother's or sister's daughter.

6 All acts and parts of acts inconsistent with this act are hereby 7 repealed.

## CHAPTER 20.

(House Bill No. 202.)

AN ACT to provide for the appointment of an inspector of sand mines, sand pits, clay mines, clay pits, quarries and cement works, prescribing the duties of such inspector and making an appropriation to carry out the provisions of this act.

[Passed February 21, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC.	1. Inspector sand mines, etc., to be appointed; qualification; compensation.		SEC.	2. Provisions to safeguard, etc.
				3. Appropriation to pay salary.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the chief of the department of mines shall 2 by and with the consent of the governor appoint an inspector of 3 sand mines, sand pits, clay mines, clay pits, quarries and cement 4 works, in addition to the fifteen district mine inspectors now pro- 5 vided for by law. Such inspector shall be a man who has had 6 practical experience in the operation of sand mines, sand pits, 7 clay mines, clay pits, crushers and quarries, and in the use of 8 explosives in sand mining and quarrying operations. Such in-

9 spector shall rank as a district mine inspector, receiving the com-  
10 pensation provided for such district mine inspectors by section  
11 nine of chapter ten of the acts of one thousand nine hundred and  
12 fifteen, and subject to all the requirements of sections nine, ten,  
13 eleven and twelve of said chapter, except that such inspector shall  
14 not be required to have the knowledge and experience of coal  
15 mining operations required of district mine inspectors.

Sec. 2. All provisions of the mining laws of this state in-  
2 tended to safeguard life and property shall extend to the opera-  
3 tion of sand mines, sand pits, clay mines, clay pits, quarries and  
4 cement works, in so far as such laws are applicable thereto; and  
5 the chief of the department of mines shall make and enforce under  
6 said laws such rules and regulations as may be necessary to secure  
7 safe and sanitary working conditions in such sand mines, sand  
8 pits, clay mines, clay pits, quarries and cement works.

Sec. 3. There is hereby appropriated to pay the salary of the  
2 inspector herein provided for and to carry out the purposes of  
3 this act the sum of one thousand eight hundred dollars for the  
4 fiscal year ending June thirtieth, one thousand nine hundred and  
5 eighteen, and one thousand eight hundred dollars for the year end-  
6 ing June thirtieth, one thousand nine hundred and nineteen.

## CHAPTER 21.

(House Bill No. 204.)

AN ACT to amend and re-enact section 81-a (4), chapter fifty-four of the code of West Virginia, one thousand nine hundred and thirteen, relating to banks and other institutions, providing for the examination thereof, and fixing the duties of the commissioner or assistant commissioner of the bank, making it a felony for any such commissioner or assistant commissioner knowingly and wilfully to make any false or fraudulent report of the condition of any bank with intent to aid or abet the officers, owners or agents thereof in continuing to operate an insolvent bank, or to receive or accept any bribe for the purpose of preventing the filing of reports, or to neglect to make an examination of any bank by reason thereof, and fixing the punishment therefor.

[Passed February 20, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

SEC. 81-a IV. Examination of banks.

*Be it enacted by the Legislature of West Virginia:*

That section 81-a (4), of chapter fifty-four of the code of West Virginia, one thousand nine hundred and thirteen, be amended and re-enacted so as to read as follows:

81-a (4) At least twice in each twelve months the said commissioner, or an 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 amount 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 carefully observed. The commissioner of banking or his assistant shall examine each and every bank in the hands of a receiver at least once in each six months, until its affairs shall be wound up, and shall file a copy of each of said examinations with the clerk of the circuit court of the county where such bank is located. Receivers of all insolvent banks shall make reports to the commissioner of banking in the same manner as required of other banks, and shall cause statements to be published in like manner. Any receiver of any insolvent bank who shall fail to comply with the provisions of this section, or who shall neglect or refuse to submit the affairs of such bank to an examination by the commissioner of banking or his assistant, or who shall violate any of the provisions of this act relating to the examination of banks, shall be subject to the same penalties provided for officers or employees of banks.

Any commissioner or assistant commissioner acting under this section, in making the examination into all the books, papers, notes, bills, securities, moneys and affairs of any bank or other institutions in this state subject to his supervision, such examination shall be in the presence of at least two members of the board of directors of any such bank or institution, and it shall

35 be the duty of the commissioner or assistant commissioner to  
36 state in his report herein referred to the names of the directors  
37 in whose presence the examination is made, and in making such  
38 examination the commissioner or assistant commissioner shall  
39 have the power to administer oaths and affirmations, and to ex-  
40 amine on oath or affirmation the officers, agents and clerks of  
41 any such bank or other such institution, touching the matter  
42 which the said commissioner or assistant commissioner may be  
43 authorized and directed to inquire into and examine, and to sum-  
44 mon, and by attachment compel the attendance of any person  
45 or persons in this state to testify under oath before him in rela-  
46 tion to the affairs of any such bank or other such institution.  
47 The commissioner or assistant commissioner making such ex-  
48 amination shall make a full and detailed report of the condi-  
49 tion of such bank or other institution to the state banking de-  
50 partment of this state as soon as possible after completing the  
51 examination.

52 Any such commissioner or assistant commissioner who shall  
53 knowingly and wilfully make any false or fraudulent report of  
54 any bank or other institution which shall have been examined  
55 by him with the intent to aid or abet the officers, owners or agents  
56 of such bank or other institution in continuing to operate an in-  
57 solvent bank, or who shall receive or accept any bribe or gratuity,  
58 directly or indirectly, for the purpose of inducing him not to  
59 file any report of an examination of any bank or other such in-  
60 stitution made by him; or who shall neglect or omit to make an  
61 examination of any bank or other such institution by reason of  
62 having received or accepted, or being offered any bribe or gratuity,  
63 directly or indirectly, shall be deemed guilty of a felony, and upon  
64 conviction thereof shall be imprisoned in the penitentiary for  
65 not less than two, nor more than ten years.

## CHAPTER 22.

(House Bill No. 210.)

AN ACT to amend chapter fifty-seven of the acts of one thousand eight hundred and ninety-nine, chapter fifteen-a of the code of one thousand nine hundred and thirteen by inserting therein after section five of said act, a new section to be known as section five-a, providing for the treatment and care in state hospitals of deformed, crippled and defective children.



[Passed February 14, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

SEC. 5-a. Duty of board of control as to deformed children.

*Be it enacted by the Legislature of West Virginia:*

That chapter fifty-seven of the acts of the session of one thousand eight hundred and ninety-nine be and the same is hereby amended by inserting therein, after section five of said act, a new section to be known as section five-a, as follows:

Section 5-a. It shall be the duty of the state board of control to make suitable rules and regulations requiring the superintendents of the state hospitals established under the provisions of section one of chapter fifty-seven of the acts of one thousand eight hundred and ninety-nine, to admit to said hospitals for surgical or orthopaedic treatment and care children who are deformed, crippled or otherwise defective. Said rules and regulations shall provide for the treatment of such children at said hospitals free of charge, when it is shown that the parents or guardians of such children are citizens of West Virginia, and are financially unable to procure or provide for said children surgical and orthopaedic treatment and care.

## CHAPTER 23.

(House Bill No. 216.)

AN ACT to amend and re-enact sections one and four of chapter eighty of the acts of one thousand nine hundred and nine, relating to children's home at Elkins.

[Passed February 20, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

SEC. 1. Children's home established; under control of.	SEC. 4. State board of control shall make rules, etc.
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*Be it enacted by the Legislature of West Virginia:*

Section 1. A state institution to be called the West Virginia children's home is hereby established and shall be carried on in a building or buildings suitable for the purpose to be provided by the state at such locality as may be selected in accordance with this act. After July first, one thousand nine hundred and seventeen, this institution shall be under the direction and control of the state board of control.

Sec. 4. The state board of control shall make such rules and regulations relative to the management, government, instruction, discipline, employment and disposition of the children in the said home, not contrary to law, as said board may deem proper and shall appoint such officers, agents and servants as it may deem necessary to transact the business and carry on the operation of said home, and may designate their duties and fix their compensation.

Sec. 5. All acts or parts of acts inconsistent or in conflict herewith are hereby repealed.

### CHAPTER 24.

(House Bill No. 231.)

AN ACT creating a standard of grades for packing apples, prescribing said grades and penalties for violation, and providing for the enforcement of this act by the state department of agriculture.

[Passed February 20, 1917. In effect September 1, 1917. Approved by the Governor February 23, 1917.]

- SEC.
1. Standard grades for apples: classification of grades.
  2. Marks and brands.
  3. The facing shall represent the contents.
  4. Tolerance permitted.
  5. Minimum size of apples.
  6. Marking of closed packages of apples.
  7. Unlawful to offer or expose for sale misbranded apples.

- SEC.
8. Penalty for misbranding or adulterating.
  9. Persons exempt from prosecution.
  10. Definitions.
  11. This act shall not apply when.
  12. Enforcement of this act vested in department of agriculture; power to enter land, etc.
  13. Act takes effect September first one thousand nine hundred and seventeen.
  14. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the standard grades or classes for apples grown in West Virginia when packed in closed packages shall be as follows:

First: West Virginia standard fancy apples shall consist of apples of one variety, which are well grown, sound, hand-picked, properly packed, normal in shape, uniform in size, of good color for the variety, free from dirt, insect injury, fungus disease, bruises and other defects, except such as are necessarily caused in the operation of packing, or apples of one variety which are not more than five per centum below the foregoing specifications on a combination of all defects or three per cent on a single defect.

"Uniform size" shall be construed to mean that apples con-

13 tained in any package shall not vary more than one-half inch in  
14 diameter.

15 Second: "West Virginia Standard A" apples shall consist  
16 of apples of one variety which are well grown, sound, hand picked,  
17 properly packed, normal in shape having not less than fifty per  
18 centum color for the variety, practically free from dirt, insect in-  
19 jury, fungus disease, bruises and other defects, except such as are  
20 necessarily caused in the operation of packing, or apples of one  
21 variety which are not more than ten per centum below the fore-  
22 going specifications on a combination of all defects or five per  
23 centum on a single defect.

24 Third: "West Virginia Standard B" apples shall consist of  
25 apples of one variety which are well grown, sound, hand picked,  
26 properly packed practically free from insect injury, dirt and fun-  
27 gus diseases, provided that apples showing healed over insect  
28 punctures, small scab or blotch specks, fruit spots or other in-  
29 conspicuous defects which taken singly or collectively do not  
30 materially deform or discolor the fruit or injure its keeping qual-  
31 ities shall be admitted to this grade, or apples of one variety which  
32 are not more than fifteen per centum below the foregoing specifi-  
33 cations on a combination or of eight per centum on a single de-  
34 fect.

35 Fourth. "West Virginia Unclassified" apples shall consist of  
36 apples which do not conform to the foregoing specifications of  
37 grades, or which though conforming are not branded in accord-  
38 ance therewith, provided that if more than five per centum of  
39 such apples shall show decay, or shall be badly deformed or shall  
40 be badly defective from scab, blotch, insect injury or other de-  
41 fects, the package containing them shall be marked "Culls" in addi-  
42 tion to any other marks or brands required by this act.

Sec. 2. The marks and brands required by this act may be  
2 accompanied by any additional marks or brands desired, provided  
3 such marks or brands are not inconsistent with the provisions of  
4 this act. Apples packed and branded in accordance with the  
5 provisions of the act of congress approved August third nineteen  
6 hundred and twelve shall be exempt from the provisions of this  
7 act.

8 The marks or brands required by this act shall be in all  
9 cases plain and conspicuous, and if stamped or stenciled shall be  
10 of block letters and figures of size not less than thirty-six point  
11 gothic.

Sec. 3. In all classes and grades herein specified the facing  
2 of the package shall fairly represent the contents, as to size, color  
3 and quality.

Sec. 4. A tolerance of five per centum for size shall be per-  
2 mitted, but such toleration or variance shall not be in addition to  
3 allowances made in the first section of this act.

Sec. 5. The minimum size of apples in all classes and grades  
2 including the unclassified, shall be taken by measuring the  
3 transverse diameter of the smallest fruit in the package at right  
4 angles to the stem and blossom ends.

5 Minimum sizes shall be stated in variations of one quarter  
6 of an inch, like two inches, two and one quarter inches and so  
7 on in accordance with the facts. Minimum sizes may be desig-  
8 nated by figures instead of words. The word minimum may be  
9 abbreviated, thus "Min."

Sec. 6. Every closed package containing apples grown and  
2 packed in the state of West Virginia, which is sold, offered or  
3 exposed for sale by any person shall bear upon the outside of one  
4 end in plain letters and figures the name and address of the person  
5 by whose authority the apples were packed and the package  
6 marked with the true name of the variety, the grade or class  
7 of the apples therein contained and the minimum size of the fruit  
8 in the package.

9 If the true name of the variety be not known to the packer,  
10 or to the person under whose authority the packing is done, then  
11 such variety shall be marked "unknown." Every package of  
12 apples which is re-packed shall bear the name and address of  
13 the person under whose authority such re-packing is done, such  
14 name and address to be preceded by the words "re-packed by."

Sec. 7. It shall be unlawful for any person within this  
2 state to sell, offer or expose for sale apples which are misbranded  
3 or adulterated within the meaning of this act.

4 For the purposes of this act apples shall be deemed to be mis-  
5 branded,

6 First, if the package shall fail to bear the statements re-  
7 quired by this act.

8 Second, if the package shall be falsely branded or shall bear  
9 any statement, design or device regarding such apples which is  
10 false or misleading, or if the package bears any statement, design  
11 or device indicating that the apples therein contained are a given

12 grade, and said apples when packed or repacked do not conform  
13 to said grade.

14 For the purposes of this act apples shall be deemed to be adul-  
15 terated if their quality or grade when packed or repacked does  
16 not conform to the marks upon the package.

Sec. 8. Any person who misbrands or adulterates apples  
2 within the meaning of this act, or who violates any of the pro-  
3 visions of this act shall be guilty of a misdemeanor, and on con-  
4 viction thereof shall be fined not more than fifty dollars for the  
5 first offense, and not less than twenty-five dollars nor more than  
6 two hundred for each subsequent violation.

Sec. 9. No person shall be prosecuted under the provisions  
2 of this act when such person can establish satisfactory evidence  
3 to the effect that he was not a party to the packing and grading  
4 of such apples illegally packed or misbranded, and that he had  
5 no knowledge the same were illegally packed or misbranded, or  
6 when he can establish a guaranty, signed by the person from  
7 whom he received such apples, to the effect that the same are not  
8 misbranded or adulterated within the meaning of this act. Such  
9 guaranty, or satisfactory evidence, to afford protection, shall con-  
10 tain the true name and address of the party or parties from whom  
11 said apples were received, or who made the sale or shipment of  
12 such apples to such person.

Sec. 10. Definitions. The word "person" as used herein shall  
2 be construed to include both singular and plural, individuals, cor-  
3 porations, co-partnerships, companies, societies and associations.  
4 The act, omission or failure of any officer, agent, servant or em-  
5 ployee acting in the scope of his employment shall be deemed  
6 to be the act, omission or failure of his principal. The words  
7 "closed package" shall mean a box, barrel or other package  
8 the contents of which cannot be easily inspected when such  
9 package is closed.

Sec. 11. This act shall not apply to apples actually trans-  
2 ported to storage within the state until the same are sold,  
3 offered or exposed for sale, packed or transported for sale, nor  
4 shall the provisions of this act as regards transportation apply  
5 to common carriers.

Sec. 12. The enforcement of this act shall be vested in the  
2 state department of agriculture, and its officers, agents and em-  
3 ployees are authorized and empowered to enter upon the lands  
4 of any person within this state for the purpose of inspecting

5 packages of apples and securing evidence in relation to violations  
6 of this act, and the said department of agriculture shall promul-  
7 gate such rules and regulations as may be necessary in construing  
8 and enforcing this act, *provided, however*, that any such grades  
9 or classes for apples packed in closed packages which may here-  
10 after be prescribed by any act of congress may be established and  
11 promulgated by the state department of agriculture in lieu of the  
12 grades and classes herein provided.

Sec. 13. This act shall take effect September first, one  
2 thousand nine hundred and seventeen.

Sec. 14. All acts or parts of acts inconsistent herewith are  
2 hereby repealed.

## CHAPTER 25.

(House Bill No. 259.)

AN ACT to amend and re-enact section three of chapter one hundred  
and thirty-seven of the code of one thousand nine hundred and  
thirteen, pertaining to the fees of surveyors.

[Passed February 19, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

Sec. 3. Fees of surveyors.

*Be it enacted by the Legislature of West Virginia:*

That section three of chapter one hundred and thirty-seven be  
amended and re-enacted so as to read as follows:

Sec. 3. For all surveying actually done (unless by special con-  
2 tract), for the first one hundred poles, or any less distance, long  
3 measure, per pole, one cent: after the first one hundred poles, long  
4 measure, per pole, one-half cent: for tracing and examining old sur-  
5 veys to ascertain the true lines, their distance and courses, or for  
6 doing surveying in and about any mines, cities, towns and villages,  
7 the surveyor may charge five dollars for every day necessarily so  
8 employed, in lieu of charging by the pole; *provided*, that nothing in  
9 this section shall prevent any party having surveying done, making  
10 a contract for a different compensation. For calculating the quan-  
11 tity for less than six courses or lines, fifty cents; when land is divid-  
12 ed, for calculating each division if less than six courses, fifty  
13 cents, for every course or line of more than six, three cents; for  
14 making a plat of six courses, or less, fifty cents; for every course

15 more than six, three cents; for recording a plat and certificate, if  
 16 not more than six courses, fifty cents for any course above six, three  
 17 cents; for a copy of a plat and certificate, where there are not more  
 18 than six courses, fifty cents; for every course above six, three  
 19 cents; for a copy of an entry, fifty cents; for every search where no  
 20 copy is required, twenty-five cents; for giving receipt for any paper,  
 21 fifteen cents; for traveling to the place of surveying and returning,  
 22 per mile, five cents. If surveying be done at different places, on  
 23 the same tour, the mileage shall be apportioned among the different  
 24 surveys according to their distance from the residence of the sur-  
 25 veyor or deputy and each other, so that the surveyor shall not re-  
 26 ceive more than five cents a mile for going and returning for any  
 27 one trip.

## CHAPTER 26.

(House Bill No. 269.)

AN ACT to provide for the drainage of farm, wet, swamp, and over-  
 flowed lands in the state of West Virginia through the establish-  
 ment, organization, and operation of drainage, levee, and reclama-  
 tion districts, to confer upon such districts authority to  
 straighten, widen and deepen existing ditches, drains, creeks and  
 streams, and to construct such canals, levees, ditches, flood-gates,  
 pumping plants, and such other improvements as may be neces-  
 sary to accomplish the drainage of lands in such districts, to  
 confer upon such drainage and levee districts the right of emi-  
 nent domain to the extent necessary to carry out the purposes  
 of this act, and to provide for raising funds for the payment  
 of costs and expenses of installing and maintaining such districts  
 by issuing bonds or otherwise, so as to make available for agri-  
 cultural purposes lands which in their present state are too wet  
 for cultivation, and to promote the public health, utility, con-  
 venience and public welfare.

[Passed February 17, 1917. In effect ninety days from passage. Approved by the  
 Governor February 24, 1917.]

### Sec.

1. Power and authority conferred upon circuit courts to organize drainage districts etc.; jurisdiction and power; words construed to mean.
2. Precedence over other cases; except.
3. Proceedings to organize district.

### Sec.

4. Duty of court after petition is filed selecting engineer, his duty; clerk, his duty; notice of application to form drainage district.
5. Objections may be filed, when, and what; duty of court; costs; may appeal; copies of findings to be filed in office of clerk of county court.

6. When meeting of owners shall be called and how; how organize; election of supervisors; term.
7. Meetings of owners; what to do; who entitled to vote.
8. Supervisor to take oath; failure to qualify.
9. Board of supervisors to elect president and secretary; other duties; compensation.
10. Civil drainage engineer to be appointed; his duties.
11. Funds to be raised to pay expenses; what to be done with funds when.
12. "Plan for reclamation;" appoint appraisers; to take oath; duty; quorum.
13. Duty of appraisers, engineer and secretary; compensation.
14. Notice of filing of appraiser's report to be published.
15. Owner of property may file exceptions to report, how disposed of.
16. Owner may demand jury to fix damages.
17. Power of board of supervisors to build, etc.; employ; let contracts; who prohibited from contracting; how paid.
18. Levy a tax to pay costs of completion; in case bonds issue what to be done; duty of secretary.
19. Supervisors each year thereafter levy; certify to sheriff; sheriff to collect; other duties of sheriff.
20. Duties of sheriff.
21. Taxes when payable; delinquent taxes collected by suit; notice; bond-holder to have right to bring suit, when.
22. Suits conducted in name of drainage district; one defense; sale of delinquent land or property; right to redeem.
23. All bonds issued by supervisors lien on lands; bonds how collected.
24. Treasurer-secretary; salary; shall give bond; duties; books to be audited.
25. Supervisors authorized to change, widen, fill up water courses; to construct roadways, where; remove buildings, etc.; condemn.
26. May employ attorney.
27. Record of board.
28. Right to enter and appropriate lands; when property shall vest in district.
29. Public ditch to cross highway, etc.; who to pay cost of construction; to enlarge or change bridge or culvert; bridges, culverts, trestles, etc.
30. Warrant if not paid for lack of funds to draw interest.
31. Surety bonds made payable to.
32. No action to abate on account of death; what to do.
33. The word "owner" construed.
34. Supervisors or owners may ask to amend petition, etc.; form of notice to be given by clerk; who has right to file prayer of petition; court to hear petition and objections; duty of clerks; appraisers to be appointed to; duty of appraisers.
35. Serial bonds may be issued, when and how.
36. Supervisors have right to formulate new plans, make additional assessments, etc.
37. Officer or other employee may be removed.
38. Connection of ditches or drains, shall not be made unless consent be obtained.
39. To maintain and preserve ditches, etc.; may levy a "maintenance tax;" the duty of sheriff.
40. Two or more adjacent districts may be united and consolidated; how.
41. Penalty for obstructing drain or damaging draining works.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That original jurisdiction, power, and authority  
 2 are hereby conferred upon all circuit courts of this state to estab-  
 3 lish and organize drainage, levee and reclamation districts in  
 4 this state, and to the end that the public design and intention  
 5 of this act may be carried into full force and effect, power and  
 6 authority are hereby conferred upon such courts to provide ways  
 7 and means consistent with the provisions of this act for the organ-  
 8 ization, operation and maintenance of drainage, levee and reclama-  
 9 tion districts in this state.

10 The jurisdiction, power and authority conferred upon the  
 11 circuit courts of this state by this act shall include the estab-  
 12 lishing, organizing and providing for the operation and main-  
 13 tenance of drainage, levee and reclamation districts in this state,  
 14 which districts when organized shall have the power to construct



15 all levees, ditches, drains or canals, pumping plants, flood-gates,  
16 and other needed improvements, or to have constructed, straight-  
17 ened, widened, deepened, strengthened and improved any levee,  
18 ditch, drain, creek or water courses within this state, all for the  
19 purpose of reclaiming, draining or improving any low, wet, swampy  
20 or overflowed lands in this state, or to prevent the overflow of  
21 lands, or to protect towns, municipalities and cities from such over-  
22 flow therein; provided and conditioned, however, that in so doing  
23 navigation upon navigable streams in this state shall not thereby  
24 be impaired; and provided that such improvement will result in  
25 public benefit or will promote the public health or will be con-  
26 ducive to the general welfare of the community in which the  
27 proposed district is established.

28 Whenever the words "court", "judge" and "clerk of the  
29 court" are used in this act, they shall be construed to mean  
30 "circuit court", "circuit judge" and "clerk of the circuit court",  
31 respectively, unless otherwise indicated.

Sec. 2. Proceedings under the provisions of this act shall  
2 have precedence on the dockets of all circuit courts of this state  
3 over all other civil cases, except election cases and special pro-  
4 ceedings which heretofore by other laws may have been given  
5 precedence on the courts' dockets. If the court does not act  
6 promptly in complying with the terms of this act it may be com-  
7 pelled to do so by mandamus.

Sec. 3. Proceedings to establish and organize a drainage,  
2 levee or reclamation district shall be commenced by three or more  
3 owners of real property within the proposed district whose lands  
4 will be affected by the proposed improvement filing a petition  
5 in the circuit court, or before the judge thereof in vacation, of  
6 the county wherein said lands and other property proposed  
7 to be organized into a drainage, levee or reclamation district are  
8 situated. Upon the filing of such petition the court, or the judge  
9 thereof in vacation, shall require a bond in sufficient penalty, to  
10 be given and filed, with good and sufficient surety, and conditioned  
11 for the payment of all preliminary costs and expenses that may  
12 be incurred in case the district is not formed. If the lands to  
13 be included in the proposed district are situated in two or more  
14 counties, then the petition may be filed in the office of the clerk  
15 of the circuit court or before the judge thereof in vacation,  
16 of either of the counties in which such lands are situated, and

17 said court shall retain jurisdiction thereafter regardless of county  
18 lines.

19 The petition shall describe in a general way and by reference  
20 to roads, streams, railroads and other landmarks, the body of  
21 land or other property proposed to be reclaimed, drained, leveed,  
22 improved and embraced within the district, and shall set forth  
23 in a general way the conditions existing and the advantages that  
24 will result from the proposed improvement. It also shall indicate  
25 opposite the name of each signer the approximate acreage of each  
26 signer which will be affected. Said petition also shall contain  
27 a prayer praying that the lands described therein be declared a  
28 drainage district under the provisions of this act. The petition  
29 may be amended or supplemented at any time before the drainage,  
30 levee or reclamation district is fully and completely organized.

31 The petition may be signed by any landowner, male or female,  
32 married or single; guardians may sign for their wards, and  
33 trustees, executors and administrators may sign for the estates  
34 represented by them. If the signature of any corporation, by its  
35 authorized officer or officers, is attached thereto, attested by the  
36 corporate seal, the same shall be sufficient evidence of the assent  
37 of the corporation to said petition. Any person having signed the  
38 petition shall have no right to have said proceedings dismissed as  
39 to him without the written consent of the majority in acreage  
40 of the owners who signed the petition.

Sec. 4. Immediately after such petition shall have been filed  
2 it shall be the duty of the court, or the judge thereof in vacation,  
3 to enter upon its records an order appointing an engineer to be  
4 selected by the petitioners; *provided*, the engineer whom they select  
5 is a qualified and suitable person. If the engineer designated by  
6 the petitioners is, in the opinion of the court, not a proper person,  
7 the court shall appoint such other engineer as it may deem qual-  
8 ified to perform the duties imposed upon him by this act. The  
9 said engineer shall forthwith proceed to ascertain in a general  
10 manner the limits of the region which will be benefited by the  
11 proposed improvements, and the names of the landowners and  
12 the approximate acreage of each landowner's holdings, as nearly  
13 as they can be determined without actual survey, and file a report  
14 of his findings with the clerk of the circuit court at the earliest  
15 date practicable. In his report said engineer shall give a general  
16 idea of the improvements required and an approximate estimate  
17 of their cost, together with such other suggestions as he may

18 think will be of service to the court in passing on the prayer of  
 19 the petitioner. For service rendered in this connection the com-  
 20 pensation of the engineer shall be fixed by the court.

21 Immediately upon the filing of the engineer's report, the clerk  
 22 of the circuit court shall give notice by causing publication to  
 23 be made once a week for three consecutive weeks in two news-  
 24 papers of opposite politics, if such there be, published in each  
 25 county, in which are situated lands of the proposed district, the  
 26 last insertion to be made at least fifteen days prior to the first  
 27 day of the next regular or special term of the circuit court at  
 28 which said petition is to be heard. Such notice shall be sub-  
 29 stantially in the following form which shall be deemed sufficient  
 30 for all purposes of this act:

31 *Notice of Application to Form Drainage District.*

32 Notice is hereby given to all persons interested in the follow-  
 33 ing described real estate in ..... county of West  
 34 Virginia (here describe the property as set out in the petition)  
 35 that a petition asking that the foregoing lands and other property  
 36 be formed into a drainage district under the provisions of an act  
 37 of the legislature of West Virginia of one thousand nine hundred  
 38 and seventeen, and that the lands and other property as above  
 39 described will be affected by the formation of said drainage district  
 40 and be rendered liable for taxation for the purposes of paying  
 41 the expenses of organizing and making and maintaining the im-  
 42 provements that may be found necessary to drain, protect and  
 43 reclaim the lands and other property in said district, and you  
 44 and each of you are hereby notified to appear at a term of the  
 45 circuit court of ..... county, to be held on the  
 46 .....day of ....., 19...., at the court house  
 47 thereof, and show cause, if any there be, why said drainage dis-  
 48 trict, as set forth in the petition should not be organized.

49

50 .....  
 50 Clerk of the Circuit Court ..... County.

51 The circuit court of the county in which the petition shall  
 52 have been filed shall thereafter maintain and have original and  
 53 exclusive jurisdiction co-extensive with the boundaries and limits  
 54 of said district without regard to county lines for all purposes  
 55 of this act.

Sec. 5. Any owner of real estate or other property in said  
 2 proposed district who may not have signed the petition and who

3 objects to the organization and formation of the proposed drainage  
4 district shall, on or before the first day of the term of court at  
5 which the cause is to be heard, file his objection or objections  
6 to the organization of such proposed drainage district. Such  
7 objection or objections shall be limited to a denial of the state-  
8 ments in the petition and shall be heard by the court in a sum-  
9 mary manner without unnecessary delay, and in case all such  
10 objections are overruled, and if the court shall be of the opinion  
11 that the establishment of a drainage district will be to the ad-  
12 vantage of the owners of real property therein or will be conducive  
13 to the public health, utility, convenience and public welfare, it  
14 shall without making further inquiry make an order establishing  
15 a district and which district shall have the power and authority  
16 to acquire, hold and convey property, levy taxes and collect same,  
17 and shall have all the powers and authority necessary to carry  
18 out the provisions of this act, and may sue and be sued under the  
19 name and style of ..... drainage district.  
20 Such order shall have all the force and effect of a judgment. If  
21 the court finds that the property set out in the petition should  
22 not be organized into a drainage district, it shall dismiss the  
23 said proceedings and adjudge the costs against the signers of  
24 the petition in proportion to the acreage represented by each  
25 petitioner. Any owner of real property within the district may  
26 appeal from the judgment of the court within twenty (20) days  
27 after the same has been made, but if no appeal is taken within  
28 that time such judgment shall be deemed conclusive and binding  
29 upon all the real property within the bounds of the district and  
30 upon the owners thereof, and any owner of property in the district  
31 may within a like time appeal from an order refusing to establish  
32 such district. Such appeals must be accompanied by a bond  
33 approved by the court conditioned for the payment of costs if  
34 the appeal should be decided against the appellant. If the court  
35 orders the drainage district established, copy of the findings and  
36 decree of the court shall be filed in the office of the clerk of the  
37 county court in each of the counties having lands and other prop-  
38 erty in the said drainage district where the same shall become  
39 a permanent record.

Sec. 6. Within thirty days after any drainage district shall  
2 have been organized and established under the provisions of this  
3 act the circuit clerk of the court organizing said district shall call  
4 a meeting of the owners of real estate or other property situate

5 in said district, at a day and hour specified, in some public place  
6 in the county in which the district was organized, for the purpose  
7 of electing a board of three supervisors, to be composed of owners  
8 of real estate in said district, two of whom at least shall be resi-  
9 dents of the county or counties in which such district is situate,  
10 or some adjoining counties. Notice of such meeting shall be  
11 given by said clerk by causing publication thereof to be made  
12 once a week for two consecutive weeks in two newspapers of  
13 opposite politics, if such there be, published in each county in  
14 which lands of the district are situate, the last insertion to be  
15 at least ten days before the day of such meeting. The land-  
16 owners, when assembled, shall organize by the election of a chair-  
17 man and a secretary of the meeting who shall conduct the election;  
18 at such election each owner shall be entitled to one vote in  
19 person or by proxy for every acre of land or mile of right-of-  
20 way owned by him in such district, and the three persons receiving  
21 the highest number of votes shall be declared elected as super-  
22 visors; and said supervisors shall immediately by lot determine  
23 the terms of their office, which shall be respectively one, two and  
24 three years, and they shall serve until their successors shall have  
25 been elected and qualified.

Sec. 7. In the same month of each year after the election  
2 of the first board of supervisors, the board of supervisors shall  
3 call a meeting of the owners of land and other property herein  
4 described in the district by publication, in the same manner as  
5 provided for in section six, and such owners shall meet at the  
6 time and place fixed by the board of supervisors and elect one  
7 supervisor therefor in like manner as prescribed in the preceding  
8 section, who shall hold his office for three years or until his suc-  
9 cessor is elected and qualified; and in case of a vacancy in the  
10 office of supervisor, the remaining supervisors may fill such va-  
11 cancy by appointment until the next annual meeting, when a  
12 successor shall be elected for the unexpired term; *provided*, that  
13 after the report of the appraisers has been confirmed by the court  
14 under the provisions of section fifteen, only owners of land and  
15 other such property having benefits assessed against it shall be  
16 entitled to vote at the annual meetings held under the provisions  
17 of this section.

Sec. 8. Each supervisor before entering upon his official  
2 duties shall take and subscribe to an oath before some officer  
3 authorized by law to administer oaths, that he will honestly and

4 impartially perform the duties devolving upon him in office as  
5 supervisor of the drainage district in which he was elected, and  
6 that he will not neglect any of the duties imposed upon him by  
7 this act. Any supervisor-elect who fails to qualify by taking such  
8 oath and filing same in the office of the secretary of the drainage  
9 district within ten days after his election, shall be deemed to  
10 have declined such election, and the vacancy shall be filled as  
11 herein provided.

Sec. 9. The board of supervisors immediately after their  
2 election shall choose one of their number president of the board,  
3 and elect some suitable person secretary, who may or may not be  
4 a member of the board. Such board shall adopt a seal with  
5 a suitable device, and shall keep a record of all its proceedings,  
6 as hereinafter provided, which shall be open to the inspection of  
7 all owners of real estate and other property herein described of  
8 the district, as well as to all other interested parties. The board  
9 shall report to the land owners at the annual meeting held under  
10 the provisions of section seven of this act what work has been  
11 done, either by the engineers or otherwise. The members of the  
12 board shall receive for attending to business for and in behalf  
13 of said district actual transportation expenses, which shall be  
14 audited by the board before payment; each member shall receive  
15 four dollars (\$4.00) per day as compensation for his services  
16 while actually engaged in work for the district; *provided, however,*  
17 that if the secretary be a member of the board he shall be en-  
18 titled to compensation as hereinafter provided for.

Sec. 10. Within thirty days after organizing, the board of  
2 supervisors shall appoint a competent civil and drainage engineer  
3 as chief engineer, who may be an individual, co-partnership, or  
4 corporation. The chief engineer may, by and with the consent  
5 of the board of supervisors, consult any eminent engineer or en-  
6 gineers and obtain his or their opinion and advice concerning the  
7 reclamation of the lands in the district. He shall have authority  
8 to engage such assistants as may be needed. He shall make all  
9 necessary surveys of the lands within the boundary lines of said  
10 district, as described by the petition, and of all lands adjacent  
11 thereto that may or will be improved or reclaimed in part or in  
12 whole by any system of drainage or levees that may be outlined  
13 and adopted, and said engineer shall make a report in writing  
14 to the board of supervisors with maps and profiles of said surveys,  
15 which report shall present a plan for draining, leveeing and

16 reclaiming the lands and property described in the petition or  
17 adjacent thereto from overflow or damage by water. Said maps  
18 and profiles shall also indicate as far as necessary the physical  
19 characteristics of the lands and location of any public roads,  
20 railroads, other public utilities, and other rights-of-way, road-  
21 ways, and other property and improvements located on such lands.  
22 The chief engineer shall make a report in writing to the board  
23 of supervisors, showing the progress that has been made at such  
24 times as the board may require. When the final report of the  
25 chief engineer is submitted the board of supervisors shall have  
26 authority to employ a reputable consulting engineer or engineers  
27 to pass on the adequacy of the proposed improvements as covered  
28 in the chief engineer's report and plans. When the board is  
29 satisfied of the adequacy of the plans it shall adopt the report and  
30 plans and thereafter such adopted report shall be the plan for  
31 draining, leveeing or reclaiming such lands and other property  
32 from overflow or damage by water, and it shall after such adop-  
33 tion be known and designated as "the plan for reclamation",  
34 which plan shall be filed with the secretary of the board of super-  
35 visors and by him copied into the records of the district.

Sec. 11. For the purpose of paying expenses incurred or to  
2 be incurred in organizing said district, making surveys of the  
3 same, and assessing benefits and damages, and to pay other ex-  
4 penses necessary to be incurred, before the board of supervisors  
5 shall be empowered by subsequent provisions of this act to provide  
6 funds to pay the total cost of works and improvements of the  
7 district, the board of supervisors of any drainage district organized  
8 under the provisions of this act shall as soon as elected and  
9 qualified, levy a uniform tax of not more than fifty cents per acre  
10 upon each acre of land and each mile of right-of-way within  
11 such district, as shown by the preliminary report of the engineer  
12 required by section four of this act. In case the boundary lines  
13 of the district shall be extended under the provisions of a sub-  
14 sequent section of this act so as to include lands and other prop-  
15 erty not described in this petition, the same uniform tax shall  
16 be made on such lands and other property as soon as the same  
17 shall have been annexed and included in the district. In case  
18 lands are included in the district and assessed in accordance with  
19 this provision which it subsequently develops should not have  
20 been included, taxes collected from such lands shall be returned  
21 to the owners of such lands. Such tax shall be due and payable

22 as soon as assessed and if not paid within sixty days after the  
23 tax has been levied the same shall become delinquent. It shall  
24 become a lien on the land and other property against which it  
25 has been assessed and the delinquent list shall be certified by  
26 the secretary of the district to the sheriff of the county wherein  
27 the property so assessed is situated, and the same shall be col-  
28 lected by the sheriff in the same manner as state and county taxes,  
29 and bear the same penalty. In case the sum received from such  
30 assessment exceeds the total cost of items for which the same  
31 has been levied, the surplus shall be placed in the general fund  
32 of the district and used to pay cost of construction, *provided*,  
33 that if the district be dissolved before the improvements are com-  
34 pleted the amount of the surplus, if there be any, shall be *pro-*  
35 *rated* and refunded to the landowners paying such uniform tax.

Sec. 12. After the board of supervisors has adopted the plan  
2 for reclamation the secretary of said board shall file a certified  
3 copy of same together with a copy of the order of said board  
4 approving the "plan for reclamation", with the clerk of the  
5 circuit court in which the district was organized. The court  
6 shall then in term time, or the judge in vacation, by an order,  
7 appoint a board of three appraisers who are in no way interested  
8 in the said proceedings, for the purpose of assessing benefits and  
9 damages that may result from the making of the improvements  
10 described and set forth in the "plan for reclamation" approved  
11 by the board of supervisors. The secretary of the board of super-  
12 visors shall transmit to the said board of appraisers a certified  
13 copy of the petition and of "the plan for reclamation," which  
14 has been approved by the board of supervisors. The members  
15 of the board of appraisers at a meeting to be held within ten days  
16 after their appointment, shall each take and subscribe to an  
17 oath before the clerk of the court that they will faithfully and  
18 impartially discharge their duties and make a true report of  
19 the work done by them. If any person appointed as an appraiser  
20 fails to take the oath within the prescribed time he shall be  
21 deemed as having declined appointment and the court or judge  
22 shall make further appointment either in term time or vacation.  
23 They shall at the same meeting organize by electing one of their  
24 number as chairman. A majority of said board of appraisers  
25 shall constitute a quorum and shall control the action of the  
26 board on all questions. The secretary of the board of supervisors



27 shall furnish to the board of appraisers a complete list of lands and  
28 corporate and other property described in the petition.

Sec. 13. Within thirty days after qualifying, as provided  
2 for in the previous section, the appraisers shall begin their duties;  
3 and the chief engineer or one of his assistants shall accompany  
4 said appraisers at all times and shall render his opinion in writing  
5 when called for. Said appraisers shall proceed to view the  
6 premises and determine the value of all land and other property,  
7 within or without the district, to be acquired and used for rights-  
8 of-way, or other works set out in the "plan for reclamation";  
9 they shall assess the amount of benefits, and the amount of dam-  
10 ages, if any, that will accrue to each parcel of land, public high-  
11 way, railroad and other right-of-way, railroad, roadway and other  
12 property, from carrying out and putting into effect the "plan for  
13 reclamation" heretofore adopted. The appraisers in assessing  
14 the benefits to lands, public highways, railroad and other rights-  
15 of-way, railroad, roadways and other property not traversed by  
16 such works and improvements as provided for in "the plan for  
17 reclamation", shall not consider what benefits will be derived  
18 by such property after other drains, ditches, improvements or  
19 other plans for reclamation shall have been constructed, but they  
20 shall assess only such benefits as will be derived from the con-  
21 struction of the works and improvements set out in "the plan  
22 for reclamation", or as the same may afford protection from over-  
23 flow to such property. The appraisers shall give due considera-  
24 tion and credit to any other ditch or other systems of reclamation,  
25 which may have already been constructed and which afford partial  
26 or complete protection to any tract or parcel of land in the new  
27 district, and if the appraisers shall find that any drain or other  
28 works have been constructed under any general or special law  
29 of this state, which can be used in making the drains and im-  
30 provements herein contemplated, they shall include the same in  
31 their report, and thereafter the said board of supervisors may  
32 order such drains or such works to be used, so far as they extend,  
33 for the purpose of the drainage district in which they are situated,  
34 and that the district or other owners of such drains or other  
35 improvements or persons having an interest in same by virtue of  
36 having contributed money, material or labor in the construction  
37 of the same, shall be allowed in proportion to the interest held  
38 or owned in said drains or improvements, a compensation which  
39 shall not exceed the amount of such drainage district's indebted-  
40 ness as evidenced by outstanding script, bonds or other evidences  
41 of indebtedness. The railroad and other rights-of-way, railroad

42 and other property shall be assessed according to the increased  
43 physical efficiency and decreased maintenance cost by reason  
44 of the protection to be derived from the proposed works and  
45 improvements.

46 The appraisers shall also assess all damages that will accrue  
47 to any landowner by reason of the proposed improvement, includ-  
48 ing all injury to lands taken or damages; and when they return  
49 no such assessment of damages as to any tract of land, it shall be  
50 deemed a finding by them that no damage will be sustained. If  
51 the board of appraisers finds that other lands not embraced within  
52 the boundaries of the district will be affected by the proposed  
53 improvement, they shall assess the estimated benefits and damages  
54 to such land and shall specifically report to the court the assess-  
55 ments which they have made on the lands beyond the boundaries of  
56 the district as already established. It shall then be the duty of  
57 the clerk of the circuit court to give notice by publication for  
58 three successive weeks in two newspapers of opposite politics, if  
59 such there be, in the county where such lands lie, describing the  
60 lands which have been assessed, and the owners of real property  
61 so assessed shall be allowed twenty days after the publication of  
62 such notice to file with the clerk of the circuit court their protest  
63 against being included within the district. The circuit court  
64 shall at its next session investigate the question whether the lands  
65 beyond the boundaries of the district so assessed by the appraisers  
66 will in fact be benefited or damaged by the making of the im-  
67 provement; and from its findings in that regard either the prop-  
68 erty owners affected by the assessment of the appraisers or the  
69 district may within twenty days file an appeal. If the finding is  
70 in favor of the district, the limits of the district shall be extended  
71 so as to embrace any lands that may be affected by the making  
72 of the improvements and such lands shall be subject to the taxes  
73 provided for in section eleven of this act. The appraisers shall  
74 have no power to change "the plan for reclamation" heretofore  
75 provided for. The board of appraisers shall prepare a report  
76 of their findings, which shall be arranged in tabular form, the  
77 columns of which shall be headed as follows: Column one,  
78 "owner of property assessed"; column two, "description of prop-  
79 erty assessed"; column three, "number of acres assessed"; column  
80 four, "amount of benefits assessed expressed in dollars and  
81 cents"; column five, "number of acres taken for right-of-way";  
82 column six, "value of property taken"; column seven, "damages."

83 assessed". They shall also, by and with the advice of the engi-  
 84 neer of the district, estimate the cost of works set out in "the  
 85 plan for reclamation", which estimate shall include the cost of  
 86 property required for rights-of-way and damages and the actual  
 87 expenses of organization and administration, as estimated by the  
 88 board of supervisors, and shall itemize and tabulate the same.  
 89 Said reports shall be signed by at least a majority of the appraisers  
 90 and filed in the office of the circuit clerk, in which the petition  
 91 was filed. The secretary of the board of supervisors, or his deputy,  
 92 shall accompany said appraisers while engaged in their duties,  
 93 and shall perform all clerical work of said board; he shall also  
 94 under the advice, supervision and direction of the attorney for  
 95 the district, prepare their report. Said board of appraisers shall  
 96 report to the board of supervisors the number of days each had  
 97 been employed and the actual expenses incurred. Each appraiser  
 98 shall be paid five dollars per day for his services, and necessary  
 99 expenses in addition thereto.

Sec. 14. Upon the filing of the report of the appraisers, the  
 2 clerk of said court shall give notice thereof by causing publica-  
 3 tion of said report to be made once a week for three consecutive  
 4 weeks in two newspapers of opposite politics, if such there be,  
 5 published in each county in the district. And notice shall be in  
 6 form as follows:

7 NOTICE OF FILING OF APPRAISER'S REPORT

8 For ..... Drainage District.  
 9 Notice is hereby given to all persons interested in any land  
 10 and property included within "..... Drainage  
 11 District" in ..... county (or counties) West  
 12 Virginia, that the appraisers heretofore appointed to assess bene-  
 13 fits and damages to the property and lands situated in said drain-  
 14 age district and to appraise the cash value of the land necessary  
 15 to be taken for rights-of-way, and other works of said district  
 16 within or without the limits of said district, filed their report in  
 17 this office on the ..... day of ..... 191....  
 18 as follows: (Here insert report of appraisers) and you and each  
 19 of you are hereby notified that you may examine said report and  
 20 file exceptions to all or any part thereof, as provided by law.  
 21 .....  
 22 Clerk of the Circuit Court of ..... County,  
 23 West Virginia.

24 *Provided*, that where lands in different counties are contained  
25 in said report, it shall not be necessary to publish in each county,  
26 the appraisers' report on all of said lands in said district, but only  
27 that part relating to property situate in the respective counties.

Sec. 15. The drainage district or any owner of land or other  
2 property in said district, may file exceptions to said report or to  
3 any assessment for either benefits or damages, within ten days  
4 after the last day of publication of the notice provided for in the  
5 preceding section. All exceptions shall be heard by the court  
6 and determined in a summary manner so as to carry out liberally  
7 the purposes and needs of the district, and if it appears to the  
8 satisfaction of the court, after having heard and de-  
8-a terminated all of said exceptions, that the estimated  
9 cost of constructing the improvement contemplated in  
10 "the plan for reclamation" is less than the benefits assessed  
11 against the land and other property in said district, then  
12 the court shall approve and confirm said appraisers' report so  
13 modified and amended. The court shall adjudge and apportion  
14 the costs incurred by the exceptions filed and shall condemn any  
15 land or other property, within or without the boundary lines of  
16 the district, that is shown by the report of the appraisers to be  
17 needed for rights of way, holding basins and other works, or that  
18 may be needed for material to be used in constructing said works,  
19 following, as nearly as possible, the procedure that is now provid-  
20 ed by law for the appropriation of land and other property  
21 taken for telegraph, telephone and railroad rights-of-way. The  
22 clerk of said circuit court shall transmit a certified copy of the  
23 court's decree and a copy of the appraisers' report as confirmed or  
24 amended by the court, to the secretary of the board of supervisors  
25 of the district, who shall make and transmit a certified copy of the  
26 said decree and that part of the same report affecting land in  
27 each county to the clerk of the county court of each county having  
28 lands in the district, or affected by the said report, where the same  
29 shall become a permanent record. If after determining the ob-  
30 jection made to the appraisers' report, the court shall find that the  
31 estimated cost of works and improvements as approved by the  
32 board of appraisers' or as amended by the court, exceeds the esti-  
33 mated benefits, the court shall then render its decree, declaring  
34 the district to be dissolved as soon as all costs incurred, which  
35 shall include court costs and all obligations and expenses incurred  
36 in behalf of the district by the board of supervisors, shall have

37 been paid, and if the uniform tax levied under the provisions of  
38 section eleven of this act be found insufficient to pay all such  
39 costs the board of supervisors shall make such additional uniform  
40 tax levies as will be necessary to pay such deficiency. Any owner  
41 of real property within the district who conceives himself to be  
42 aggrieved by the assessment of benefits or damages, or who deems  
43 that the assessment of any land in the district is inadequate,  
44 shall present his complaint to the circuit court at the first regular,  
45 adjourned, or special session held more than ten days after the  
46 last publication of said notice, and the said court shall consider  
47 the same and enter its findings thereon either confirming such  
48 assessment or increasing or diminishing the same, and its findings  
49 shall have the force and effect of a judgment from which an appeal  
50 may be taken within twenty days, either by the property owners  
51 or by the supervisors of the district.

Sec. 16. Any property owner may accept the assessment of  
2 damages in his favor made by the appraisers or acquiesce in their  
3 failure to assess damages in his favor and shall be construed to  
4 have done so unless he gives to said board of supervisors within  
5 thirty days after the assessment is filed, notice in writing that he  
6 demands an assessment of damages by a jury, in which event the  
7 board of supervisors shall institute in the circuit court an action  
8 to condemn the lands that must be taken or damaged in the mak-  
9 ing of such improvement, which action shall be in accordance  
10 with the proceedings for condemnation of rights-of-way by rail-  
11 road, telegraph and telephone companies, with the right of pay-  
12 ing into court a sum to be fixed by the circuit court or judge  
13 and of proceeding with the work before assessment by the jury.  
14 If there is more than one claimant to the lands and to the fund  
15 paid into court, all claimants may be made parties defendant in  
16 such suit, leaving the claimants to contest in that action their  
17 respective rights to the fund.

Sec. 17. The board of supervisors of said district shall have  
2 full power and authority to build, construct, excavate and com-  
3 plete all or any works and improvements which may be needed  
4 to carry out, maintain and protect "the plan for reclamation."  
5 To accomplish that end the said board of supervisors is hereby  
6 authorized and empowered to employ men and teams and to  
7 purchase machinery, employ men to operate same and directly  
8 have charge of and construct the works and improvements, or by  
9 the use of other or more efficient means than provided for in the

10 plans adopted. They may, in their discretion, let contracts for  
11 such works and improvements, either as a whole or in sections,  
12 and when such contract or contracts are let, they shall be advertis-  
13 ed and let to the lowest and best bidder, who shall give a good  
14 and approved bond, in an amount equal to the contract price,  
15 with ample security, conditioned that the contractor will well  
16 and promptly carry out the contract for such work and improve-  
17 ments, which contract shall be in writing and to which shall be  
18 attached and made a part thereof complete plans and specifi-  
19 cations of the work to be done and the improvements to be made  
20 under said contract, which plans and specifications shall be pre-  
21 pared by the chief engineer, and shall be incorporated in and  
22 attached to the contract, and before the work is commenced shall  
23 be approved by the board of supervisors and signed by the presi-  
24 dent of the board and the contractor and shall be executed in  
25 duplicate. No supervisor, secretary, treasurer, or engineer of  
26 any drainage district shall be awarded any such contract, or have  
27 any interest in the profits thereof either directly or indirectly.  
28 The chief engineer shall be the superintendent of construction  
29 of all the works and improvements, and shall, whenever required,  
30 and at least once each year, make a full report to said board of  
31 all work done and improvements made and make such sugges-  
32 tions and recommendations to the board as he may deem proper.  
33 It shall be the duty of the board of supervisors to have the  
34 amount of work performed by any contractor estimated from time  
35 to time, as may be desirable, by the chief engineer, and the  
36 board shall draw its warrants in favor of the contractor for not  
37 more than eighty per cent. of the amount of work so required;  
38 reserving the remainder until it has been ascertained that the  
39 work has been completed according to contract, and is free from  
40 liens.

Sec. 18. After the lists of lands and other property, with  
2 the assessed benefits and the decree and judgment of court, have  
3 been filed in the office of the clerk of the county court of each  
4 county in which any of such lands are situate, as provided in  
5 section fifteen of this act, then the board of supervisors shall with-  
6 out any unnecessary delay, levy a tax of such portion of said bene-  
7 fits on all lands, and other property in the district to which benefits  
8 have been assessed, as may be found necessary by the board of  
9 supervisors to pay the costs of the completion as shown in said  
10 "plan for reclamation" and in carrying out the objects of said

11 district, plus ten per cent of said total amount for emergencies;  
 12 and said taxes so levied shall be a lien upon all the real property  
 13 in the district from the time that the same is levied, and shall be  
 14 entitled to preference over all demands, encumbrances, execu-  
 15 tions or liens whatsoever except state and county taxes, and shall  
 16 continue until such taxes, with any penalty and costs that may  
 17 accrue thereon, shall have been paid. The said tax shall be appor-  
 18 tioned to and levied on each tract of land or other property in said  
 19 district in proportion to the benefits assessed and not in ex-  
 20 cess thereof, and in case bonds are issued as hereinafter provided,  
 21 then the amount of the interest (as estimated by said board of  
 22 supervisors, which will accrue on such bonds shall be included and  
 23 added to the said tax, but the interest to accrue on account of  
 24 the issuing of said bonds shall not be construed as a part of the  
 25 costs of construction in determining whether or not the ex-  
 26 penses and costs of making said improvements are or are not  
 27 equal to or in excess of the benefits assessed. Within thirty  
 28 days after the assessment of benefits is made and the amount of  
 29 taxes to be levied against each piece of property has been de-  
 30 termined, the property owners shall have the privilege of paying  
 31 such taxes in full. The secretary of the board of supervisors, as  
 32 soon as said total tax is levied, shall, at the expense of the dis-  
 33 trict, prepare a list of all taxes levied, in the form of a well bound  
 34 book, which book shall be endorsed and named "drainage tax  
 35 record of ..... drainage district ....."  
 36 which endorsement shall also be printed or written at the top of  
 37 each page in said book and shall be signed and certified by the  
 38 president and secretary of the board of supervisors, attested by  
 39 the seal of the district, and the same shall thereafter become a  
 40 permanent record in the office of the secretary.

Sec. 19. The said board of supervisors shall each year  
 2 thereafter determine, order and levy the amount of the annual  
 3 installment of the total taxes levied under the preceding sec-  
 4 tion, which shall become due and be collected during said year  
 5 at the same time that state and county taxes are due and col-  
 6 lected, which said annual installment and levy shall be evidenc-  
 7 ed and certified by the said board not later than July first of  
 8 each year to the sheriff of each county in which any of the lands  
 9 or other property subject to such drainage district tax are situat-  
 10 ed. The certificate of said installment tax shall be in substan-  
 11 tially the following form:

12 State of West Virginia )

13 County of ..... ) ss

14 To ....., sheriff of said county:

15 This is to certify that by virtue and authority of the laws  
 16 of West Virginia relating to drainage districts, the board of sup-  
 17 ervisors of ..... drainage district of West  
 18 Virginia has levied and does hereby levy the sum of \$.....  
 19 as the annual installment of tax for the year 19.... of the  
 20 total tax levied under the provisions of said laws; and said  
 21 board of supervisors of said district by and with the authority  
 22 of said laws, has levied also the sum of \$..... as a main-  
 23 tenance tax for said year; said annual installment of tax and  
 24 maintenance tax on the real estate and other property in said  
 25 drainage district situate in your county are set out in the follow-  
 26 ing table, in which are: First, the names of the owners of  
 27 said lands and other property as they appear in the decree of the  
 28 court organizing said district, are as they appear on the records  
 29 of the clerk of the county court on the first day of April of each  
 30 year subsequent to the decrees of the court; Second, the des-  
 31 criptions of said lands and other property opposite the names  
 32 of said owners; third, the amount of said installment of tax  
 33 levied on each tract of real estate and other property, and  
 34 fourth, the said amount of maintenance tax levied against the  
 35 same. The said taxes shall be collectible and payable for the  
 36 present year at the same time that state and county taxes are  
 37 due and collected, and you are directed and ordered to demand  
 38 and collect the said taxes between the first day of October and  
 39 last day of December of the present year, and this certificate  
 40 "drainage tax book" shall be your warrant and authority for  
 41 making such demand and collection.

42 Witness the signature of the president of the said board  
 43 of supervisors, attested by the seal of said district, and the  
 44 signature of the secretary of said board, this ..... day  
 45 of ....., A. D., 19.....

46 .....  
 47 President of District.

48 Then shall follow a table of schedules showing in proper-  
 49 ly ruled columns, first, the names of the owners of said lands  
 50 and other property; second, the description of the said lands  
 51 and other property opposite the names of said owners; third,  
 52 the amount of said annual installment tax levied on each tract of



53 land or piece of property; fourth, the amount of maintenance  
 54 tax; fifth, a blank column in which the sheriff of the county shall  
 55 record the several amounts as collected by him; sixth, a blank  
 56 column in which the sheriff shall record the date of payment of  
 57 the different sums; seventh, a blank column in which the sheriff  
 58 shall record the names of the person or persons paying the  
 59 several amounts. The columns in which the annual installment  
 60 tax and the maintenance tax, if any, appear, shall be correctly  
 61 totaled and the total amount shall correspond to the amount  
 62 set out in the above mentioned certificate. The said certificate  
 63 and table shall be prepared in the form of a well bound book  
 64 which shall be endorsed and named "drainage tax book"  
 65 ..... drainage district ..... county,  
 66 West Virginia, for the year 19...., which endorsement shall also  
 67 be printed at the top of each page in said book.

Sec. 20. It shall be the duty of the sheriff of each county  
 2 in which lands or other property of any drainage district or  
 3 ganized under this act are situate, to receive the "drainage tax  
 4 book" each year and he is hereby empowered and it shall be his  
 5 duty to promptly and faithfully collect the tax therein set out  
 6 and to exercise all due diligence in so doing. He is further di-  
 7 rected and ordered to demand and collect such taxes at the same  
 8 time that he demands and collects state and county taxes due on  
 9 the same and other properties. Where any tract or part thereof  
 10 has been divided and sold or transferred, the sheriff shall re-  
 11 ceive taxes on any part of any tract, or parcel of land or other  
 12 property charged with such taxes and give his receipt accord-  
 13 ingly. The certificate and "drainage tax book" herein provided  
 14 for shall be the warrant and authority of the sheriff for making  
 15 such demand and collection. The said sheriff shall make due  
 16 return of all "drainage tax books" each year to the secretary of  
 17 the board of supervisors of the aforesaid drainage district, and  
 18 shall pay over and account for all moneys collected thereon at  
 19 the end of each month to the treasurer of said district, and shall  
 20 make an annual return of same at the close of each year. Said  
 21 sheriff shall in said "drainage tax book," verify by affidavit his  
 22 said return. The said secretary shall each year, within ten days  
 23 after the annual return of said sheriff is delivered to him, pre-  
 24 pare and certify to said sheriff a "drainage back tax book" con-  
 25 taining the list of lands and other property so returned by said  
 26 sheriff as delinquent, deliver the same to him, and take his re-

27 ceipt therefor, and said sheriff shall proceed to collect such de-  
28 linquent drainage taxes and demand payment therefor in the  
29 same manner as hereinafter provided. Before receiving the afore-  
30 said "drainage tax book" the sheriff of each county in which lands  
31 or other property of the drainage district are located, shall ex-  
32 ceute to the board of supervisors of the district a bond with at  
33 least two good and sufficient sureties in a sum that is equal to  
34 the probable amount of any annual installment of said tax to be  
35 collected by him during any one year, conditioned that said  
36 sheriff shall pay over and account for all taxes so collected by  
37 him according to law. Said bond after approval by said board  
38 of supervisors shall be deposited with the secretary of the board  
39 of supervisors, who shall be custodian thereof, and who shall  
40 produce same for inspection and use as evidence whenever and  
41 wherever lawfully requested so to do. Whenever the sheriff shall  
42 give such bond with a fidelity and indemnity company as surety,  
43 the drainage district shall pay such premium thereon as may be  
44 provided by law.

Sec. 21. All taxes levied under the terms of this act shall  
2 be payable between the first day of October and the last day of  
3 December of each year; and if any taxes levied by the board  
4 of supervisors in pursuance to this act are not paid at maturity,  
5 the sheriff shall not embrace such taxes in the taxes for which  
6 he shall sell the lands, but he shall report such delinquencies  
7 to the board of supervisors of said district, who shall add to the  
8 amount of the tax a penalty of twenty-five per cent.; and said  
9 board of supervisors shall enforce the collection of such delinquent  
10 taxes by chancery proceedings in the circuit court of the county  
11 in which the lands are situated; and said court shall give judg-  
12 ment against said lands, or other property for the amount of  
13 such taxes and said penalty of twenty-five per cent. and interest on  
14 same, from the end of the period allowed for the collection thereof,  
15 at the rate of six per cent. per annum, and all costs of the proceed-  
16 ings. Such judgment shall provide for the sale of said delinquent  
17 lands for cash, by a commissioner of the court, after advertise-  
18 ment hereinafter set out. Said proceeds and judgment shall be  
19 in the nature of proceedings *in rem*, and it shall be immaterial  
20 that the ownership of said lands be incorrectly alleged in said pro-  
21 ceedings, and such judgment shall be enforced wholly against such  
22 lands or other property so assessed, and not against any other  
23 property or estate of said defendant. All or any part of said

24 delinquent lands or other property for each of said counties may  
 25-26 be included in one suit for each county, instituted for the col-  
 27 lection of said delinquent taxes, together with interest, penalties  
 28 and costs, as aforesaid; and notice of the pendency of such suit  
 29 shall be given by publication weekly for four weeks in two news-  
 30 papers of opposite politics, if such there be, published in the  
 31 county, where such suits may be pending, before judgment is  
 32 entered for the sale of said lands or other property: which public  
 33 notice may be in the following terms:

34 Board of Supervisors, ..... Drainage District  
 35 v.

36 Delinquent lands.

37 All persons having or claiming an interest in any of the  
 38 following-described lands, are hereby notified that suit is pend-  
 39 ing in the circuit court of ..... county, West Virginia,  
 40 to enforce the collection of certain drainage taxes on the sub-  
 41 joined list of lands, the name of each supposed owner having been  
 42 set opposite his or her or its lands, together with the amounts  
 43 severally due from each, to-wit:

44 (Then shall follow a list of supposed owners, with a de-  
 45 scriptive list of said delinquent lands, and amounts due thereon  
 46 respectively as aforesaid), and said public notice may conclude  
 47 in the following form:

48 All persons and corporations interested in said lands are  
 49 hereby notified that they are required by law to appear within  
 50 thirty days after the first publication hereof and make defense  
 51 to said suit, or the same will be taken for confessed, and final  
 52 judgment will be entered directing the sale of said lands for  
 53 the purpose of collecting said taxes, together with the payment of  
 54 interest, penalty and costs allowed by law.

55 .....

56 Clerk of said Court.

57 And said suit shall stand for trial at the first term of court  
 58 after the completion of said publication, respectively, unless a  
 59 continuance be granted for good cause shown, within the dis-  
 60 cretion of the court; and such continuance, for good cause shown,  
 61 may be granted as to a part of said lands or defendants, without  
 62 affecting the duty of the court to dispose finally of the others  
 63 as to whom no continuance may be granted, and in all cases where  
 64 notice has been properly given as aforesaid, and where no answer  
 65 has been filed, or if filed, and the cause decided for the plaintiff,

66 the court by its decree shall grant the relief as prayed for in the  
67 complaint, and shall direct said commissioner to sell the lands,  
68 or other property described in the complaint at the court house  
69 door of the county wherein the decree is entered, at public out-  
70 cry, to the highest and best bidder for cash in hand, after having  
71 first advertised such sales (such advertisement may include all  
72 the lands described in the decree) weekly for two weeks con-  
73 secutively, in two newspapers of opposite politics, if such there  
74 be, published in the county, and if no newspaper, then such ad-  
75 vertisement may be published in some newspaper in an adjoining  
76 county; and if all the lands, or other property be not sold on  
77 the day as advertised, such sale shall continue from day to day  
78 until completed; and said commissioner shall sell such lands as  
79 directed, and the court, upon approval and confirmation of such  
80 sale shall appoint a commissioner to execute proper deeds convey-  
81 ing to the purchaser the lands and other property so sold, and  
82 the title to said lands, and other property shall thereupon become  
83 vested in such purchaser as against all others whomsoever, saving  
84 to infants and to insane persons having no guardian or committee,  
85 the right they now have by law to appear and except to said pro-  
86 ceedings within three years after their disabilities are removed.  
87 In all suits brought under this section a reasonable attorney's  
88 fee shall be taxed in favor of the attorney for the plaintiff, which  
89 fee shall be added to the amount of the costs.

90 In case the supervisors shall fail to commence suit within  
91 sixty days after the taxes become delinquent, the holder of any  
92 bond issued by the district shall have right to bring suit for  
93 collection of the delinquent assessments, and the proceedings in  
94 such suit brought by the bond-holder shall in all respects be  
95 governed by the provisions applicable to suits by the supervisors.

Sec. 22. Said suits shall be conducted in the name of such  
2 drainage district, and in accordance with the practice and pro-  
3 ceedings of chancery courts in this state, except as herein other-  
4 wise provided, save that oral testimony may be heard; and  
5 this law shall be liberally construed to give to said assessment and  
6 tax lists the effect of a *bona fide* mortgage for valuable considera-  
7 tion, and a first lien upon said lands, or other property as against  
8 all persons having an interest therein. In such suits it shall be  
9 sufficient to allege generally and briefly the organization of the  
10 district and the non-payment of the taxes, setting forth the de-  
11 scription of the lands proceeded against, and the amount charge-

12 able to each tract, with prayer for foreclosure; *provided*, that  
13 no informality or irregularity in holding any of the meetings pro-  
14 vided for herein, or valuation, or assessment of the lands, or in  
15 the name of the owners, or the number of acres therein, shall  
16 be a valid defense to such action; nor shall any defense to said  
17 suit be interposed save only the plea of payment. *Provided*, that  
18 in any case where the lands, or other property, are offered for  
19 sale by said commissioner, as provided by this act, and the sum  
20 of the tax due, together with interest, costs and penalty, is not  
21 bid for the same, the said commissioner, shall bid the same off in  
22 the name of the said board of supervisors of such drainage dis-  
23 tricts, bidding therefor the whole amount due as aforesaid; and  
24 upon confirmation of such sale, the court shall appoint a com-  
25 missioner who shall make a proper deed therefor, as in other  
26 cases under this act, conveying such land to such drainage dis-  
27 trict; and such deeds, when duly executed in conformity to the  
28 provisions of this act and recorded, shall be received as evidence  
29 in all cases showing an indefeasible title in said purchaser, un-  
30 assailable in either law or equity; that the former owner shall  
31 have the right to redeem any property sold at such sale within one  
32 year after the same is offered for sale by paying the purchaser  
33 the amount paid by him in the purchase of the property and any  
34 other tax thereon he may have paid, plus ten per cent. interest  
35 on the whole amount.

Sec. 23. All bonds issued by supervisors, under the terms  
2 of this act shall be a lien on all lands, or other property so  
3 assessed in the district, and the board of supervisors shall see to  
4 it that a tax is levied annually and collected under the provisions  
5 of this act, so long as it may be necessary to pay any bond issued  
6 or obligation contracted under its authority; and the making of  
7 said assessments or levy and collection may be enforced by man-  
8 damus.

9 If any bond or interest coupon or any bond issued by said  
10 board is not paid within thirty days after its maturity, it shall  
11 be the duty of the circuit court of the proper county, on application  
12 of any holder of such bond or interest coupon so overdue, to ap-  
13 point a receiver to collect the taxes aforesaid; and the proceeds of  
14 such taxes and collections shall be applied, after payment of  
15 costs, first to overdue interest, and then to payment pro rata of  
16 all bonds issued by the said board which are then due and payable;  
17 and the said receiver may be directed by suit to foreclose the lien

18 of said taxes on said lands; and the suits so brought by the said  
19 receiver, shall be conducted in all matters as suits by the board  
20 as hereinbefore provided, and with like effect; and the decrees  
21 and deed herein shall have the same presumptions in their favor;  
22 *provided, however,* that when all such past due sums have been  
23 paid, the receiver shall be discharged, and the affairs of the dis-  
24 trict conducted by the board of supervisors of said district as  
25 hereinbefore provided.

Sec. 24. The secretary of the board of supervisors in any  
2 drainage district shall hold the office of treasurer of such district,  
3 except as otherwise provided herein. Said secretary shall receive  
4 a salary, payable monthly, such as the board of supervisors may  
5 fix, and all necessary expenses. He shall obtain from the office  
6 of the clerk of the county court of the county or counties within  
7 which any land in the drainage district is situate, records of trans-  
8 fer of property within such district made prior to April first of  
9 each year subsequent to the date of confirmation of the assessments  
10 by the court; he shall receive and receipt for all the drainage  
11 taxes collected by the county sheriff, and he shall receive and re-  
12 ceipt for the proceeds at all tax sales made under the provisions  
13 of this act. Said treasurer shall give a bond in such amount as  
14 shall be fixed by he board of supervisors, conditioned that he will  
15 well and truly account for and pay out, as provided by law, all  
16 moneys received by him as taxes from the county collector or  
17 collectors, or as proceeds from the sales of delinquent taxes, or  
18 from any other source whatever on any account or claim of said  
19 district, which boud shall be signed by at least two sureties, ap-  
20 proved and accepted by said board of supervisors, and said bond  
21 shall be in addition to the bond for proceeds of sale of bonds,  
22 which is required by a subsequent section of this act. The bond  
23 of said treasurer may, if the board so direct, be furnished by  
24 a surety or bonding company, which shall be approved by said  
25 board of supervisors; said bond shall be placed and remain in the  
26 custody of the president of the board of supervisors, and shall be  
27 kept separate from all papers in the custody of the secretary and  
28 treasurer. Said treasurer shall keep all funds received by him  
29 from any source whatever deposited at all times in some bank,  
30 banks or trust company to be designated by the board of super-  
31 visors. All interest accruing on such funds shall be extended each  
32 month to the credit of such district and statement thereof made  
33 to the board of supervisors. It shall be the duty of the supervisors  
34 to audit or have audited the books of said treasurer of said dis-

35 trict as of June 30th of each year, and they shall publish a finan-  
36 cial statement. within thirty days thereafter showing the amount  
37 of money received, the amount paid out during such year, and  
38 the amount in the treasury at the beginning and end of each year.  
39 The aforesaid treasurer of the district shall pay out funds of the  
40 district only on warrants authorized by the board of supervisors,  
41 signed by the president of the board of supervisors and attested by  
42 the signature of the secretary and treasurer, and showing the  
43 purpose for which issued.

Sec. 25. In order to effect the draining, protection and re-  
2 clamation of the land and other property in the district subject to  
3 tax, the board of supervisors is authorized and empowered to  
4 straighten, widen, change the course and line of any drain in or  
5 out of said district; to fill up any creek, drain, channel, river, wa-  
6 tercourse or natural stream; and to divert or divide the flow of  
7 water in or out of said district; to construct and maintain sewers,  
8 drains, dikes, dams, sluices, revertments, drainage ditches, pump-  
9 ing stations, syphons, and any other works and improvements  
10 deemed necessary to preserve and maintain the works in or out  
11 of said district; to construct roadways over embankments; to con-  
12 struct any and all of said works and improvements across, through  
13 or over any public highway, railroad, right-of-way, track, grade,  
14 fill or cut in or out of said district; to remove any fence, building  
15 or other improvements in or out of said district, and shall have  
16 the right to hold, control and acquire by donation or purchase,  
17 and if need be, condemn any land, easement, railroad or other  
18 right-of-way, sluice, or franchise in or out of said district for right-  
19 of-way, or for any of the purposes herein provided, or for the ma-  
20 terial to be used in constructing and maintaining said works and  
21 improvements for draining, protecting and reclaiming the lands  
22 in said district. Said board shall also have the right to condemn  
23 for the use of the district, any land or property within or without  
24 said district not acquired or condemned by the court on the report  
25 of the appraisers assessing benefits and damages and shall fol-  
26 low the procedure that is now provided by law for the appropri-  
27 ation of land or other property taken for telegraph, telephone and  
28 railroad rights-of-way.

Sec. 26. The board of supervisors may employ an attorney  
2 or attorneys to act for the district and to advise said board. Such  
3 employment shall be evidenced by an agreement in writing, which,  
4 as far as possible, shall specify the exact or approximate amount

5 to be paid to said attorney for all services and expenses. Such at-  
6 torney shall conduct all legal proceedings and suits in court where  
7 the district is a party or interested, and shall in all legal matters  
8 advise the said board of supervisors, all officers, employes or agents  
9 of said district and board, and generally look after and attend to  
10 all matters of a legal nature for said district.

Sec. 27. The board of supervisors of any district organ-  
2 ized under this act shall cause to be kept a well-bound book, en-  
3 titled "Record of board of supervisors of .....  
4 district," in which shall be recorded minutes of all meetings, pro-  
5 ceedings, certificates, bonds given by all employees and any and  
6 all corporate acts, which record or records shall at all times be  
7 open to the inspection of any one interested, whether taxpayers or  
8 bondholders.

Sec. 28. The board of supervisors of drainage districts or-  
2 ganized under this act shall not have the right to enter upon or  
3 appropriate any land for right-of-way, or other works of the dis-  
4 tricts, until the price awarded to the owners of such land by the  
5 commissioners shall have been paid to such owners or into the  
6 hands of the circuit clerks of the courts organizing such districts  
7 for the use of such owners; and if the sums awarded be not so paid  
8 within five years from the date of filing the commissioners' re-  
9 ports all proceedings as to the taking of such property for rights-  
10 of-way and other works not so paid for shall abate at the cost of  
11 said district. Whenever any land is acquired by any district under  
12 the provisions of this act and the price of such property has been  
13 paid the owner by the district, the title, use, possession and en-  
14 joyment of such property shall pass from the owner and be vested  
15 in the district, and subject to its use, profit, employment and final  
16 disposition. The price awarded for all land acquired by any dis-  
17 trict for rights-of-way, or other works, and the amount of dam-  
18 ages assessed by the board of appraisers and confirmed by the court  
19 to any tract or parcel of land or other property in the district shall  
20 be paid in cash to the owner thereof or to the clerk of the court  
21 for the use of such owner, and that portion of any tract or parcel  
22 of land or other property not taken for the use of the district shall  
23 be assessed for the benefits accruing in accordance with the provis-  
24 ions of previous sections in this act.

Sec. 29. Where any public ditch or drain constructed under  
2 the provisions of this act crosses a public highway or the right-  
3 of-way of any railroad, tramway, or any public utility, the cost



4 of constructing such ditch or drain across such highway, railroad,  
5 tramway or other public utility shall be paid by the drainage  
6 district, when, in crossing such highway, right-of-way of rail-  
7 roads, tramways or other public utilities, the ditch or drain  
8 follows a natural water course or the natural flow of the water,  
9 it becomes necessary to construct, enlarge or reconstruct any  
10 bridge, culvert, aqueduct or other structure, such structures shall  
11 be constructed so as to conform to the plans and specifications  
12 of the chief engineer as provided for in "the plan for reclamation"  
13 at the expense of the county in the case of crossing public high-  
14 ways and at the expense of the railroad, tramway or other public  
15 utility when public utilities are involved. In all cases where  
16 the ditch or drain does not follow a natural water course but the  
17 water is diverted from its natural flow by the improvements, all  
18 necessary bridges, culverts, aqueducts and other structures across  
19 public highways, rights-of-way of railroads, tramways and other  
20 public utilities shall be constructed at the expense of the district,  
21 but such structures shall thereafter be maintained by and at the  
22 expense of the county or public utilities as the case may be.

23 Whenever it becomes necessary for any county or any public  
24 utility to construct, enlarge or reconstruct any bridge, culvert,  
25 aqueduct or other structure under the provisions in the paragraph  
26 immediately preceding, such changes shall be made within the time  
27 directed by the circuit court either in term or vacation. In case  
28 such changes or adjustments are not made within the prescribed  
29 time, the board of supervisors may proceed to make such neces-  
30 sary changes at the expense of the county or public utility.

31 In case it is necessary to pass any dredge boat or other  
32 equipment through a bridge, aqueduct, trestle or other structure  
33 of any railroad company or other public utility, county, town-  
34 ship, or municipality, the board of supervisors shall give twenty  
35 (20) days notice to the owner of said structure that the same  
36 shall be removed temporarily by a certain date to allow the pas-  
37 sage of such equipment, or that an agreement be immediately  
38 entered into in regard thereto. The owner of said structure  
39 shall keep an itemized account of the cost of the removal, and,  
40 if necessary, of the replacing of said structure, and said actual  
41 cost shall be paid by the district. In case the owner of said  
42 structure shall refuse to provide for the passage of said equip-  
43 ment, the board of supervisors may remove such structure at  
44 its own expense, interrupting traffic in the least degree consistent.

45 with good work and without delay or unnecessary damage. In  
46 case they shall be prevented from doing so, the owner of said  
47 structure shall be liable for damages for the resulting delay.

Sec. 30. In case any warrant issued under this act is not  
2 paid when presented to the treasurer of the board of supervisors  
3 of the district, because of lack of funds in the treasury, such fact  
4 shall be endorsed on the back of such warrant, and such warrant  
5 shall draw interest thereafter at the rate of six per cent. per  
6 annum, until such time as there is sufficient money on hand to  
7 pay the amount of such warrant and the interest then accumu-  
8 lated.

Sec. 31. All surety bonds required to be given by this act  
2 shall be made payable to the district in its corporate name, in  
3 which name all suits shall be instituted and prosecuted. All  
4 penalties on any bond herein named shall be payable to and re-  
5 coverable by said district. All bonds required by this act shall  
6 cover defaults of deputies, clerks or assistants of the officers ap-  
7 pointing them.

Sec. 32. No action under this act shall abate by reason of  
2 the death or disability of any party to any proceeding, but upon  
3 suggestion of such death or disability the cause shall be im-  
4 mediately revived in the name of the heirs, devisees or their legal  
5 representatives, and summons must be served on such heirs, de-  
6 visees and legal representatives at least five days before the day  
7 set for hearing the cause, and said summons may be served in  
8 vacation or term time; if the heirs, devisees or legal representa-  
9 tives of the deceased party are non-residents notice shall be given  
10 them in the manner and for the time provided in section four  
11 of this act, and the cause shall then proceed in all respects as in  
12 case of the original parties in court.

Sec. 33. The word "owner" as used in this act shall mean  
2 the owner of the freehold estate, as appears by the deed of record,  
3 and it shall not include reversioners, remaindermen, trustees, or  
4 mortgagees, who need not be notified by publication, or served  
5 by process, but shall be represented by the present owners of the  
6 freehold estate in any proceeding under this act; *provided, how-*  
7 *ever,* that all procedure under this act being *in rem*, failure to  
8 notify or summon into court any owner or other person shall in  
9 no wise invalidate any act, proceeding, order or decree, under  
10 this act or under any act or law invoked in aid thereof.

Sec. 34. The board of supervisors for and in behalf of any drainage district organized under the provisions of this act, or the owners of land adjacent to such district, shall have the right to file a petition in the office of the clerk of the court organizing the district praying the court to amend its former decree incorporating the district, by correcting the names of landowners, by striking out any such names, by adding, striking out and correcting the descriptions of any lands within or alleged to be within the boundary lines of any such district, or in any other manner amend its decree; said petition may ask permission of the court for said board to amend or change "the plan for reclamation," or to correct any errors, omissions or other mistakes that have been discovered in "the plan for reclamation"; or said petition may ask that the boundary lines of said district be extended so as to include lands described by and included in the petition and the decree of the court incorporating the district. If such petition asks the court permission to change "the plan for reclamation" or that the boundary lines of such district be in any manner changed, it shall also ask the court to appoint three appraisers as provided for under the provisions of section twelve to appraise the land that shall be taken for rights-of-way or other works, or assess the benefits and damages to any or all lands, and other property already in the district or that may be annexed to the district by the proposed amendments, and changes to "the plan for reclamation" or the proposed change in the boundary lines of said district. As soon as said petition shall have been filed the clerk of the court shall give notice for the time required by section four of this act, said notice to be substantially in the following form:

30

*Notice of Drainage Hearing.*

31 To the owners and all persons interested in the lands, cor-  
 32 porate and other property in and adjacent to ..... drain-  
 33 age district:

34 You and each of you are hereby notified that (here state by  
 35 whom petition was filed) has filed in the office of the circuit clerk  
 36 of ..... county, ....., a pe-  
 37 tition praying said court for permission to (here insert the prayer  
 38 of said petition) and unless you show cause to the contrary on or  
 39 before the first day of a term of the circuit court of .....

40 county to be held on the .... day of ....., 19.., the prayer  
41 of said petition may be granted.

42

.....

43

Clerk of the Circuit Court of.....

44

county.

45 Any owner of land or other property located in the district,  
46 or any owner of land or property located outside of the district,  
47 that will be affected by the proposed changes, amendments and  
48 corrections enumerated in the petition, shall have the right to  
49 file objections to the granting of the prayer of said petition on  
50 or before the first day of the term of the court at which the peti-  
51 tion is to be heard. The court shall hear said petition and all  
52 objections that may have been filed against said petition in a  
53 summary manner and enter its decree according to its findings.  
54 The clerk of said court shall, within fifteen days after the granting  
55 of such decree, transmit a certified copy of said decree and a copy  
56 of the petition to the secretary of the board of supervisors, who  
57 shall transmit a copy of the same to the clerk of the county court  
58 of each county having land in the district. Each such county  
59 clerk shall file and preserve the same in his office. If said decree  
60 of the court provides that "the plan for reclamation" may be  
61 amended, changed or corrected or the boundary lines of the dis-  
62 trict extended, the court shall appoint three appraisers having the  
63 same qualifications as the appraisers appointed under the pro-  
64 visions of section twelve of this act, to appraise property to be  
65 taken, assess benefits and damages and estimate the cost of im-  
66 provements the same as is required of appraisers acting under  
67 the provisions of section fourteen of this act. Said appraisers shall  
68 make their report in writing and file the same with the circuit  
69 clerk, after which the case shall be proceeded with in the same  
70 manner as is now provided for in the previous sections of this  
71 act for the organization of drainage districts: *provided*, that if  
72 the petition be dismissed the petitioner shall pay the cost, but if  
73 the petition be sustained in whole or in part the objectors shall  
74 pay the court costs.

Sec. 35. The board of supervisors may, if in their judg-  
2 ment it seems best, issue serial bonds not to exceed ninety  
3 per cent of the total amount of unpaid taxes levied under the pro-  
4 visions of section eighteen of this act, in denominations of not less  
5 than one hundred dollars, bearing interest from date at a rate not  
6 to exceed six per cent per annum, payable semi-annually, to mature

7 at annual intervals within fifteen years, commencing after a  
8 period of years not later than five years, to be determined by the  
9 board of supervisors, both principal and interest payable at some  
10 convenient banking house or trust company's office to be named  
11 in said bonds, which said bonds shall be signed by the president of  
12 the board of supervisors, attested with the seal of said district and  
13 by the signature of the secretary of the said board. All of said  
14 bonds shall be executed and delivered to the treasurer of said dis-  
15 trict, who shall sell the same with accrued interest to the best  
16 possible advantage in such quantities and at such times as the  
17 board of supervisors may direct. Said bonds shall show on their  
18 face the purpose for which they are issued, and shall be payable  
19 out of the money derived from the aforesaid taxes. A sufficient  
20 amount of the drainage tax shall be appropriated by the board of  
21 supervisors for the purpose of paying the principal and interest  
22 of said bonds and the same shall, when collected, be preserved in  
23 a separate fund for that purpose and no other. All bonds and  
24 coupons not paid at maturity shall bear interest at the rate of six  
25 per cent per annum from maturity until paid, or until sufficient  
26 funds have been deposited at the place of payment. Any expenses  
27 incurred in paying said bonds and interest thereon and a reasonable  
28 compensation to the bank or trust company for paying same, shall  
29 be paid out of the other funds in the hands of the treasurer and  
30 collected for the purpose of meeting the expenses of administra-  
31 tion. It shall be the duty of said board of supervisors in making  
32 the annual tax levy as heretofore provided, to take into account  
33 the maturing bonds and interest on all bonds, and to make ample  
34 provisions in advance for the payment thereof. In case the pro-  
35 ceeds of the original tax levy made under the provisions of section  
36 eighteen of this act are not sufficient to pay the principal and in-  
37 terest on all bonds issued, then the board of supervisors shall  
38 make such additional levy or levies as are necessary for this pur-  
39 pose, and under no circumstances shall any tax levies be made  
40 that will in any manner or to any extent impair the security of  
41 said bonds or the fund available for the payment of the principal  
42 and interest of the same. Said treasurer, at the time of the re-  
43 ceipt by him of said bonds, shall execute and deliver to the presi-  
44 dent of the board of supervisors of the said district, a bond with  
45 good and sufficient sureties, to be approved by the said board of  
46 supervisors, conditioned that he shall account for and pay over as  
47 required by law and as ordered to do by said board of supervisors

48 any and all money received by him on the sale of such bonds, or  
49 any of them, and that he will only sell and deliver such bonds, to  
50 the purchaser or purchasers thereof under and according to the  
51 terms herein prescribed, and that he will return, duly cancelled,  
52 any and all bonds not sold, to the board of supervisors, when or-  
53 dered by said board so to do, which said bond shall remain in the  
54 custody of the said president of said board of supervisors, who  
55-56 shall produce the same for inspection or for use as evi-  
57 dence whenever and wherever legally requested so to do. The  
58 said treasurer shall promptly report all sales of bonds to the  
59 board of supervisors, and the board shall, at the proper time, issue  
60 warrants for the payment of the maturing bonds so sold, and the  
61 interest payments coming due on all bonds sold and a reasonable  
62 compensation to the bank or trust company, and the said treasurer  
63 shall place sufficient funds at the place of payment to pay the same.  
64 In case proper warrants are not issued by the board of supervis-  
65 ors as herein provided then the treasurer shall of his own accord  
66 place funds at the place of payment, and the cancelled bonds and  
67 coupons and the receipt of the bank or trust company shall be ac-  
68 cepted in lieu of warrants. The successor in office of any such  
69 treasurer shall not be entitled to said bonds or the proceeds there-  
70 of until he shall have complied with all the foregoing provisions  
71 applicable to his predecessor in office: *provided*, if it should be  
72 deemed more expedient by the board of supervisors, as to moneys,  
73 derived from the sale of bonds issued, said board may by resolu-  
74 tion, select some suitable bank or banks or other depository, as  
75 temporary treasurer or treasurers, to hold and disburse said mon-  
76 eys on the orders of the board as the work progresses, until such  
77 fund is exhausted or transferred to the treasurer by order of the  
78 said board of supervisors. The funds derived from the sale of  
79 said bonds or any of them shall be used for the purpose of paying  
80 the cost of the drainage works and improvements and such costs,  
81 expenses, fees and salaries as may be authorized by law, and shall  
82 be for no other purpose.

Sec. 36. Where "the plan for reclamation" of the drainage  
2 district is found insufficient to reclaim in whole or in part any or  
3 all of the land of the district, the board of supervisors shall have  
4 the right to formulate new or amended plans containing new  
5 ditches, levees or other works, and additional assessments may be  
6 made in conformity with the provisions of section thirteen, the  
7 same to be made in proportion to the increased benefits accruing

8 to the lands because of the additional works. If it should be  
9 found at any time that the amount of total tax levied under the  
10 provisions of section seventeen is insufficient to pay cost of works  
11 set out in "the plan for reclamation" or additional work done  
12 under the provisions of this section the board of supervisors may  
13 make an additional levy to provide funds to complete the work,  
14 *provided*, the total of all the levies of such tax does not exceed the  
15 total amount of benefits assessed.

Sec. 37. The board of supervisors may at any time remove  
2 any officer, attorney or other employee appointed or employed by  
3 said board.

Sec. 38. At the time of the construction in any district in-  
2 corporated under this act of "the plan for reclamation" hereinbe-  
3 fore referred to, all ditches or systems of drainage already con-  
4 structed in said district and all water courses shall, if necessary  
5 to the drainage of any of the lands in said district, be connected  
6 with and made a part of the works and improvements of the plan  
7 of drainage of said district. But no ditches, drains or systems of  
8 drainage constructed in said district, shall be connected there-  
9 with, unless the consent of the board of supervisors shall be first  
10 had and obtained, which consent shall be in writing and shall par-  
11 ticularly describe the method, terms and conditions of such con-  
12 nection, and shall be approved by the chief engineer. Said con-  
13 nections, if made, shall be in strict accord with the method, terms  
14 and conditions laid down in said agreement. If the land owner  
15 or owners wishing to make such connection are refused by the  
16 board of supervisors or decline to accept the consent granted, the  
17 said land owner or owners may file a petition for such connection  
18 in the circuit court having jurisdiction in said district, and the  
19 matter in dispute shall in a summary manner be decided by said  
20 court which decision shall be final and binding on the district  
21 and land owner or owners. No connection with the works or im-  
22 provements of said plan of drainage of said district or with any  
23 ditch, drain or artificial drainage wholly within said district shall  
24 be made, caused or affected by any land owner or owners, com-  
25 pany or corporation, municipal or private, by means of any ditch,  
26 drain, cut, fill, roadbed, levee, embankment or artificial drain-  
27 age, wholly without the limits of said district, unless such con-  
28 nection is consented to by the board of supervisors, or in the man-  
29 ner hereinbefore provided.

Sec. 39. To maintain and preserve the ditches, drains,

2 levees or other improvements made pursuant to this act and to  
3 strengthen, repair and restore the same, when needed, and for  
4 the purpose of defraying the current expenses of the district, the  
5 board of supervisors may, upon the completion of said improve-  
6 ments, and on or before the first day of July in each year there-  
7 after, levy a tax upon each tract or parcel of land and upon cor-  
8 porate property within the district, to be known as a "mainten-  
9 ance tax." Said maintenance tax shall be apportioned upon the  
10 basis of the net assessments of benefits accruing for original  
11 construction, shall not exceed ten per cent. thereof in any one  
12 year, and shall be certified to the sheriff of each county in which  
13 lands of said districts are situated in the same manner and at  
14 the same time as the annual installment tax is certified. The  
15 sheriff of the county shall demand and collect the maintenance  
16 tax and the return thereof at the same time and in the same  
17 manner as is provided herein for the annual installment tax.

Sec. 40. Any two or more adjacent districts, whether in-  
2 corporated in the same or different counties, may be united and  
3 consolidated in one district, and such new district and the board  
4 of supervisors thereof shall have the rights, powers and privileges  
5 of any districts organized under this act. In order to effect such  
6 consolidation, the board of supervisors of each of the original dis-  
7 tricts shall call an election in the same manner as elections of  
8 supervisors, stating the time, place and object of such election.  
9 If a majority of the acreage voting in each district vote in favor  
10 of the proposition to unite and consolidate such districts, the  
11 board of supervisors of each district shall present a petition to  
12 the circuit court of the county in which the greatest amount of  
13 the land is located, accompanied with a complete return of said  
14 election, in which petition shall be stated the name of the original  
15 district, when established, the names of the owners of the lands  
16 and boundaries of the district. When said petition has been  
17 filed the circuit clerk shall give notice of such filing in the man-  
18 ner provided for giving notice in section four of this act, said  
19 notice to state the contents of said petition and the objects sought  
20 and the term of court at which said matter is to be heard. Any  
21 person owning land in either of said districts, on or before the first  
22 day of said court, may file objections to the regularity or suffi-  
23 ciency of any of the proceedings had in the premises, and if such  
24 objections are overruled, or if no objections are made, the court  
25 shall make an order that any two or more of the several districts



26 so asking to be united and consolidated as one district, under  
 27 some appropriate designation, with all the rights, powers and  
 28 privileges of such districts organized under this act and the lands  
 29 so included in the new district shall be subject to all liens, liabilities  
 30 and obligations of the original districts, and a new board of  
 31 supervisors shall be elected, as is now provided in case of election  
 32 of supervisors, and all orders made in regard to extension of time,  
 33 boundaries or uniting districts shall be spread on the records of  
 34 the circuit court, and a certified copy thereof shall be filed with  
 35 the recorder of deeds of each county in which any of such lands  
 36 are located.

Sec. 41. Any person who shall obstruct a drain or damage  
 2 drainage works constructed under the provisions of this act shall  
 3 be guilty of a misdemeanor and fined one hundred dollars, and  
 4 he shall also be liable to the district for double the cost of re-  
 5 moving such obstructions and repairing such damage.

## CHAPTER 27.

(House Bill No. 279.)

AN ACT to amend chapter eighty-six of the code of West Virginia,  
 relating to real estate of decedents, by adding thereto sections  
 twelve, thirteen, fourteen and fifteen, authorizing administration  
 of estates of persons presumed in law to be dead.

[Passed February 22, 1917. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

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| <p><b>SEC.</b><br/>         12. Any person who has resided in this state and has gone and not been heard of for seven years or more continuous years presumed in law to be dead; proceedings had as to estate.</p> <p>13. Administrator may bring suit in the circuit court: notice to be published requiring supposed decedent to appear at court.</p> | <p><b>SEC.</b><br/>         14. If such supposed decedent shall not appear, and no evidence offered as to his being alive, the court may enter decree: notice to creditors: bond required; what to be done if bond is not given.</p> <p>15. The court may upon proof that supposed decedent is alive, revoke letters of administration.</p> <p>16. Inconsistent acts repealed.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That chapter eighty-six of the code of West Virginia, relating to real estate of decedents be amended by adding thereto sections twelve, thirteen, fourteen and fifteen, authorizing the administrator of the estates of persons presumed in law to be dead, on account of absence from the place of their last domicile within this state, for the period of seven or more successive years, and providing for notice and hear-

ing upon administration and security for refunding claims or shares, as follows:

Section 12. In case any person who has resided in this state 2 has gone from his last known domicile and has not returned to this 3 state or been heard of for a period of seven or more successive years, 4 he shall be presumed in law to be dead, in the absence of proof to 5 the contrary; and upon affidavit of such absence and motion, before 6 the county court of the county in which any estate of such party is 7 situate, of any distributee, preferring first the husband or wife and 8 next any other distributee or creditor, letters of administration 9 shall be granted to such distributee, or creditor of any person 10 so presumed to be dead, after the court or clerk thereof shall 11 have caused notice of the fact of such application to be published 12 once a week for four successive weeks in a newspaper of general 13 circulation in the county, stating a day certain, not less than two 14 weeks after the last publication of such notice, on which the court 15 will hear evidence concerning the alleged absence of the supposed 16 decedent. At the hearing on said day the court shall consider evi- 17 dence in relation to said matters, and no person shall be disquali- 18 fied as a witness by reason of relationship to the supposed decedent 19 or interest in his estate. If the court be satisfied upon the hearing 19-a that the legal presumption of death is established, it shall grant 20 letters of administration to such distributee or creditor or any 21 other person it may see fit, who shall qualify and give bond as 22 in cases of persons dying intestate. The clerk of any county court 23 may exercise the same powers as are herein conferred upon such 24 court.

Sec. 13. The administrator of the estate of such supposed 2 decedent may thereupon bring a suit in equity in the circuit court 3 of the county in which the estate of such supposed decedent is, 4 to which the widow, heirs, distributees and all known creditors of 5 the supposed decedent shall be made defendants, and in which at- 6 tested copies of the orders and notice relating to the appointment 7 and qualification of such administrator shall be filed. The admin- 8 istrator shall also cause notice to the supposed decedent to be issued 9 by the clerk of the circuit court, and published once a week for 10 four successive weeks in a newspaper of general circulation in the 11 county, and for the same period in a newspaper of general circula- 12 tion in the county of the last known domicile of the supposed 13 decedent in this state, requiring him to appear on a certain day 14 of a regular or special term of said court, not less than three nor

15 more than six months from the date of the first publication thereof.

Sec. 14. If such supposed decedent shall not appear or satisfactory evidence that he is alive shall not be offered, on or before such date, the circuit court shall hear proof in relation to the presumption of his death and as to his estate and the persons entitled thereto and if satisfied of the rights of the persons entitled thereto, may enter a decree assigning and transferring such estate to the persons entitled thereto, or directing sale thereof and distribution of the proceeds of sale among the persons entitled thereto. But before any assignment of such estate or the distribution of the proceeds of the sale thereof is made, notice to creditors of such supposed decedent shall be given as required by section eight of this chapter. And before such assignment or distribution the court shall also require the persons entitled thereto respectively to enter into a joint or separate bond before the clerk of the court, in the penalty required by the court, with sureties to be approved by the clerk, with condition that if the supposed decedent shall at any time thereafter appear, they will respectively refund the amounts received, on demand, with interest; but if the persons entitled thereto are jointly or separately unable to give such security, then the said estate shall be sold and the proceeds thereof paid into the hands of the general receiver of the court until such security is given or until the further order of the court.

Sec. 15. The circuit court may at any time thereafter, on satisfactory proof that the supposed decedent is in fact alive, revoke the letters of administration of his estate and require a settlement by such administrator; and the said estate, or the proceeds of the sale thereof, with interest, shall be transferred or refunded to the said supposed decedent as the true owner thereof.

Sec. 16. That sections forty-four and forty-five, of chapter one hundred and thirty, of the code of West Virginia, and all other acts and parts of acts inconsistent herewith are hereby repealed.

## CHAPTER 28.

(House Bill No. 291.)

AN ACT authorizing, empowering and directing the county court of Cabell county, to lay a special levy each year for the years nineteen hundred and seventeen, nineteen hundred and eighteen, nineteen

hundred and nineteen, nineteen hundred and twenty and nineteen hundred and twenty-one, for the purpose of building a permanent hard road from the town of Barboursville in said county, through McComas district to the Lincoln county line, providing for the building thereof and for the receipt and expenditure of all moneys raised by said levy.

[Passed February 22, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC.

1. The county court of Cabell county authorized to lay a special road levy.
2. Hard roads shall be built by Cabell

SEC.

- county: account to be of receipts and disbursements.
3. Fund to be used for no other purpose.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Cabell county is hereby  
 2 authorized, empowered and directed to lay a levy each year for  
 3 the years nineteen hundred and seventeen, nineteen hundred and  
 4 eighteen, nineteen hundred and nineteen, nineteen hundred and  
 5 twenty and nineteen hundred and twenty-one, or such years there-  
 6 of necessary, to raise sufficient funds, in addition to all other levies  
 7 allowed by law, not exceeding ten cents on each one hundred dol-  
 8 lars of valuation on the taxable property of the county for the  
 9 year the levy is laid, to be called a special road levy, for the purpose  
 10 of building a permanent hard road from the town of Barboursville  
 11 through McComas district in said Cabell county, to the Lincoln  
 12 county line.

Sec. 2. Said permanent hard road shall be built by said  
 2 county court of Cabell county in such manner as it shall decide  
 3 and shall be permanently maintained under the direction, authority  
 4 and supervision of said county court; and all moneys realized from  
 5 such special levy shall be placed in a separate fund, apart from all  
 6 other funds, and a separate account shall be kept by said court of  
 7 the receipt and disbursement of the same, setting forth clearly the  
 8 sum received by reason of said levy and the manner in which the  
 9 same has been expended.

Sec. 3. The fund arising from such road levy shall be used  
 2 for the purpose herein designated and no other.

## CHAPTER 29.

(House Bill No. 297.)

AN ACT to authorize county courts to change the method of improving public roads with the proceeds of bonds voted pursuant to chapter eight of the acts of the legislature of one thousand nine hundred and fifteen, second extraordinary session, after having received authority therefor from the voters of the county or district affected, in an election held for that purpose.

[Passed February 14, 1917. In effect from passage. Became a law without the Governor's approval.]

SEC.

1. Where a bond issue has been voted for prescribed permanent improvement to roads as to mater-

SEC.

ial, upon petition the question as to the use of other material may be submitted to vote.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That in any case where the issuance of bonds has been authorized by a vote of the people of any county or district, pursuant to chapter eight of the acts of the legislature of one thousand nine hundred and fifteen, second extraordinary session, for the purpose of permanently improving roads therein, and in the order or proceedings submitting to the voters the question of the issuance of said bonds, such permanent improvements shall have been prescribed or specified to be made by the use of any one particular material authorized in said chapter eight and the county court of the county may deem it expedient that the proposed permanent improvements be made by the use of some other material authorized by law, to-wit, by the use of asphaltum, brick, concrete, macadam, stone-block or other process of equal merit; such county court shall upon the petition of one hundred legal voters who are free holders of such county, or upon the petition of fifty legal voters who are free holders of such district, as the case may be, submit to the voters of the county or the district to be affected the question of permitting such permanent improvement to be made by the use of any of the materials aforesaid. Such question shall be submitted to the voters within sixty days after such petition shall have been filed with the county court, and the election thereupon held in the manner provided for elections held pursuant to sections four and five of said chapter eight of the acts of one thousand nine hundred and fifteen, second extraordinary session; and if not less than three-fifths of the voters of such county or district, who shall vote upon the question, shall vote in favor of such proposed

28 change in the material and specifications for constructing said  
29 roads, the said county court shall be authorized to make said  
30 change and to construct such permanent improvements with any  
31 of the materials prescribed by law, to the same extent and with  
32 the same effect as if such materials had been originally specified  
33 for such improvements.

## CHAPTER 30.

(House Bill No. 315.)

AN ACT concerning the compilation of the code of West Virginia of one thousand nine hundred and sixteen, declaring the same competent evidence of the law in all courts of the state.

[Passed February 20, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 1. West Virginia code one thousand nine hundred and sixteen, declared competent evidence.

*Be it enacted by the Legislature of West Virginia:*

The general laws of this state, as edited and compiled by Uriah Barnes and published by the J. B. Lyon company, and entitled the "West Virginia code one thousand nine hundred and sixteen", are hereby declared competent evidence of the several acts and resolutions therein contained, in so far as correctly copied from said original acts and resolutions, in all courts of the state, without further proof or authentication, and shall be known and cited as "code one thousand nine hundred and sixteen."

## CHAPTER 31.

(House Bill No. 324.)

AN ACT to amend and re-enact section three of chapter sixty of the code of West Virginia of 1916, relating to animals running at large, and prescribing a penalty therefor.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 3. Trespass by animals; stock running at large; owner guilty of misdemeanor; penalty; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section three of chapter sixty of the West Virginia code of one thousand nine hundred and sixteen, be amended and re-enacted so as to read as follows:

Section 3. If any horses, mules, cattle, sheep, hogs or goats, shall enter into any grounds enclosed by a lawful fence, the owner or manager of any such animal shall be liable to the owner of such grounds for any damage he may sustain thereby; and for every successive trespass by such animal or animals, the owner thereof shall be liable in damages in double the amount thereof, and after having given at least five days' notice in writing to the owner or manager of such animal, of the fact of two previous trespasses, the owner or occupier of such grounds shall be entitled to such animal if it be found again trespassing on said grounds. It shall be unlawful for any such animal to run at large on any public road or highway or railroad right-of-way in this state where such road or highway is enclosed on both sides thereof by a lawful fence, or any river considered a lawful fence; and should such stock while running at large destroy or injure the property of another, the owner shall be guilty of a misdemeanor and fined not less than five dollars and not more than ten dollars, and shall pay to the party whose property may be injured or destroyed, the amount of damages sustained by him by reason of such destruction or injury. And the party so injured, may, if he find such stock on his premises, retain them, or a sufficient number thereof, until said damages and costs of keeping be paid. It shall also be unlawful for any male sheep or goats, over four months old, bull over six months old, or hog to run at large, over four months, and if the owner of such property shall permit same to run at large, he shall be guilty of a misdemeanor and be fined not less than five dollars and not more than ten dollars, and the owner of such animal shall pay to the party whose property may be injured, the amount of damages sustained by him by reason of the running at large of any such animal.

All acts or parts of acts heretofore passed, pertaining to male hogs, sheep, goats, and cattle running at large are hereby repealed.

## CHAPTER 32.

(House Bill No. 331.)

AN ACT to amend and re-enact sections twenty-nine-d II, twenty-nine-d III, twenty-nine-d IV, twenty-nine-d V, twenty-nine-d VI and twenty-nine-d VII of chapter one hundred and fifty of

the code of West Virginia, relating to the state board of examiners for the examination and registration of nurses, to provide for the appointment of a permanent secretary, and an improved regulation of the examination and registration of nurses.

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

## SEC.

29-d II. Board of examiners shall organize, elect a permanent secretary; duties of secretary; quorum; board authorized to frame by-laws; duties of board; compensation.

29-d III. Duty of board of examiners to meet, notice to be published, to examine applicants; certificate to be recorded.

## SEC.

29-d IV. No person shall be admitted to examination unless: fee to accompany; school training; furnish proof to board, etc.

29-d V. "Registered nurse": who entitled to use title; unlawful to advertise names of nurses, unless.

29-d VI. This act not construed to apply to.

29-d VII. Penalty for false representation, etc.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That sections twenty-nine-d II, twenty-nine-d 2 III, twenty-nine-d IV, twenty-nine-d V, twenty-nine-d VI 3 and twenty-nine-d VII of chapter one hundred and fifty of the 4 code of West Virginia be amended and re-enacted so as to read 5 as follows:

Sec. 29-d. II. And be it further enacted; that the members 2 of the state board of examiners, shall, in the month of June 3 of each year, organize by electing from their members a presi- 4 dent and a treasurer; and shall, in the month of June of each 5 year, elect a permanent secretary, who shall be an experienced 6 graduate nurse duly registered in the state of West Virginia: 7 the salary of the permanent secretary shall be fixed by the board 8 and the board shall provide for the secretary, headquarters, office 9 equipment and such clerical assistance as may be necessary; the 10 duties of the secretary shall be to keep accurately and securely 11 all records of the board, to perform for the board all the cus- 12 tomary duties of a secretary, to visit and advise with, on behalf 13 of the board, all of the schools for nurses in the state of West 14 Virginia, to keep a register of the names of all nurses duly regis- 15 tered under this act, which register shall, at all reasonable times, 16 be open to public scrutiny; and to investigate all cases wherein 17 a violation of any of the provisions of this act is suspected, and 18 upon probable cause, to file complaint, cause prosecution, and, 19 generally, to act for the board in the enforcement of the pro- 20 visions of this act; three members of this board of examiners 21 shall constitute a quorum, and special meetings of the board shall 22 be called by the secretary upon the written request of any two



23 members; the said board of examiners is authorized to frame such  
24 by-laws as may be necessary to govern its proceedings; and said  
25 board shall make, to the governor, for transmission to the legis-  
26 lature, a biennial report of all its receipts and disbursements; the  
27 members of the board shall receive four dollars for each day  
28 actually engaged in this service, and all legitimate and necessary  
29 expenses; said expenses and salaries and the expenses and salaries  
30 of the secretary and the secretary's office shall be paid from a  
31 fund maintained by the fees received by the board under the pro-  
32 visions of this act; all money received in excess of said salaries  
33 and other expenses provided for, shall be held by the treasurer  
34 for meeting the expenses of the said board, and the cost of  
35 the annual report of the board.

Sec. 29-d III. It shall be the duty of the said board  
2 of examiners to meet at some convenient point within the state  
3 not less frequently than once a year, notice of which meeting  
4 shall be given in the public press and in one nursing journal one  
5 month previous to the meeting; at this meeting it shall be their  
6 duty to examine all applicants for registration under this act, and  
7 to determine their fitness and ability to give efficient care to the  
8 sick; any person successfully passing such examination shall be  
9 registered as hereinbefore provided, and shall receive a certificate  
10 from the said board; *provided*, however, that no applicant shall be  
11 examined who has not complied with the provisions of section 29-d  
12 IV of chapter one hundred and fifty of the code of West Virginia,  
13 as amended and re-enacted by this act; no such certificate shall  
14 be considered in force or effect for the purposes of this act unless  
15 it be recorded in the office of the clerk of the county court of  
16 the county in which the registered nurse, holder of the certificate,  
17 is a resident, and for recording such certificate the said holder  
18 shall pay to the clerk of the county court the sum of fifty cents.

Sec. 29-d IV. No person shall be admitted to examination  
2 who has not presented, upon a blank to be provided for that pur-  
3 pose by the board, her application to the board of examiners, at  
4 least ten days prior to the date set for the examination; every  
5 application shall be accompanied by the payment of a fee of ten  
6 dollars (\$10.00), which fee shall not in any case be returnable: no  
7 applicant shall be examined who does not first furnish satisfactory  
8 evidence that she is at least least twenty-one years of age, of good  
9 moral character, and that she has had at least one year of high  
10 school training, or its equivalent, and that she has been graduated

11 from a recognized school for nurses; *provided, however*, that the  
12 applicant shall be eligible for examination if she has so far com-  
13 pleted her training in a recognized school, that she is to be duly  
14 graduated therefrom within three months from and after the date  
15 of the examination, in which case no certificate is to be issued  
16 to her until the diploma of her school, duly attested, is presented  
17 to the board of examiners and found satisfactory; that a training  
18 school, to be a recognized school for nurses, within the meaning,  
19-20 and for the purposes, of this act, must be connected with a hos-  
21-22 pital having a daily average of at least fifteen patients; such  
23 school must not send out pupil nurses for private duty; such  
24 school must have a three-year course of training covering, at  
25 the least, the subjects most important and essential, as required  
26 by the state board of examiners, which subjects must be taught in  
27 a proper manner and under the advisory supervision of the secre-  
28 tary of the board; and such school must not accept applicants  
29 who have not had at least one year of high school training, or its  
30 equivalent; providing only that if a school for nurses unable to  
31 give a full three years' course, but otherwise meeting the require-  
32 ments of a recognized school, give a two years' course and affiliate  
33 for a third years' training with a recognized school for nurses,  
34 or affiliate for a third year's training with another two years' school  
35 which complements the training of the first by supplying the  
36 courses and subjects which the first lacks, a graduate of such  
37 affiliated schools shall be considered a graduate of a recognized  
38 school; the board of examiners may, without examination as above  
39 provided, issue a certificate to any applicant who shall furnish  
40 satisfactory proof to the board that she is duly authorized to prac-  
41 tice nursing as a "registered nurse" in another state, or in the  
42 District of Columbia, provided that the laws of such state or dis-  
43 trict require qualifications at least equal to those required in the  
44 state of West Virginia and provided that the laws of such state  
45 or district permit reciprocal rights in this respect to registered  
46 nurses of the state of West Virginia; but such applicant must  
47 further furnish satisfactory evidence that she intends to remove  
48 from that state or district and to reside and practice as a registered  
49 nurse in this state, *provided, however*, that such applicant must  
50 make due application, accompanied by the payment of the statu-  
51 tory fee of ten dollars.

Sec. 29-d V. A nurse who has received her certificate ac-  
2 cording to the provisions of this act shall be styled and known

3 as a "registered nurse," and no other person shall assume such  
 4 a title, or use the abbreviation "R. N." or any other letters or  
 5 figures to indicate that he or she is a registered nurse; and no  
 6 person who has not duly received a certificate from the said board  
 7 of examiners shall practice professional nursing with the repre-  
 8 sentation that he or she is a registered nurse, or shall advertise  
 9 to the public as a nurse, without stating that he or she is not a  
 10 registered nurse, and it shall be unlawful for any drug store  
 11 proprietor, physician, or other person, to advertise any person as  
 12 a nurse, or to keep publicly the names of any person upon a record  
 13 or list of names of nurses, unless such person has been duly granted  
 14 a certificate to practice as a registered nurse within this state,  
 15 or unless such advertisement, record or list, shall state that such  
 16 person or nurse is "not registered."

Sec. 29-d VI. That this act shall not be construed to  
 2 effect or apply to the gratuitous nursing of the sick by friends  
 3 or members of the family; and also, it shall not apply so as to  
 4 prevent any person from nursing the sick for hire, who does not  
 5 in any way assume to be a registered nurse.

Sec. 29-d VII. That any person violating any of the  
 2 provisions of this act, or who shall wilfully make any false repre-  
 3 sentation to the board of examiners, in applying for a certificate,  
 4 shall be guilty of a misdemeanor, and, upon conviction, shall be  
 5 punished by a fine of not less than twenty-five dollars, nor more  
 6 than two hundred and fifty dollars.

## CHAPTER 33.

(House Bill No. 332.)

AN ACT authorizing the county court of Mercer county to lay a  
 special levy of twelve and one-half cents for general road pur-  
 poses for the fiscal year one thousand nine hundred and seventeen.

[Passed February 10, 1917. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

Sec. 1. Special county road levy for Mercer county; how collected and expended.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Mercer county be and  
 2 is hereby authorized to lay a levy of twelve and one-half cents  
 3 on each one hundred dollars property valuation in said county,

4 at its levy term, for the fiscal year one thousand nine hundred and  
5 seventeen, to be known as "special county road levy," the same to  
6 be collected as other taxes and expended under the direction of  
7 said county court for road purposes only.

## CHAPTER 34.

(House Bill No. 350.)

AN ACT to amend and re-enact chapter seventy-three, section seven-a  
(serial section three thousand eight hundred and eleven of Hogg's  
code of West Virginia, one thousand nine hundred and thirteen),  
relating to general indexing, fees, etc.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

SEC. 7-a.	The county court may order clerk to let to lowest bidder contract for general index; what books;	SEC. fees for clerk; contracts hereto- fore made construed; this act limited as to time.
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*Be it enacted by the Legislature of West Virginia:*

Section 7-a. That section seven-a of chapter seventy-three  
2 (serial section three thousand eight hundred and eleven of Hogg's  
3 code of West Virginia, one thousand nine hundred and thirteen),  
4 relating to general indexing, fees, etc., be amended and re-enacted  
5 so as to read as follows:

The county court of any county may order the clerk of said  
2 court and the clerk of the circuit court of said county, or let to  
3 the lowest bidder a contract to provide a general index for the  
4 deed books, trust deed books, judgment lien dockets, marriage  
5 records, release deed books, law and chancery order books in the  
6 custody of the clerk of the circuit court of said county, or other  
7 record books, or any of them, in the office of either of said clerks,  
8 in which shall be indexed the names of all grantors and grantees  
9 of deeds, deeds of trust and release deeds, or other writings, the  
10 names of the parties to marriage records, and the names of per-  
11 sons for and against whom judgments are rendered, and in which  
12 law and chancery order books in the custody of the clerk of the  
13 circuit court of said county shall be indexed, *versus* and *adversus*,  
14 the names of each of the plaintiff or plaintiffs and defendant  
15 or defendants and may include such other data as the clerk  
15-a may determine for which services the court shall allow  
16 the clerk a fee of six cents for each deed or other writing so

17 indexed, and to the clerk of the circuit court a reasonable fee  
 18 for each suit or proceeding in said court so indexed, to be paid  
 19 out of the county treasury; *provided, however*, that any contracts  
 20 that have heretofore been made by any county court for general  
 21 indexes shall be construed to be legal; *provided*, this act shall not  
 22 be construed to allow such compensation after January one, one  
 23 thousand nine hundred and twenty-one.

## CHAPTER 35.

(House Bill No. 359.)

AN ACT to amend and re-enact section one of chapter one hundred  
 and thirteen of the acts of the legislature of one thousand nine  
 hundred and fifteen, relating to special levy for permanent road  
 improvement for Lewis county.

[Passed February 16, 1917. In effect from passage. Became a law without the  
 Governor's approval.]

### SEC.

1. Lewis county authorized to lay special road levy each year; amount and purpose of same; voters of magisterial district may petition county court to submit bond issue for permanent improvement of turnpikes; if bonds are voted, magisterial district to be exempt from special levy.

### SEC.

2. County court to have supervision of permanent improvement of roads or turnpikes; moneys from special levy to be kept in separate fund; account kept by court of receipts and expenditures.  
 3. Fund to be used only for purpose designated.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Lewis county is hereby authorized and empowered to lay a levy each year, in addition to all other levies allowed by law, not exceeding twenty-five cents on each one hundred dollars of valuation on the taxable property of the county for the year the levy is laid, to be called a special road levy, for the purpose of permanently improving the four public roads or turnpikes leading out of the city of Weston, and within the said county, being the Staunton and Parkersburg turnpike, sometimes called the Beverly and Glenville turnpike; the Weston and Beverly turnpike, sometimes called the Weston and Buckhannon turnpike; the Weston and Gauley-Bridge turnpike, sometimes called the Weston and Sutton turnpike; and the Weston and Clarksburg turnpike.

It is provided, however, that if the voters of any magisterial district should petition the county court to submit a bond issue to permanently improve such parts of said turnpikes as traverse

17 that magisterial district, the county court shall submit, in the  
18 manner prescribed by law, to the voters of that magisterial dis-  
19 trict, for their ratification or rejection, a bond issue, and any  
20 magisterial district voting bonds for the permanent improvement  
21 of the said turnpikes, shall be thereby exempted from the opera-  
22 tion of the special levy for permanent road purposes under the  
23 provisions of this act.

Sec. 2. Said roads or turnpikes shall be permanently im-  
2 proved by said county court of Lewis county, in such manner as it  
3 shall decide and shall be so permanently improved under the di-  
4 rection, authority and supervision of said county court; and all  
5 moneys realized from such special levy shall be placed in a sep-  
6 arate fund apart from all other funds, and a separate account shall  
7 be kept by said court of the receipt and expenditures of the same,  
8 setting forth clearly the sum received by reason of said levy and the  
9 manner in which the same has been expended.

Sec. 3. The fund arising from such road levy shall be  
2 used for the purpose herein designated and no other.

## CHAPTER 36.

(House Bill No. 410.)

AN ACT relating to special debt levies in Mountain Cove district  
of Fayette county.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

Sec. 1. The county court of Fayette county authorized to lay levy in Cove district  
as special debt levy.

*Be it enacted by the Legislature of West Virginia:*

Section 1. For the purpose of paying any outstanding drafts  
2 or judgments dated or rendered prior to the first day of July, nine-  
3 teen hundred and fifteen, against the road fund in said district, the  
4 county court of Fayette county is hereby authorized to continue  
5 to lay each year on the assessed valuation of all taxable property  
6 of the district, a "special debt levy" not to exceed twenty cents  
7 in any one year until the thirtieth day of June, nineteen hundred  
8 and nineteen. Such levy shall be assessed and collected as other-  
9 wise provided by law and the proceeds thereof shall be used for  
10 the purpose of paying such drafts and judgments and for none  
11 other.

## CHAPTER 37.

(Senate Bill No. 14.)

AN ACT to provide at general and primary elections for double election boards, and to facilitate the counting and declaration of the vote.

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

### SEC.

1. At all general and primary elections, every precinct casting one hundred or more votes, there shall be two election boards of three commissioners and two clerks each.
2. Duty of county court in selecting boards: manner; oath; designation of boards.
3. Manner of receiving, counting and certifying the votes.

### SEC.

4. Certificates shall be made and their disposition.
5. Clerk of the county court shall furnish ballot boxes and supplies; compensation to additional commissioners and poll clerk.
6. Penalty for failure of election officers to perform duty or divulge result of election improperly.
7. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That at all general and primary elections in this state, for every voting precinct in which were cast an aggregate of one hundred or more votes for the office of governor, at the last preceding general election, there shall be two boards of election officers, each board consisting of three election commissioners and two poll clerks, one board to be known as the receiving board. Not more than two commissioners and one poll clerk of each board shall be appointed from the same political party.

Sec. 2. It shall be the duty of the county court of every county at each session held in accordance with the provisions of section seven of chapter eighty-nine of the acts of one thousand eight hundred and ninety-one, and of section four of chapter five of the acts of the extraordinary session of one thousand nine hundred and sixteen, to ascertain the precincts of the county at which were cast an aggregate of one hundred or more votes for governor at the last preceding general election, and for each such precinct there shall be appointed an additional board of election officers, consisting of three commissioners and two poll clerks; such appointments to be made in the same manner as the boards of election officers now provided for by law, and shall take the same oath as provided for said officers. The court shall designate one board of election officers in each such precinct as the receiving board, and one board as the counting board.

Sec. 3. In each precinct where double boards of election officers are appointed as herein provided, the receiving board on election day shall organize and take charge of the polls as now re-

4 quired by law. The counting board shall proceed to their voting  
5 place four hours after the opening of the polls, and shall take  
6 charge of the ballot box containing the ballots already cast  
7 in that precinct. It shall retire to a partitioned room or space in  
8 the voting place provided for that purpose, and there proceed to  
9 count and tabulate the ballots cast as they shall find them de-  
10 posited in the ballot box. The receiving board shall continue to re-  
11 ceive the votes of electors in the other box provided until such  
12 time as the counting board shall have finished counting and tabu-  
13 lating the ballots cast in the first ballot box. The counting  
14 board, shall, before exchanging the ballot boxes as herein pro-  
15 vided, seal the ballots counted by it in envelopes to be provided  
16 for the purpose which shall not be opened until the two boards  
17 shall together proceed with the counting, tabulating and sum-  
18 marizing the votes as by this act provided. The two boards shall  
19 then exchange the first box for the second box, and so continue  
20 until they have counted and tabulated all the votes cast on that  
21 election day, in the ballot boxes, until the hour of closing the  
22 polls arrives. When the hour arrives for closing the polls, both  
23 the receiving and counting boards shall continue in the work  
24 of counting, tabulating and summarizing the votes, and making  
25 their certificates as to the result of the election. The members of  
26 both boards shall unite in certifying and attesting to the returns  
27 of the election in the same manner as now provided by law.

Sec. 4. Four of said certificates of the result of election for  
2 each party shall then be sealed in separately addressed envelopes,  
3 furnished for the purpose, and said certificates shall be disposed  
4 of by the precinct commissioners as follows: One certificate shall  
5 be returned, under seal, to the clerk of the county court, with the  
6 election returns; one shall be posted on the outside of the front  
7 door of the polling place in said precinct; one shall be mailed by  
8 said commissioners at the earliest possible opportunity to the  
9 clerk of the circuit court of the county; and one for each party  
10 shall be sent by registered mail to the secretary of state; *pro-*  
11 *vided, however,* that it shall not be necessary for the precinct  
12 commissioners and clerks to include in the certificate mailed to  
13 the secretary of state the votes cast for any candidates for county  
14 and district offices, other than for members of the legislature.  
15 And, *provided, further,* that the provisions of this act with re-  
16 spect to the certification of the returns of any primary or general  
17 election and the forwarding of the same to the clerk of the county



18 court, the clerk of the circuit court and the secretary of state and  
19 the posting of the same at the voting place shall apply to all  
20 election precincts in the state, whether the vote cast at such pre-  
21 cinct be one hundred or less.

Sec. 5. The clerk of the county court of each county shall, at  
2 the expense of the county, provide and cause to be delivered to the  
3 commissioners of election, or to one of them, in each precinct  
4 where double boards of election officers are appointed, an ad-  
5 ditional ballot box for each such precinct, and such other election  
6 supplies as may be required to be furnished in duplicate to ac-  
7 complish the purposes of this act.

8 All additional commissioners of election and poll clerks here-  
9 in provided for shall receive compensation as provided for such  
10 election officers in section eighty-six of chapter three of the code  
11 of one thousand nine hundred and thirteen. *Provided*, that in no  
12 precinct where there are double election boards shall any election  
13 commissioner or poll clerk be allowed per diem for more than one  
14 day at any general or primary election.

Sec. 6. Any primary or general election officer who shall  
2 wilfully fail, neglect or refuse to prepare and return said certifi-  
3 cates of result of election in the manner herein provided within  
4 twelve hours after the completion of the count, tabulation and  
5 declaration of the result, or who shall divulge the result of the  
6 count of the ballots at any time prior to the closing of the polls,  
7 shall be guilty of a misdemeanor, and fined not less than one  
8 hundred dollars nor more than five hundred dollars, and shall be  
9 confined in the county jail not less than three nor more than six  
10 months.

Sec. 7. All acts and parts of acts coming within the purview  
2 of this act and inconsistent herewith are hereby repealed.

## CHAPTER 38.

(Senate Bill No. 15.)

AN ACT to establish a state institution for the care and treatment of  
persons of the negro race afflicted with tuberculosis or consump-  
tion, and to provide for the management of such institution.

[Passed February 16, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

## SEC.

1. Establishing "State Colored Tuberculosis Sanitarium;" provisions of section three, chapter fifty-eight of acts of one thousand nine hundred and nine to govern management of institution; chief executive officer to be superintendent and qualified physician; to be appointed by governor, with consent of senate.
2. Site for sanitarium to be selected by state board of control and committee of three colored phy-

## SEC.

- sicians; when; provisions of said act to govern, if applicable.
3. Who shall be admitted to sanitarium; reasonable expenses of poor persons to be paid by municipal corporation or county requesting their admission; regulations as to receiving persons who are able to pay part of expenses; board of control to make schedule of rates to be paid by patients.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There is hereby established for the care and treatment of persons of the negro race afflicted with tuberculosis, or consumption, a state institution to be known as the State Colored Tuberculosis Sanitarium. It shall belong to that class of institutions mentioned in section three of chapter fifty-eight of the acts of one thousand nine hundred and nine, and shall be managed and controlled as provided in said act, all the provisions whereof shall be as applicable to said sanitarium as if the same were named in said section three of said act. The chief executive officer thereof shall be the superintendent, who shall be a legally qualified physician of at least six years' experience in the practice of his profession and shall be a person of good executive ability, and shall be appointed by the governor with the advice and consent of the senate.

Sec. 2. The state board of control and a committee of three colored physicians, citizens of West Virginia, appointed by the governor, shall jointly select a suitable site for such sanitarium and provide plans for the necessary buildings as soon after July 1, 1917, as practicable; and thereafter all the provisions of said chapter fifty-eight of the acts of one thousand nine hundred and nine shall govern herein as far as applicable.

Sec. 3. There shall be admitted into said sanitarium persons of the negro race, residents of this state, who may be suffering with tuberculosis, which persons shall be divided into two classes, namely: First, those unable to pay the expenses of their care and treatment; second, those who are able to pay and shall pay the same. The reasonable expenses of poor persons admitted at the request of the authorities of any municipal corporation or county shall be paid by such municipal corporation or county. Regulations may be made to receive persons who are able

10 to pay part but not able to pay all of the expenses of their care  
11 and treatment. Schedules of rates to be paid by patients shall be  
12 made by the state board of control.

## CHAPTER 39.

(Senate Bill No. 21.)

AN ACT to amend and re-enact section sixty-four of chapter thirty-two of the code (serial section one thousand, one hundred and ninety-two of the code of one thousand nine hundred and thirteen,) relating to license on hotels or taverns.

[Passed February 17, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 64. License on hotel or restaurant, one per cent per year upon yearly rental value of premises.

*Be it enacted by the Legislature of West Virginia:*

That section sixty-four of chapter thirty-two of the code (serial section one thousand, one hundred and ninety-two of the code of one thousand nine hundred and thirteen) be amended and re-enacted so as to read as follows:

Section 64. On every license to keep a hotel or tavern, eating house or restaurant, one per centum per annum upon the yearly rental value of the premises occupied for that purpose, estimated according to the ninth section of this chapter.

## CHAPTER 40.

(Senate Bill No. 22.)

AN ACT to amend and re-enact section seventy-six-a III, chapter thirty-four of the code of West Virginia, serial section one thousand four hundred and forty-one, Hogg's code, one thousand nine hundred and thirteen, and to provide for deposit with the insurance commissioner, of sufficient bonds and securities to secure and protect the purchasers and holders of annuity contracts.

[Passed February 14, 1917. In effect from passage. Became a law without the Governor's approval.]

SEC.  
76-a III. Before permit to transact business in this state is issued, insurance commissioner to require the deposit of approved bonds and securities for protection of contract holders; amount of same; liability on outstanding contracts in excess of certain amount, additional securities to be deposited with commissioner; deposit in other state, equal or greater in amount for benefit of contract holders, shall relieve from deposit in

SEC. this state, upon filing of proper certificate; deposit in other state, less in amount, upon filing of proper certificate, shall require additional deposit to make up total amount for this state; contract holders in other states not entitled to benefit of securities deposited with commissioner of this state, except for difference in amounts deposited; time for which permit may be issued; fee for same.

*Be it enacted by the Legislature of West Virginia:*

That section seventy-six-a III, chapter thirty-four of the code of West Virginia, serial section one thousand four hundred and forty-one, Hogg's code, one thousand nine hundred and thirteen, be amended and re-enacted as follows:

Section 76-a III. Before a permit to transact business in this  
2 state shall be issued by the insurance commissioner to any person,  
3 association, or corporation within the purview of section one of this  
4 act, the insurance commissioner shall require said applicant to  
5 deposit with the insurance commissioner, in trust, for the benefit  
6 of its contract holders, bonds and securities approved by said  
7 insurance commissioner to the amount of ten thousand dollars,  
8 and whensoever the liability of said person, association or corpo-  
9 ration on all outstanding contracts shall exceed the sum of ten  
10 thousand dollars, said person, association or corporation shall de-  
11 posit with the insurance commissioner additional bonds and secu-  
12 rities approved by said insurance commissioner to an amount equal  
13 to one hundred per cent of the liability on all outstanding con-  
14 tracts in excess of said ten thousand dollars hereinbefore pro-  
15 vided for, *provided*, that when, by the laws of any other state,  
16 any such person, association or corporation shall have been re-  
17 quired to make and shall have made such deposit in said state,  
18 equal or greater in amount for the benefit of contract holders  
19 in said state; upon the filing of a certificate from the proper offi-  
20 cer in said state with the insurance commissioner of this state,  
21 such person, association or corporation shall not be required to  
22 make such deposit with the insurance commissioner of this state  
23 for the benefit of its contract holders in said state; and, *provided*,  
24 *further*, that when the laws of any other state require such a de-  
25 posit less in amount, such a person, association or corporation  
26 shall file a certificate from the proper officer in said state with

27 the insurance commissioner of this state showing the amount of  
 28 the deposit made, and shall deposit with the insurance commis-  
 29 sioner of this state an amount which, together with the deposit  
 30 made in said state, shall make up the total amount required by  
 31 this state to be deposited by said person, association or corpora-  
 32 tion, and said contract holders in said states shall not be entitled  
 33 to the benefit of the securities deposited with the insurance com-  
 34 missioner of this state under this act, except so much of said de-  
 35 posit which may be made to complete the total amount required  
 36 by this act where the law of any other state requires a lesser  
 37 amount. Said permit shall be issued for one year, or the frac-  
 38 tional part of a year, and for issuing same a fee of ten dollars  
 39 shall be charged.

## CHAPTER 41.

(Senate Bill No. 29.)

### AN ACT to regulate and license the practice of chiropody.

[Passed February 10, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

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| <p>SEC.</p> <ol style="list-style-type: none"> <li>1. Unlawful to practice chiropody unless licensed by the public board of health.</li> <li>2. Board shall conduct examinations.</li> <li>3. Applications to practice, how made; proof, etc.</li> <li>4. Fees from candidates; shall be deposited; expenses of members to be paid, disposition of remainder if any.</li> <li>5. The board shall keep record of names and addresses of persons licensed and of moneys and make report to legislature.</li> <li>6. Examination shall be in English and in writing.</li> </ol> | <p>SEC.</p> <ol style="list-style-type: none"> <li>7. Unlawful practice, what constitutes; penalty; fine collected shall inure to the school fund.</li> <li>8. No discrimination against registered practitioner of medicine; exemption from examination, etc.</li> <li>9. Every person practicing chiropody shall register, when; form, etc.; fee for registration; penalty for false statement; where fines above expenses go; duty of board; certificate and what to do with certificate; penalty for failure.</li> <li>10. "Chiropody" construed; board means public health council.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any person to practice  
 2 the branch of medicine in this state known as chiropody, as here-  
 3 inafter defined, unless duly licensed so to do by the public health  
 4 council of this state, after examination conducted by such board  
 5 or a committee thereof, under rules and regulations prepared and  
 6 promulgated by such board, except as hereinafter provided.

Sec. 2. Said board shall conduct such examinations at the  
 2 times and places designated by them for conducting examina-  
 3 tions for license to practice medicine.

Sec. 3. Applications for admission to such chiroprody  
2 licensing examinations shall be made in writing on blanks to be  
3 furnished by the board, and shall be signed and sworn to by the  
4 applicants, not less than ten days before the meeting of said  
5 board at which said applicant is to be examined. Candidates for  
6 license shall furnish satisfactory proof of being, (1) twenty-one  
7 years of age, or over; (2) of good moral character; (3) gradu-  
8 ated from a school of chiroprody registered by the state depart-  
9 ment of education as being of proper standard, or in the prac-  
10 tice of chiroprody in some other state for at least five years, and  
11 of good standing in said state, in which said state an examina-  
12 tion is required by law of said state equal to the requirements  
13 of this state, and upon proof that said applicant has taken the  
14 examination in said state and received license therein; (4)  
15 possessed of a minimum education equivalent to two years' at-  
16 tendance at a high school recognized by the state educational de-  
17 partment as being of proper standard; (5) a bona fide resident  
18 of the state of West Virginia at time of application.

Sec. 4. The fees received from candidates for license to  
2 practice chiroprody shall be deposited with the state treasurer. All  
3 of the expenses of the conduct of such examinations, including  
4 the traveling expenses of members of the board, shall be charged  
5 against such funds, and the state treasurer shall pay all bills thus  
6 accruing on the presentation of proper vouchers duly attested by  
7 the president and the secretary of the board. All of the moneys  
8 remaining to the credit of this fund at the end of the fiscal year  
9 shall be divided pro rata among the members of the board, or the  
10 committee of the board, who have charge of the preparation of  
11 the question papers, and who examine and rate the answers to  
12 the same. The members of the board, or the committee of the  
13 board, to whom is delegated the power to conduct the chiroprody  
14 licensing examination, shall have the power of fixing the salary  
15 of the secretary of the board, which, however, shall not be more  
16 than twenty per cent of the fees paid by applicants; and such  
17 salary of the secretary shall be paid for from the funds previous  
18 to their final distribution at the end of the fiscal year as herein-  
19 above provided.

Sec. 5. The board shall keep a record of the names and ad-  
2 dresses of all persons licensed, under the provisions of this act,  
3 and of all moneys received and disbursed by it. Said board shall,  
4 annually, on or before the first day of January, make a report to

5 the legislature of the condition of chiropody practice in the state  
6 of West Virginia, including a statement of all of its official acts  
7 in the administration of the laws governing the practice of  
8 chiropody during the preceding year, and shall also account for  
9 moneys received and disbursed.

Sec. 6. Examinations shall be in English, and in writing,  
2 and shall be of a scientific and practical character. They shall  
3 be in anatomy and physiology of the foot, chemistry, materia  
4 medica and therapeutics and minor surgery, including bandaging.

Sec. 7. Whoever not being lawfully authorized to practice  
2 chiropody within the state of West Virginia holds himself out as  
3 a practitioner of chiropody, or advertises himself as such; or,  
4 whoever practices chiropody under a false or assumed name, or  
5 under a name other than that under which he has license to  
6 practice chiropody, as aforesaid, or whoever personates another  
7 practitioner of a like or of a different name, or whoever lends  
8 his name, or having professional connection with anyone who has  
9 been convicted in court of any offense, as herein provided, shall  
10 for each offense be punished by a fine of not less than fifty dollars  
11 nor more than two hundred dollars, or confined in the county  
12 jail not less than one nor more than four months, or both, for  
13 each and every offense; *provided*, that any person so convicted  
14 shall not be entitled to any fee for services rendered, and if a fee  
15 has been paid, the patient or guardian or heir may recover the  
16 same as debts of like amount are now recovered by law, and upon  
17 conviction thereof the board may suspend, or revoke for an in-  
18 definite period, his or her certificate of registration or license, but  
19 for not less than six months. All fines collected under this act  
20 shall inure to the common school fund.

Sec. 8. Nothing hereiu contained shall discriminate against  
2 a registered practitioner of medicine in the state of West Vir-  
3 ginia from practicing chiropody as a branch of his medical and  
4 surgical practice, nor shall the provisions of this act as to ex-  
5 emptions from examinations apply to any person who is practic-  
6 ing chiropody at the time of the passage of this act, and is given  
7 a license by said board.

Sec. 9. Every person practicing chiropody within the state  
2 of West Virginia at the time of the passage of this act shall, on  
3 or before June first, one thousand nine hundred and seventeen,  
4 register with the board of registration in medicine the details  
5 of such practice as enumerated on a form as follows:·

6 State of West Virginia,  
 7 County of....., to-wit:  
 8 I, ....., born.....and  
 9 residing at....., county of.....;  
 10 in the state of West Virginia, hereby certify that I am and have  
 11 been practicing chiropody in the state of West Virginia from  
 12 .....to date; that I have been continuously practicing  
 13 from the ..... day of ....., 19.... to  
 14 date, and have practiced chiropody in the state of West Virginia  
 15 for at least one year; and I hereby make affidavit to the facts as  
 16 above stated.

17 .....  
 18 Sworn and subscribed to before me on the....day of.....,  
 19 .....  
 20 My commission expires.....

21 .....  
 22 .....  
 23 Notary's Seal.

Notary Public.

24 The fee for this registration, ten dollars, payable to the  
 25 board, shall accompany such affidavit. If the board has no reason  
 26 to doubt the validity of the document as submitted, the name  
 27 of such chiropodist shall be entered in a book set apart for that  
 28 purpose and known as the "Chiropody Registry." Such registra-  
 29 tion will admit of the signer thereof being recognized as a licensed  
 30 practitioner of chiropody, which will in turn accord him or her  
 31 the privilege of practicing chiropody as hereinafter defined, in  
 32 the state of West Virginia.

33 If, on investigation, it be shown that such affidavit be  
 34 fraudulent in any particular, the board is authorized to proceed  
 35 against any person guilty of attempt at misrepresentation and  
 36 fraud, and the prosecuting officer of the county in which the per-  
 37 son making such affidavit is residing or practicing shall prose-  
 38 cute the said person for said offense. Any person found guilty  
 39 of fraud or misrepresentation in the making or filing of such affi-  
 40 davit as to chiropody practice, shall for each such offense be pun-  
 41 ished by a fine of not less than one hundred dollars nor more than  
 42 five hundred dollars, or by imprisonment for six months, or both  
 43 such fine and imprisonment, and any justice of the peace in the  
 44 county where said affidavit was made shall have jurisdiction to  
 45 try and determine the same as other misdemeanor cases, and



46 each of the offenses aforesaid is hereby declared to be a misde-  
47 meanor. And the said affidavit shall be sufficient proof of itself,  
48 without proof as to the oath thereto of the secretary or member  
49 of said board, that the same was filed with them, and either the  
50 state or applicant shall in all such cases have the right to an ap-  
51 peal; and anyone found guilty as aforesaid, or if in the opinion  
52 of the majority of the board they are guilty, no license or certifi-  
53 cate shall be issued to them, and they shall be forever barred from  
54 receiving license or certificate to practice chiropody in this state.

55 Any and all fines, above the expenses incurred in prosecution,  
56 collected as per the provisions of section seven and section nine  
57 of this law, shall inure to the benefit of the school fund.

58 It shall be the duty of said board of said examiners to issue  
59 duplicate certificates to successful applicants to practice chiropody,  
60 and of each person so practicing the same to post, and continuously  
61 keep posted, said certificate in his or her office, or where he or she  
62 so practices chiropody, at some conspicuous place, and within  
63 thirty days after said certificates are so issued to said applicant,  
64 to file one of said certificates in the county clerk's office in the  
65 county in which said applicant is so practicing, and make affidavit  
66 before the clerk of said county court that he or she is the party  
67 named in said certificate, and the clerk shall file and preserve the  
68 same, for which said applicant shall pay to said clerk, the sum of  
69 one dollar, which shall always be open to inspection of any mem-  
70 ber of the board herein, the prosecuting officer of said county, or  
71 any justice of the peace of said county, and a certified copy of the  
72 same by the clerk of said county court shall be *prima facie* evidence  
73 of the contents thereof and of the filing of the same, and used as  
74 evidence in any court or before any board in this state having  
75 jurisdiction; and upon failing so to do he or she shall be guilty  
76 of a misdemeanor, and for such offense shall be fined not less  
77 than twenty-five dollars nor more than one hundred dollars, and  
78 the board herein may cancel said certificate or license.

Sec. 10. For the purpose of this act "chiropody" is under-  
2 stood to be the medical, mechanical or surgical treatment of the  
3 ailments of the human hand or foot, except the amputation of  
4 the foot, hand, toes or fingers, the use of anaesthetics other than  
5 local; it shall also include the fitting or recommending of ap-  
6 pliances, devices or shoes for the correction or relief of minor  
7 foot ailments, and shall prescribe for anything coming within

8 this act. Licensees under this act shall not use the title of "doc-  
 9 tor," except in connection with the word chiropody or chiropodists.  
 10 The term "board" where used in this act means the public  
 11 health council.

## CHAPTER 42.

(Senate Bill No. 40.)

AN ACT to amend and re-enact section fifty of chapter fifty-four, serial section two thousand nine hundred and forty-nine, of the code of one thousand nine hundred and thirteen, relating to general powers of railroad corporations, by adding thereto sub-section ten-a; giving the right to street or interurban railroad companies operated by electricity or power other than steam, to furnish electricity, natural or artificial gas for light, power and fuel; to lease or purchase the property, franchises, rights and privileges of companies organized for such purposes, and to succeed to and operate under the same.

[Passed February 13, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

<p>SEC.          10-a. A corporation operating street cars, etc., other than by steam, shall have the right to furnish</p>		<p>SEC.          and sell to the public; purchase provided.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section fifty of chapter fifty-four, serial section two thousand nine hundred and forty-nine be amended and re-enacted by adding thereto, sub-section ten-a, to read as follows:

Section 10-a. In the case of a corporation engaged in the  
 2 operation of street or interurban railroads by electricity or other  
 3 motive power than steam, it shall have the right to furnish and sell  
 4 to the public, after having procured a franchise therefor from  
 5 the municipality in which it seeks to operate, electricity and gas,  
 6 either natural or artificial, or both, for light, heat, power or fuel,  
 7 and to purchase, hold and use such property, rights, privileges  
 8 and franchises as may be necessary in the generation, production,  
 9 manufacture and sale to the public of such electricity and gas  
 10 for light, heat, power or fuel; *provided*, that no right, privilege  
 11 or franchise granted under this act, or now held, shall be exer-  
 12 cised without first obtaining from the public service commission,  
 13 if provided by law, authority so to do.

## CHAPTER 43.

(Senate Bill No. 48.)

AN ACT to amend and re-enact section three of chapter fifteen of the code, serial section three hundred and eighty, Hogg's annotated code, one thousand nine hundred and thirteen, relating to printing and binding of the West Virginia Reports.

[Passed February 20, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC.

3. The reporter of the supreme court shall advertise for the publication of the West Virginia reports; the number and quality to be printed; publisher to give

SEC.

bond; secretary of state shall secure copyright; manner and form of printing; reporter may change contract; material to be used in binding.

*Be it enacted by the Legislature of West Virginia:*

That section three of chapter fifteen of the code, serial section three hundred and eighty, Hogg's annotated code, one thousand nine hundred and thirteen, relative to printing and binding of the West Virginia reports be amended and re-enacted so as to read as follows:

Section 3. The reporter of the supreme court shall on the second Wednesday in April, one thousand nine hundred and seventeen, and every four years thereafter, advertise in four papers printed in this state, once a week for four successive weeks, that sealed proposals will be received at the office of the attorney-general of West Virginia, at Charleston, until the thirtieth day after the fourth publication of such advertisement, for the publication of the West Virginia reports for the term of four years from the second Wednesday in June next succeeding; and he shall contract for the publication of said reports for the said term as follows: The said contract shall provide for the publication of fifteen hundred copies of each volume ordered by the supreme court of appeals, the paper to be not inferior in quality to that used in Otto's United States Reports, the binding to be in best quality of law calf, or United States standard buckram. The publisher shall give a bond executed according to law, with at least two good and sufficient sureties residing in this state, or with some surety company, authorized to do business in this state, in the penal sum of five thousand dollars, conditioned for the faithful performance of the contract. A volume shall be published according to the terms of such contract, whenever the same shall be ordered by the supreme court of appeals, and if there should be any unreasonable delay in the printing or binding thereof, of the existence

24 of which delay the reporter shall be the judge, it shall be the duty  
25 of the reporter to employ another or others to complete the work,  
26 at the cost of the party of the second part. The secretary of state  
27 shall secure the copyright of said book for the benefit of the state.  
28 The reports shall be styled "West Virginia Reports." The printing  
29 and binding of the reports shall be done under the directions and  
30 in the manner prescribed by the reporter, subject, however, to the  
31 control of the court. The reporter shall prefix to the printed re-  
32 ports of each case, the dates when the same was submitted and de-  
33 cided. Each volume shall contain the reports of at least eighty  
34 cases, if practicable, and shall contain not more than nine hundred  
35 pages, exclusive of the index and table of cases reported and cited,  
36 each page to be of the size and type of the pages of Otto's United  
37 States Reports. Proof sheets shall be furnished by the printer to  
38 the reporter, and to each of the judges, a reasonable time before  
39 the type shall be distributed, and such corrections and modifica-  
40 tions shall be made by the printer, as the reporter or either of the  
41 judges shall direct. If the said work be not done in such manner  
42 as required by law, the volume of reports shall not be received by  
43 the reporter.

## CHAPTER 44.

(Senate Bill No. 49.)

AN ACT amending and re-enacting chapter 62-b of the code of West Virginia of nineteen hundred and six, providing for the collection and analysis of samples of commercial fertilizers, and regulating the sale of such fertilizers and other materials used for manurial purposes and providing penalty for violation thereof.

[Passed February 16, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

### SEC.

1. "Fertilizer" construed for purposes of this act; what the term "person" shall be held to include.
2. Affidavit to be filed with commissioner of agriculture by person offering fertilizer for sale; what affidavit shall contain; if manufacturer or jobber files affidavit, agent not required to do so; when affidavit shall be made and filed.

### SEC.

3. Fertilizer sold in this state must have label affixed; what label shall certify; labels to be furnished by commissioner, who shall receive pay therefor; fertilizer sold to have attached the brand name, net weight, name and address of manufacturer and analysis; act not to apply to materials sold to manufacturers to be prepared and resold.
4. Commissioner of agriculture or

deputy authorized to enter place where fertilizers are sold, to take and analyze samples and publish results; may also analyze samples and publish results; may also analyze samples furnished by purchaser and certify results to person forwarding same.

5. Disposition of moneys collected by commissioner under this act; duty of commissioner to make inspection of fertilizers helpful to purchasers; to that end to

make necessary rules and regulations; to report to prosecuting attorney any violations and failures to comply with act; what shall be admissible as evidence in any suit instituted; to sell fertilizer without first complying with requirements of act, a misdemeanor.

6. Penalty for violation of provisions of act.  
7. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That chapter 62-b of the code of West Virginia of nineteen hundred and six is hereby amended and re-enacted so as to read as follows:

Section 1. For the purpose of this act, the term "fertilizer" shall be held to mean any article, substance or mixture applied to the soil for the purpose of increasing the productiveness thereof, excepting only the dung of domestic animals, when sold as such, without brand, name or trade mark, and burnt lime and ground limestone and marl when sold with or without brand, name or trade mark; and the term "person" shall be held to include corporations, companies, societies, and associations, whether acting through an agent or servant.

Sec. 2. Every person who shall offer or expose for sale or sell in this state any fertilizer, shall, before the same is sold, offered or exposed for sale, file with the commissioner of agriculture an affidavit clearly and truly setting forth the name, brand or trade mark under which the fertilizer is to be sold, the name of the manufacturer, jobber or importer, the place of manufacture and the composition of the fertilizer, including the percentage of every constituent relied upon as contributing to the value of the fertilizer, and the materials from which said constituents are derived, said statements as to materials shall be quantitative; provided, that when the manufacturer, jobber or importer of any fertilizer shall file the affidavit required by this section, no agents or dealers selling the same fertilizer for him under his name and brand shall be required so to do.

The affidavit required by this section shall be made annually, but may be made at any time for the calendar year, and may be filed in the month of December for the year following.

Sec. 3. Every bag, barrel, or other package of fertilizer sold, 2 offered or exposed for sale in this state, shall have securely and 3 conspicuously affixed thereto a label certifying by said commis- 4 sioner that the amount of tax required by this act has been paid 5 on said fertilizer, and that the manufacturer thereof has complied 6 with the provisions of this act; the said labels shall be furnished 7 by said commissioner, who shall receive pay therefor at the rate 8 of forty cents per ton of fertilizer; and further each bag, barrel 9 or other package of fertilizer sold, offered or exposed for sale in 10 this state shall have branded on or conspicuously attached to it 11 the brand name of the fertilizer, the net weight of the package, 12 the name and address of the manufacturer, and the guaranteed 12-a analysis of the fertilizer set out as required in the affidavit re- 13 quired in section two; *provided*, that this act shall not apply to 14 fertilizer materials sold to fertilizer manufacturers to be prepared 15 or treated by themselves and resold.

Sec. 4. The commissioner of agriculture, in person or by 2 deputy, shall take samples of any fertilizers on sale in the state 3 and for this purpose is hereby authorized to enter during business 4 hours any store room or other place where fertilizers are sold, 5 offered or exposed for sale; the said commissioner shall cause the 6 said samples to be analyzed according to methods of the associa- 7 tion of official agricultural chemists, official at the time and shall 8 publish the results; any purchaser of fertilizers within the state 9 may take a sample of the same in accordance with rules and regu- 10 lations of the commissioner of agriculture and if the said commis- 11 sioner has reason to believe that the fertilizer is not as guaran- 12 teed in the affidavit, he shall cause the sample to be analyzed free 13 of charge and certify the results to the person forwarding the 14 same.

Sec. 5. The commissioner of agriculture shall promptly de- 2 posit with the treasurer of the state all moneys collected under 3 this act and shall draw upon the same as needed to meet all ex- 4 penses incurred on account of the requirements of this act, and 5 any money remaining after all of said expenses have been paid 6 shall be expended by the said commissioner by and with con- 6-a sent of the governor; in the discharge of his duties in behalf of 6-b agriculture in this state; the said commissioner shall seek to 7 make the inspection of fertilizers hereby intrusted to him as 8 helpful as possible to the purchasers of fertilizers in this state

9 and is hereby authorized to make such rules and regulations  
10-11 as may be necessary to carry into effect the full intent and mean-  
12 ing of this act; the said commissioner shall report promptly to the  
13 prosecuting attorney of the county in which the offense was com-  
14 mitted, any violations of this act and all failures to comply there-  
15 with and a copy of any label, statement or tag required to be filed  
16 with the said commissioner or prepared by him and any analysis  
17 made or caused to be made by him when duly certified by the said  
18 commissioner shall be admissible in evidence to the same extent  
19 as if it were his deposition taken in the manner prescribed by  
20 law for the taking of depositions, in any prosecution or suit for  
21 any violation of the provisions of this act.

22 Any manufacturer, dealer or agent who shall sell, offer or ex-  
23 pose for sale in this state any fertilizer without first having com-  
24 plied with the requirements of this act regarding such fertilizer,  
25 or who shall use tax tags the second time, or any person who shall  
26 receive or remove any fertilizer without its having been regis-  
27 tered, branded and tagged as required by this act, shall be guilty  
28 of a misdemeanor and be subject to penalties prescribed under this  
29 act.

30 Sec. 6. Any person who shall violate any of the provisions of  
2 this act or who shall fail to comply therewith, shall be guilty of  
3 a misdemeanor and on conviction thereof shall be fined not less  
4 than twenty dollars and not more than one hundred dollars for  
5 the first offense, and not less than fifty dollars and not more than  
6 five hundred dollars for each subsequent offense.

7 Sec. 7. All acts or parts of acts in conflict with this act are  
2 hereby repealed.

## CHAPTER 45.

(Senate Bill No. 52.)

AN ACT to provide for a firemen's pension or relief fund and for the  
levy of taxes in municipalities therefor, and to create and per-  
petuate boards of trustees for the administration of such funds.

[Passed February 14, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

- SEC.
1. Council in municipal corporation may declare the necessity for firemen's pension or relief fund; how supported; board of trustees to administer and distribute funds.
  2. Designation of board of trustees; board may sue, contract, hold real and personal estate, and have a seal; private seal of president may be used; board may perform any other acts or business pertaining to the trust.
  3. Who shall compose board of trustees; how chosen; requirements as to giving of notice; manner of holding election; how to decide in case of tie vote; result of election to be entered of record; term members shall serve, and time of holding elections; how to proceed if vacancy occurs; presiding officer of the board to be president; secretary to be appointed by board; duty of secretary.
  4. Municipality availing itself of provisions of section may have firemen's pension fund; same to be maintained by annual levy and additional tax; amount of tax to be determined by board of trustees; fines imposed to be credited to pension or relief fund; corporation authorized to receive money or property upon terms to be fixed by grantor or trustees; may also receive uniform amounts from members of fire department.

- SEC.
5. Treasurer of municipality having fireman's pension fund to be custodian of fund; shall pay out same upon order of board of trustees; to be liable upon his bond for faithful performance of duties.
  6. How moneys received shall be invested by board of trustees; board to make report to council of condition of fund on last day of December, each year.
  7. Board shall make rules and regulations for distribution of fund; provision as to term of service of firemen; rules to be approved by council.
  8. Member of fire department, physically or mentally disabled to be retired from service; such persons to receive monthly payment from fund, based on term of service; members injured or sick, to be paid from pension fund.
  9. No payment shall be made to members except from income arising from fund, until after five years from creation of corporation; if insufficient amount in fund, only percentage of monthly payments to be made to beneficiary.
  10. Amounts specified to be paid to permanently disabled members.
  11. Amount of benefits specified to be paid to widows and children of fireman; exception.
  12. Provision as to payment of benefit to widows and children of firemen killed while in performance of duty. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. In any municipal corporation in this state having, 2 or which may hereafter have, a fire department, supported in whole 3 or in part at the public expense, the council, or other legislative 4 body thereof, may, by ordinance, declare the necessity for the estab- 5 lishment and maintenance of a firemen's pension or relief fund, for 6 the purposes hereinafter enumerated; and thereupon there shall be 7 created a board of trustees, who shall administer and distribute the 8 funds authorized to be raised by this and succeeding sections.

Sec. 2. The said board of trustees shall be a corporation by 3 the name and style of "The Board of Trustees of the Firemen's Pen- 3 sion or Relief Fund of . . . ." (the name of the 4 said town, village or city, as the case may be) by which name it 5 may sue and be sued, plead and be impleaded, contract and be con- 6 tracted with, take and hold real estate and personal estate for the 7 use of said firemen's pension or relief fund, and have and use a com- 8 mon seal. But in the absence of such seal, the private seal of the 9 president of said corporation shall be equivalent to such common



10 seal. Said board of trustees may also in their corporate name do  
11 and perform any and all other acts and business pertaining to the  
12 trust created hereby, or by any conveyance, devise, or dedication  
13 made for the uses and purposes of said board.

Sec. 3. The said board of trustees shall consist of the board  
2 of officers having charge or control of the fire department in any  
3 municipal corporation availing itself of the provisions of this  
4 act, and five other persons, members of the fire department of such  
5 municipal corporation, to be chosen as follows:

6 The board or officer having charge or control of the fire de-  
7 partment, shall give notice of an election to be held on the second  
8 Monday of the month following the passage of the ordinance men-  
9 tioned in the first section hereof, which notice shall be served  
10 personally upon each member of the fire department, and shall  
11 notify each member that between the hours of nine o'clock in the  
12 forenoon and six o'clock in the afternoon, on the day designated  
13 for such election, an election will be held for such purposes,  
14 and that each member shall send, under seal, in writing, the  
15 names of the five persons, members of such department, voted  
16 for, and all votes so cast shall be counted and canvassed by the  
17 board or officer having charge or control of said fire department,  
18 who shall announce the result, and the five members of the fire  
19 department receiving the highest number of votes shall constitute  
20 "The Board of Trustees of said Firemen's Pension or Relief  
21 Fund" for the ensuing year. In case of a tie vote being received  
22 by any two persons for the office of trustee, such tie vote shall  
23 be decided by casting lots, or in any other way which may be  
24 agreed upon by the persons for whom such tie vote was cast. The  
25 result of such election shall be entered in the record of the pro-  
26 ceedings of said board. The members so elected shall serve for  
27 one year, and until their successors are elected, and the election  
28 for such members of the board of trustees shall be held annu-  
29 ally upon the second Monday of the same month upon which the  
30 first election occurs. In case of vacancy by death, resignation,  
31 or otherwise, among the five members so elected, the remaining  
32 member, or members, shall choose the successor, or successors,  
32-a until the next annual election. The presiding officer of the  
33 board having charge or control of the fire department, or the  
34 officer in charge or control of said department, shall be presi-  
35 dent of the board of trustees of the firemen's pension or relief

36 fund, created under this section, and the secretary thereof shall  
37 be appointed by said board.

38 It shall be the duty of such secretary to keep a full and per-  
39 manent record of all the proceedings of the board, and said trustees  
40 may fix his compensation for this work, which shall be paid out  
41 of the funds of such corporation.

Sec. 4. In every municipality availing itself of the pro-  
2 visions of this section, there shall be a firemen's pension or relief  
3 fund, which shall be maintained as follows:

4 The council or other legislative body of such municipality,  
5 is hereby authorized to levy annually and in the manner provided  
6 by law for other municipal levies, and in addition to all of such  
7 municipal levies, a tax not to exceed one-twentieth mills on each  
8 dollar of all the real and personal property as listed for  
9 taxation in such municipality. The amount of the tax to be  
10 levied shall be fixed and determined by the said board of  
11 trustees, as aforesaid, and certified to the council or other legisla-  
12 tive body of such municipality, which is authorized by the law  
13 to make levies for other taxes for the use of such municipalities.

14 All fines imposed upon any member of the fire department in  
15 any such municipality, by way of discipline or punishment by the  
16 board or officers having charge of such board or department, shall  
17 be credited to said pension or relief fund; and said corporation  
18 is authorized to take by gift, grant, devise, or bequest, any money,  
19 or real or personal property, upon such terms as to the investment  
20 or expenditure thereof as may be fixed by the grantor, or deter-  
21 mined by said trustees. Said corporation may also receive such  
22 uniform amounts from each person designated by the rules of the  
23 fire department as a member thereof, as he may voluntarily agree  
24 to, to be deducted from the monthly pay of said person, and the  
25 monthly amount so received shall be used as a fund to increase  
26 the pension which may be granted to such person.

Sec. 5. The treasurer of every municipality having a fire-  
2 men's pension or relief fund shall be the custodian of said fund,  
3 and shall pay out the same upon the proper order of the board of  
4 trustees, who shall be liable upon his official bond as treasurer for  
5 the faithful performance of his duties in respect to this fund.

Sec. 6. Said board of trustees of said pension or relief fund,  
2 shall invest any monies received by them either in interest bear-  
3 ing bonds of the United States, of the state of West Virginia, or  
4 of county, school district, or municipal corporation in which said

5 fire department may be situated, or upon approved real estate  
6 security to the extent of not more than fifty per cent. of the as-  
7 sessed value of such real estate. Said board of trustees shall  
8 make a report to the council, or other legislative body of the  
9 municipality, of the condition of said fund on the thirty-first day  
10 of December in each year.

Sec. 7. The board of trustees of the firemen's pension or  
2 relief fund shall make rules and regulations for the distribution  
3 of said fund, according to the qualifications of those to whom  
4 any portion of said fund shall be paid and the amount thereof; *pro-*  
5 *vided*, that no fireman shall be entitled to any pension to be  
6 paid out of said funds until after he shall have served continu-  
7 ously as a fireman in said municipality for the term of five years.  
8 And, *provided, further*, that such rules and regulations shall not  
9 be enforced until the same have been approved by the council or  
10 other legislative body of said municipality.

Sec. 8. If any member of said fire department of any such  
2 city shall, while in the performance of his duties become, or be  
3 found upon examination by a medical officer, ordered by the person  
4 or persons having charge or control of the fire department of such  
5 city, to be physically or mentally permanently disabled, so as to  
6 render necessary his retirement from all service in said fire depart-  
7 ment, such person or persons having charge of said fire service shall  
8 retire such permanently disabled persons from all service in said  
9 department; and said board of trustees of said pension and re-  
10 lief fund shall authorize the payment to such permanently disa-  
11 bled persons monthly from the pension fund, according to the  
12 term of service in said fire department, the amounts as fixed  
13 by the rules hereinafter provided for.

14 If any member of said fire department shall be injured or be-  
15 come sick, so as to render such member temporarily disabled, he  
16 shall be paid from said pension or relief fund, the amount to be  
17 determined by the rules established, as aforesaid, during such  
18 disability for not exceeding ten weeks.

Sec. 9. Until the expiration of five years from the time of  
2 the creation of said corporation no payment shall be made to any  
3 member except from the income arising from said fund; and if at  
4 any time there shall not be sufficient money to the credit of  
5 said pension fund to pay to each person entitled to the benefit  
6 thereof the full amount per month, as herein provided, then, and  
7 in that event, an equal percentage of said monthly payments shall

8 be made to each beneficiary thereof, until said fund is so replenished as to warrant payment in full to each of said beneficiaries.

Sec. 10. In no event shall the sums to be paid to permanently disabled members exceed the amounts following:

3 Those in continuous service of the fire department over five years and under ten years, shall, upon retirement, receive not to exceed one dollar and twenty-five cents per day; and those in the service continuously for over ten years and under twenty years, shall, upon retirement, receive ten-sixteenths of their salary per month; and those in the service continuously over twenty years shall, upon retirement, receive eleven sixteenths of their salary per month.

Sec. 11. In case any fireman who has been in continuous service of the fire department for over five years, shall be killed or die, then and in that case, "The Board of Trustees of the Firemen's Pension Fund" shall pay to the dependent wife or minor children, if there be any such one or ones, the following pensions, viz.:

7 To the widow, the sum of twenty dollars per month until her death or re-marriage; for the support and maintenance of said children, the sum of five dollars per month for each child until said child shall attain the age of sixteen years, provided that said widow shall not receive from said fund for the support and maintenance of herself and said children any amount in excess of thirty dollars per month, and *provided, further*, that said widow or children shall not receive any pension from this fund, if she or they receive any other pension from any other fund.

Sec. 12. The wife, child or children of any fireman who shall be killed while in the performance of his duty shall, regardless of his length of service, receive a pension as provided for in that portion of section eleven, fixing the amount to be paid to widows and minor children.

6 All acts and parts of acts inconsistent with this act are hereby repealed.

## CHAPTER 46.

(Senate Bill No. 53.)

AN ACT to provide for the partial support of mothers whose husbands are dead, or have become permanently incapacitated for work by reason of physical or mental infirmity, or confined in some West

Virginia state institution, or a woman who is the mother of two or more children, and has been abandoned, when such mothers have children under thirteen years of age, and a citizen of the United States, and residents of this state for five years previous to the time at which application for relief is made, and a *bona fide* resident of the county for three years in which the application was filed.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

## SEC.

1. The county court has jurisdiction.
2. Who may file application for relief.
3. Investigation by a member of the court.
4. After investigation of application, a petition may be filed.
5. Summons to issue.
6. Manner of service of summons.
7. New process may issue.

## SEC.

8. Appearance; hearing.
9. Hearing; order of payment; duty of court.
10. Amount of allowance.
11. Condition upon which relief is granted.
12. Relief for children between thirteen and sixteen years.
13. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

*Jurisdiction.*

Section 1. The county court in the several counties in the state shall have original jurisdiction in all cases coming within the terms of this act.

*Application for Relief.*

Sec. 2. A woman whose husband is dead, or whose husband has become permanently incapacitated for work by reason of physical or mental infirmity, or confined in some West Virginia state institution, or who has been abandoned, or a woman who is the mother of two or more children under the age of thirteen years, may file an application for relief under this act; *provided*, such mother is a citizen of the United States of America, and has had a previous residence for five years in this state, and has had a *bona fide* residence in the county in which such application is made for a period of three years.

*Official Investigation and Report.*

Sec. 3. Whenever an application for relief is filed, the home of the applicant shall be visited by a member of the court having jurisdiction of the matter, and the facts set forth in such application shall be investigated by such member under the direction of the court, and a report and recommendation of the approval or

6 disapproval of such application shall be made in writing by such  
7 member of the court without any unnecessary delay.

*Petition, Form of.*

Sec. 4. After the investigation of such application for relief  
2 by a member of the court, and filing of a report and recommenda-  
3 tion thereon, such member of the court, or any reputable person of  
4 said county, may file with the clerk of said court a petition in  
5 writing, duly verified, setting forth such facts as are necessary  
6 under this act to give said court jurisdiction of the parties  
7 and of the subject matter, and such other facts, which  
8 are found by the court to be true, shall be the basis upon  
9 which the order of relief is entered; which application shall make  
10 the mother of such children and the county court parties respondent  
11 to such application.

*Summons.*

Sec. 5. Upon the filing of such application, a summons shall  
2 issue, returnable not less than three days nor more than ten days  
3 after the date thereof, commanding the respondents named in such  
4 application to appear at a place and time stated in such summons  
5 on the return day thereof.

*Service.*

Sec. 6. Service of summons shall be made in the manner  
2 as provided for the service of a summons as in other matters  
3 in which the county court has jurisdiction. The clerk of the  
4 county court shall perform any duties required of him by this  
5 act, and the prosecuting attorney of each county shall give to  
6 said court all legal advisement coming within the purview of this  
7 act, and the sheriff shall serve all papers required of him here-  
8 under without compensation to either for such service.

*New Process.*

Sec. 7. Whenever process shall not be returned executed on  
2 or before the return day thereof, the court may direct the clerk to  
3 issue an alias pluries or other process, returnable at a time ordered  
4 by the court.

*Appearance; Hearing.*

Sec. 8. The filing of a written appearance by a respondent  
2 shall render the service of summons on such respondent unneces-

3 sary. The court shall proceed to hear the cause upon the return  
4 day of the summons or upon a day thereafter to be fixed by the  
5 court, without the formality of the respondents filing answers;  
6 *provided*, all the respondents have either been served with sum-  
7 mons or have filed their written appearance in said cause.

*Hearing; Order of Payment; Duty of County Court.*

Sec. 9. Upon the hearing in court of an application under  
2 this act, the court, being advised in the premises, finding the facts  
3 alleged in the application to be true, may make an order to pay  
4 the mother of said children, in whose behalf the application is  
5 filed, an amount of money necessary to enable the mother to  
6 properly care for such children, such sum however, shall not exceed  
7 the amount hereinafter fixed, and it shall be the duty of the  
8 county court to provide for the payment thereof, to such mother,  
9 at such times as said order may designate, the amount so specified  
10 in said order for the care of such children until the further order  
11 of the court. Such payments shall be made by order drawn by the  
12 court on the sheriff of said county, payable out of the county fund.

*Amount of Allowance.*

Sec. 10. The allowance made to such mother shall not exceed  
2 fifteen dollars per month, when such mother has but two children  
3 under the age of thirteen years; and if she has more than two  
4 children under such age, the relief granted shall not exceed five  
5 dollars per month for each additional child; *provided*, that in  
6 no event shall the relief granted upon each application exceed  
7 the sum of twenty-five dollars per month.

*Conditions Upon Which Relief is Granted.*

Sec. 11. Such relief shall be granted by said court upon  
2 the following conditions only: (1) The children for whose benefit  
3 the relief is granted must be living with such mother; (2) The  
4 court must find that it is for the welfare of such children to  
5 remain at home with the mother; (3) The relief shall be granted  
6 only when in the absence of such relief the mother would be  
7 required to work regularly away from her home and children,  
8 and when by means of such relief she will be able to remain at  
9 home, except she may be absent at work a definite number of  
10 days each week, to be specified in the court's order when such  
11 work can be done without the sacrifice of health or the neglect

12 of home and children; (4) Such mother must, in the judgment  
13 of the court, be a proper person physically, mentally and morally  
14 to bring up her children; (5) The relief granted shall, in the  
15 judgment of the court, be necessary to save the children from  
16 neglect; (6) A mother shall not receive such relief who is the  
17 owner of real estate, or personal property other than the house-  
18 hold goods, or receive benefits from the workmen's compensation  
19 fund; (7) A mother shall not receive such relief who is not a  
20 citizen of the United States, and who has not resided in the  
21 state of West Virginia at least five years next preceding the filing  
22 of such application, and who has not been a *bona fide* resident of the  
23 county in which such application is made, for a period of two  
24 years next preceding the filing of such application; (8) A mother  
25 shall not receive such relief if her children have relatives who con-  
26 tribute to their support an amount equal to what might be allowed  
27 under this act; (9) A mother shall not receive such relief if she  
28 harbors, or permits to remain at her home any adult person, not  
29 a member of her family; (10) Satisfactory reports must be given  
30 by the teacher in the district school stating that the children of  
31 the recipient of this fund are attending school, *provided*, they are  
32 of proper age and physically able to do so.

*Relief for Children Between Thirteen and Sixteen Years.*

Sec. 12. Whenever any child shall arrive at the age of thirteen  
2 years, any relief granted to the mother for such child shall cease;  
3 *provided*, if a child of thirteen years of age be ill or incapacitated  
4 for work, the mother shall receive funds for his or her care during  
5 such illness or incapacity for work until such child is sixteen years  
6 of age, not to exceed, however, the amount hereinbefore provided,  
7 and the court may in its discretion, at any time before such  
8 child reaches the age of sixteen years, modify or vacate the order  
9 granting relief to any mother for any child.

*Repeal.*

Sec. 13. All acts and parts of acts inconsistent herewith  
2 are hereby repealed.



## CHAPTER 47.

(Senate Bill No. 57.)

AN ACT to provide for the purchase, equipment and operation of a mine rescue car for the use of the state department of mines, and to provide means for the payment therefor.

[Passed February 22, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

- |   |   |
|---|---|
| <p>SEC. 1. Chief of department of mines to purchase, equip and operate a mine rescue car; where stationed; who in charge, etc.</p> <p>2. May be equipped and used for educational purposes and training in rescue work.</p> | <p>SEC. 3. A director to be appointed by chief with the approval of the governor; qualification of director; term; salary; how paid.</p> <p>4. Appropriation to carry out the provisions of this act.</p> |
|---|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the chief of the department of mines is hereby authorized, with the approval of the state board of control, to purchase, equip and operate for the use of said department a mine rescue car. Such car shall be fully equipped with life saving apparatus and appliances suitable for use in cases of mine disaster. It shall be stationed at Charleston when not in active use, and the chief of the department of mines shall make all necessary arrangements for haulage and operation of such car, so that the same may be hauled over the lines of any railroad and may reach the scene of any mine disaster with the utmost promptitude.

Sec. 2. Such mine rescue car may also be equipped and used, under such rules and regulations as may be prescribed by the chief of the department of mines, for educational purposes and for training in rescue work among the mine workers in this state, such as shall tend to conserve human life and property, in the mining industry of West Virginia.

Sec. 3. The chief of the department of mines shall appoint, subject to the approval of the governor of the state, a director of rescue work to have charge of the operation of said mine rescue car. Such director shall be a man possessed of the same qualifications as those required for the office of chief of the department of mines, as prescribed in section four of chapter ten of the acts of one thousand nine hundred and fifteen; and, in addition thereto, he shall have had thorough training in mine rescue work and extended experience in the rescue work of mine disasters in this state. The term of office of said director shall be

10 the same as the district mine inspectors, as provided for in sec-  
 11 tion seven of chapter ten of the acts of one thousand nine hundred  
 12 and fifteen. The salary of said director shall be two thousand four  
 13 hundred dollars per annum and actual traveling expenses. Such  
 14 salary and expenses shall be paid monthly out of the state treas-  
 15 ury, upon approval of the chief of the department of mines, and  
 16 provision for such salary and expenses shall be made in the an-  
 17 nual budget of the department of mines.

Sec. 4. There is hereby appropriated to carry out the pro-  
 2 visions of this act, for the year ending June thirty, one thous-  
 3 and nine hundred and eighteen, the sum of thirty thousand dol-  
 4 lars, and for the year ending June thirty, one thousand nine hun-  
 5 dred and nineteen, the sum of five thousand dollars. The sums  
 6 thus appropriated shall be paid out of the state treasury upon  
 7 requisitions on the state auditor, properly certified by the chief  
 8 of the department of mines.

## CHAPTER 48.

(Senate Bill No. 60.)

AN ACT to amend and re-enact section thirty-one of chapter one  
 hundred and sixty of the acts of one thousand eight hundred  
 and eighty-two relating to the authority to take affidavits or ad-  
 minister oaths. Being section thirty-one chapter one hundred  
 and thirty of the code.

[Passed February 17, 1917. In effect ninety days from passage. Approved by the  
 Governor February 23, 1917.]

SEC.  
 31. Authority of various officers desig-  
 nated to administer oaths and  
 take affidavits; officers of another  
 state have authority to admin-  
 ister oaths and take affidavits;

SEC.  
 official seal to be annexed, or to  
 be authenticated by other officer  
 under seal.  
 Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section thirty-one of chapter one hundred and sixty of the  
 acts of one thousand eight hundred and eighty-two, being section  
 thirty-one chapter one hundred and thirty (serial section four thou-  
 sand eight hundred and eighty-seven of the code) be amended and  
 re-enacted so as to read as follows:

*Authority to Take Affidavits or Administer Oaths.*

Section 31. In any case in which an oath might be ad-  
 2 ministered by, or an affidavit made before, a justice, the same

3 may be done by or before a county commissioner, notary public,  
 4 or a commissioner appointed by the governor, or by a court or  
 5 the clerk thereof; or in case of a survey directed by a court in a  
 6 case therein pending, by or before the surveyor directed to exe-  
 7 cute said order of survey. An affidavit may also be made before  
 8 any officer of another state or country authorized by its laws to  
 9 administed an oath, and shall be deemed duly authenticated if  
 10 it be subscribed by such officer, with his official seal annexed,  
 11 and if he have none, the genuineness of his signature, and his  
 12 authority to administer an oath, shall be authenticated by some  
 13 officer of the same state or country under his official seal.

14 All acts and parts of acts inconsistent herewith are hereby  
 15 repealed.

## CHAPTER 49.

(Senate Bill No. 61.)

AN ACT to amend and re-enact section two of chapter sixty-seven of the acts of one thousand eight hundred and eighty-three relating to forms of releases and acknowledgments. (Being section two of chapter seventy-six of the code of one thousand nine hundred and thirteen.)

[Passed February 17, 1917. In effect ninety days from passage. Became a law without the Governors approval.]

SEC.	2. Form and effect of releases and their acknowledgments: I. In case of mortgage or deed of trust: II. In case of lien for	SEC.	purchase money; III. In case of judgment or decree; provision as to assignment of lieu. Inconsistent acts repealed.
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*Be it enacted by the Legislature of West Virginia:*

That section two of chapter sixty-seven of the acts of one thousand eight hundred and eighty-three (being section two of chapter seventy-six serial section three thousand eight hundred and fifty-nine of the code), be amended and re-enacted so as to read as follows:

Section 2. Releases and their acknowledgments may be in  
 2 form or effect as follows:

3 I. In case of a mortgage or deed of trust: "I, A.....  
 4 B....., hereby release a mortgage (or deed of trust) made  
 5 by C..... D..... to me (or to E.....  
 6 F....., my trustee, or to ....., and assigned to  
 7 me) dated the ..... day of ....., 19.....,

8 recorded in the office of the clerk of the county court of.....  
 9 county, West Virginia, in deed book ....., page ..... (to be  
 10 signed) A..... B..... Acknowledged before the  
 11 subscriber, this ..... day of .....; (to be signed)  
 12 G..... H....., justice, (or clerk of the county court,  
 13 notary public, etc., as the case may be.)”

14 II. In case of a lien for purchase money, reserved by con-  
 15 veyance: “I, A..... B....., hereby release the right  
 16 reserved to me in a conveyance executed by me (or myself and  
 17 wife) to C..... D....., dated the ..... day of  
 18 ....., etc., (as in the preceding form.)”

19 III. In case of a judgment or decree: “I, A.....  
 20 B....., hereby release a judgment (or decree) in my favor,  
 21 (or in favor of I..... K....., which has been as-  
 22 signed to me; or in favor of I..... K..... for my  
 23 use) against C..... D....., for (stating the amount)  
 24 with interest and cost, rendered by (stating the court by which,  
 25 or the justice by whom it was rendered, and the term or date at  
 26 which it was rendered, to be signed and acknowledged as above.)”

27 *Provided*, That if any such lien shall have been assigned,  
 28 when the same is released, the assignee thereof shall unite with  
 29 the assignor in the release.

30 All acts and parts of acts inconsistent herewith are hereby  
 31 repealed.

## CHAPTER 50.

(Senate Bill No. 62.)

AN ACT providing for semi-monthly pay days by railroads.

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

1. Every railroad company authorized to do business in this state shall on or before the first and fifteenth day of each month pay employees; when absent what to be done; penalty for violation.

2. Unlawful for railroad to make an agreement for longer intervals; certain agreements null and void; right of action to whom; may withhold from wages assessments due relief department.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Every railroad company authorized to do business by the laws of the state of West Virginia, shall, on or before the first day of each month, pay the employees thereof the wages

4 earned by them during the first half of the preceding month, end-  
5 ing with the fifteenth day thereof; and on or before the fifteenth  
6 day of each month, pay the employees thereof the wages earned by  
7 them during the last half of the preceding calendar month; *pro-*  
8 *vided, however,* that if at any time of payment any employee shall  
9 be absent from his or her regular place of labor, and shall not re-  
10 ceive his or her wages through a duly authorized representative,  
11 he or she shall be entitled to said payment at any time thereafter  
12 upon demand upon the proper paymaster at the place where such  
13 wages are usually paid and at the place when the next pay is due  
14 and the proper mailing in the United States post office of such  
15 payment in time to reach the usual post office of the employee by  
16 the time aforesaid in the usual course of the mails, shall be a com-  
17 pliance with this act. Any such railroad company which shall  
18 violate any of the provisions of this act shall forfeit and pay the  
19 sum of twenty-five dollars for each violation of this act, which shall  
20 be proved to be recoverable in any court having jurisdiction, by  
21 suit, in the name of the state, to be instituted by the prosecuting  
22 attorney, upon complaint of the party injured by such violation,  
23 and in the county of his residence, and all penalties so recovered  
24 shall be paid into the general school fund of the state: and *pro-*  
25 *vided,* that suit must be commenced within sixty days from the  
26 date such wages became payable according to the tenor of this act.

Sec. 2. It shall not be lawful for any railroad company to  
2 enter into or make any agreement with any employee for the  
3 payment of wages of any such employee otherwise than as pro-  
4 vided in section one of this act; except it be to pay such wages at  
5 shorter intervals than herein provided. Every agreement made  
6 in violation of this act shall be deemed to be null and void, and it  
7 shall not be a defence to the suit for the penalty provided for in  
8 section one, of this act; and each and every employee with whom  
9 any agreement in violation of this act shall be made by such  
10 railroad company shall have his or her action and right of action  
11 against such railroad company for the full amount of his or her  
12 wages in any court of competent jurisdiction of this state; *pro-*  
13 *vided,* that nothing in this act shall be so construed as to interfere  
14 with the right to withhold from the wages of the employees all  
15 assessments becoming due to any relief department, hospital asso-  
16 ciation, savings department, or any other department or associa-  
17 tion maintained by any such railroad company or its employees.

## CHAPTER 51.

(Senate Bill No. 65.)

AN ACT relating to desertion or non-support of wife and children, providing punishment therefor, directing payment for support of wife or children, and authorizing extradition of persons accused of its violation.

[Passed February 15, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC.	SEC.
1. Any husband or parent who shall wilfully neglect or refuse to provide for his wife or children guilty of a misdemeanor: penalty: what money to be paid to wife or child.	wife and children: recognizance may be taken.
2. Where proceedings may be instituted: form of complaint: duty of clerk: form of warrant.	5. The court may proceed with trial when: what to do in case of forfeiture of recognizance.
3. Temporary order may be issued before trial.	6. What necessary to prove marriage: husband and wife competent witness against each other: <i>prima facie</i> evidence.
4. Orders may be made directing certain sums to be paid to the	7. Where offence is committed: county court to provide funds for extraditing.
	8. Interpretation of this act.
	9. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Any husband who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances; or any parent who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her (legitimate or illegitimate) child or children, under the age of sixteen years, in destitute or necessitous circumstances, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year with hard labor, or both; and if a fine be imposed and not paid, the court may also direct the county court to cause such husband or parent to labor on the roads or other public improvements of the county, for which it shall allow the sum of not less than fifty cents or more than one dollar per day, (but such allowance shall not be construed as a fine or part of the sentence of the court), and such allowance shall be paid by the county court to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children, as the circuit court may order.

Sec. 2. Proceedings under this act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or by any other person. Juvenile courts shall have

4 original and concurrent jurisdiction with circuit, intermediate  
5 and criminal courts, in all cases arising under this act.

6 . The complaint mentioned in this section shall be sufficient  
7 if it be in form or effect as follows:

8 State of West Virginia,

9 County of ....., to-wit:

10 ..... upon oath complains that on the  
11 .....day of ....., 19...., and from said  
12 date to the date of this complaint, in the said county,  
13 .....did without just cause (here state  
14 some one or more of the grounds mentioned in section one of  
15 this act) and the said .....therefore prays  
16 that the said .....may be apprehended and  
17 held to answer the said complaint, and dealt in relation thereto  
18 as the law may require.

19 .....

20 On the.....day of..... 19....,  
21 the said.....made oath to the truth of the  
22 foregoing complaint before the undersigned.

23 ..... Judge  
24 of the ..... Court of .....  
25 County, West Virginia.

26 The clerk shall enter said complaint in the record book of the  
27 juvenile court of said county, and the court or judge thereof in  
28 vacation, shall make an order reciting the grounds of the com-  
29 plaint, for the arrest of the person against whom said complaint  
30 is made and shall issue a warrant directed to the sheriff of said  
31 county for the apprehension of such person, and said warrant  
32 shall be sufficient if in form or effect as follows:

33 State of West Virginia,

34 County of....., to-wit:

35 To the sheriff of said county:

36 Whereas.....of said county, has  
37 this day made complaint and given information on oath before  
38 the undersigned, that.....of said county,  
39 on the.....day of.....19...., and  
40 from said date to the date of said complaint, in said county, did  
41 without just cause (here set out the grounds mentioned in said  
42 complaint). These are therefore, in the name of the state of  
43 West Virginia, to command you forthwith to apprehend and  
44 bring said .....into court or before the

45 judge thereof in vacation, to answer the said complaint, and to be  
46 further dealt with according to law.

47 Given under my hand this .....day of.....

48 19....

49 ..... Judge

50 of the .....court of

51 ..... County, West

52 Virginia.

Sec. 3. At any time before the trial, upon petition of the  
2 complainant and upon notice to the defendant, the court or a  
3 judge thereof in vacation, may enter such temporary order as  
4 may seem just, providing for the support of the deserted wife or  
5 children, or both *pen dente lite*, and may punish for violation of  
6 such order as for contempt.

Sec. 4. Before the trial, with the consent of the defendant;  
2 or at the trial, on entry of a plea of guilty; or after conviction,  
3 instead of imposing the penalty hereinbefore provided, or in  
4 addition thereto, the court in its discretion, having regard to  
5 the circumstances, and to the financial ability or earning capacity  
6 of the defendant, shall have the power to make an order, which  
7 shall be subject to change by the court from time to time, as cir-  
8 cumstances may require, directing the defendant to pay a certain  
9 sum periodically to the wife, or to the guardian, curator or cus-  
10 todian of the said minor child or children, or to an organiza-  
11 tion or individual, approved by the court as trustee, and to release  
12 the defendant from custody on probation, upon his or her en-  
13 tering into a recognizance, with or without surety, in such sum  
14 as the court or a judge thereof in vacation may order and ap-  
15 prove. The condition of the recognizance shall be such that if  
16 the defendant shall make his or her personal appearance in court  
17 whenever ordered to do so, and shall further comply with the  
18 terms of such order of support, or of any subsequent modification  
19 thereof, then such recognizance shall be void, otherwise in full  
20 force and effect.

Sec. 5. If the court be satisfied by information and due  
2 proof under oath that the defendant has violated the terms of  
3 such order, it may forthwith proceed with the trial of the de-  
4 fendant under the original charge, or sentence him or her under  
5 the original conviction, or enforce the suspended sentence, as the  
6 case may be. In case of forfeiture of a recognizance, and en-  
7 forcement thereof by execution, the sum recovered may, in the



8 discretion of the court, be paid in whole or in part to the wife,  
9 or to the guardian, curator, custodian or trustee of the said minor  
10 child or children, as the court may order.

Sec. 6. No other or greater evidence shall be required to  
2 prove the marriage of such husband and wife, or that the defend-  
3 ant is the father or mother of such child or children, than is or  
4 shall be required to prove such facts in a civil action. In no  
5 prosecution under this act shall any existing statute or rule of law  
6 prohibiting the disclosure of confidential communications be-  
7 tween husband and wife apply, and both husband and wife shall  
8 be competent and compellable witnesses to testify against each  
9 other to any and all relevant matters, including the fact of such  
10 marriage, and the parentage of such child or children. Proof  
11 of the desertion of such wife, child or children in destitute or  
12 necessitous circumstances, or neglect or refusal to provide for  
13 the support and maintenance of such wife, child or children shall  
14 be *prima facie* evidence that such desertion, neglect or refusal  
15 is wilfull.

Sec. 7. An offense under this act shall be held to have been  
2 committed in any county in which such husband, parent, wife,  
3 child or children may be at the time such complaint is made.  
4 It shall be the duty of the county court, in any case in which  
5 application is properly made by the officers responsible for the  
6 execution of the law, to provide the funds necessary for extradit-  
7 ing any person, charged with an offense under this act, who has  
8 gone to another state.

Sec. 8. This act shall be so interpreted and construed as to  
2 effectuate its general purpose to make uniform the law of those  
3 states which enact it.

Sec. 9. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

## CHAPTER 52.

(Senate Bill No. 79.)

AN ACT for the protection of patients by prohibiting the division of  
fees of physicians and surgeons with other persons.

[Passed February 10, 1917. In effect ninety days from passage. Approved by the  
Governor February 16, 1917.]

SEC.

1. Division of physicians' or surgeons' fees unlawful, except by consent.
2. Unlawful to accept fee from non-resident physician or surgeon.

SEC.

3. Violation of provisions of act, a misdemeanor: penalty.
4. What to be done in case of second offense.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any physician or surgeon  
 2 in this state to directly or indirectly divide, or agree to divide,  
 3 any fee or compensation of any sort whatsoever, charged for a  
 4 surgical operation or for medical services, with any other physi-  
 5 cian, surgeon or other person, who brings, sends or recommends  
 6 a patient to such surgeon or physician for treatment, without  
 7 express knowledge and consent, previously had, of the person  
 8 paying such fee or compensation, or against whom the same may  
 9 be charged.

Sec. 2. It shall be unlawful for any physician, surgeon or  
 2 other person residing in this state to accept any fee or any com-  
 3 pensation from any other surgeon, physician or other person not  
 4 residing in this state for taking, sending or recommending a  
 5 patient for treatment to such non-resident physician, surgeon or  
 6 other person.

Sec. 3. Any person violating the provisions of this act shall  
 2 be guilty of a misdemeanor, and upon conviction thereof shall  
 3 be fined not less than one hundred nor more than one thousand  
 4 dollars for each offense: and, in the discretion of the court or  
 5 judge, may be imprisoned in the county jail not to exceed twelve  
 6 months in addition to said fine.

Sec. 4. If any person shall be convicted of a second offense  
 2 under the provisions of this act, the state board of health shall  
 3 revoke the certificate licensing such person to practice medicine,  
 4 surgery or osteopathy in this state, as provided in section ten of  
 5 chapter one hundred and fifty of the code of West Virginia.

## CHAPTER 53.

(Senate Bill No. 52.)

AN ACT to regulate the carrying on of business under an assumed or fictitious name.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

## SEC.

1. No person or persons allowed to carry on a mercantile business under an assumed name, unless they file with the clerk of the county court a certificate setting forth the full name or names of person or persons, conducting or transacting the same with the home and post office address or

## SEC.

addresses of each; *proviso* exception.  
 2. Persons now owning such business required to file certificate; when.  
 3. Duty of county clerk; fee; evidence.  
 4. What corporations or partnership associations are exempt from this act.  
 5. Penalty for failure to comply with this act.

*Be it enacted by the Legislature of West Virginia:*

Section 1. No person or persons shall hereafter carry on or  
 2 conduct or transact any mercantile business in this state under any  
 3 assumed name, or under any designation, name or style, corporate  
 4 or otherwise, other than the real name or names of the individual  
 5 or individuals owning, conducting or transacting such business, un-  
 6 less such person or persons shall file in the office of the clerk of  
 7 the county or counties in which such person or persons own, con-  
 8 duct, or transact, or intend to own, conduct or transact such  
 9 business, or maintain an office or place of business, a certificate  
 10 setting forth the name under which such business owned is, or is  
 11 to be conducted, or transacted, and the true or real full name or  
 12 names of the person or persons owning, conducting or transacting  
 13 the same, with the home and postoffice address or addresses of  
 14 said person or persons. Said certificate shall be executed and duly  
 15 acknowledged by the person or persons so owning, conducting or  
 16 intending to conduct said business.

17 *Provided*, that the selling of goods by sample or through  
 18 traveling agents or traveling salesmen or by means of orders for-  
 19 warded by the purchaser through the mails, shall not be construed  
 20 for the purpose of this act as conducting or transacting business  
 21 so as to require the filing of said certificates.

Sec. 2. Persons now owning or conducting such business  
 2 under an assumed name or under any such designation referred to  
 3 in section one, shall file such certificate as hereinbefore prescribed,  
 4 within thirty days after this act shall take effect; and persons  
 5 hereafter owning, conducting or transacting business as aforesaid,  
 6 shall, before commencing said business, file such certificate in the  
 7 manner hereinbefore prescribed.

Sec. 3. The several county clerks of this state shall keep an  
 2 alphabetical index of all persons filing certificates, provided for  
 3 herein, and for the indexing and filing of such certificates, they  
 4 shall receive a fee of twenty-five cents. A copy of such certificate  
 5 duly certified by the county clerk in whose office the same has

6 been filed shall be presumptive evidence in all courts of law in  
7 this state of the facts therein contained.

Sec. 4. This act shall in no way affect or apply to any  
2 corporation, partnership association, limited or special partnership  
3 duly organized under the laws of this state, or to any corporation  
4 organized under the laws of any other state and lawfully doing  
5 business in this state.

Sec. 5. Any person or persons owning, carrying on or con-  
2 ducting or transacting business as aforesaid, who shall fail to  
3 comply with the provisions of this act, shall be guilty of a mis-  
4 demeanor, and upon conviction thereof shall be punished by a  
5 fine of not less than twenty-five dollars, nor more than one hun-  
6 dred dollars, or by imprisonment in the county jail for a term not  
7 exceeding thirty days, or by both such fine and imprisonment, in  
8 the discretion of the court. And each day any person or persons  
9 shall violate any provision of this act shall be deemed a separate  
10 offense.

## CHAPTER 54.

(Senate Bill No. 93.)

AN ACT to amend and re-enact section eleven of chapter one hun-  
dred and fifty of the code of West Virginia, relating to prelimin-  
ary education and fees for medical licensure.

[Passed February 12, 1917. In effect ninety days from passage. Approved by the  
Governor February 23, 1917.]

SE. 11. Applicant to furnish proof as to educational training; examinations;  
fees; re-examination.

*Be it enacted by the Legislature of West Virginia:*

That section eleven of chapter one hundred and fifty of the code  
of West Virginia be amended to read as follows:

Section 11. Every applicant for licensure after the first day  
2 of January, one thousand nine hundred and twenty-one, shall  
3 furnish prior to any examination satisfactory proof to be passed  
4 upon by the state department of schools, that he has had a gen-  
5 eral education of not less than that given by a standard four-year  
6 high school course or its equivalent, and not less than one year  
7 of college credits in chemistry, biology and physics, all of which  
8 shall have been received before admission to medical study; *pro-*  
9 *vided*, that the state department of schools may accept as satis-

10 factory proof of preliminary education a certificate of pre-medical  
11 preliminary education from any state whose requirements are  
12 equal to those herein provided, in lieu of original school and  
13 college credentials, and shall pay to the public health council a  
14 fee of ten dollars, which fee shall not be returned to him if a  
15 certificate is refused him, but he may present himself for re-  
16 examination at any future examination, within a year, without  
17 the payment of any additional fee, and if a certificate be again  
18 refused him, he may as often as he sees fit thereafter, on the pay-  
19 ment of a fee of ten dollars, be examined as herein provided, until  
20 he obtains such certificate.

21 All other persons who shall be granted a license to practice  
22 medicine in this state under the provisions of section nine of this  
23 chapter, shall pay a fee of not less than twenty-five dollars to the  
24 public health council.

25 Section twelve of chapter one hundred and fifty of the code  
26 of one thousand nine hundred and six is hereby repealed.

## CHAPTER 55.

(Senate Bill No. 95.)

AN ACT to amend and re-enact section four of chapter ninety-six,  
serial section number four thousand one hundred and sixty-three,  
of the code of West Virginia, one thousand nine hundred and  
thirteen, fixing the rate of interest that may be charged for the  
loan or forbearance of money or other thing.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

SEC. 4. Legal rate of interest.

*Be it enacted by the Legislature of West Virginia:*

That section four of chapter ninety-six, serial section number four  
thousand one hundred and sixty-three, of the code of West Virginia,  
one thousand nine hundred and thirteen, fixing the rate of interest  
that may be charged for the loan or forbearance of money or other  
thing, be amended and re-enacted so as to read as follows:

Section 4. Legal interest shall continue to be at the rate  
2 of six dollars upon one hundred dollars for a year, and propor-  
3 tionably for a greater or less sum, or for a longer or shorter time,  
4 and no person upon any contract, shall take for the loan or for-  
5 bearance of money, or other thing, above the value of such rate.

6 *Provided*, a charge of one dollar may be made for any loan or for-  
 7 bearance of money or other thing, where the interest at the rate  
 8 aforesaid would not amount to that sum, and the same shall not  
 9 be a usurious charge or rate of interest.

10 All acts or parts of acts coming within the purview hereof,  
 11 or inconsistent herewith, are hereby repealed.

### CHAPTER 56.

(Senate Bill No. 96.)

AN ACT to amend and re-enact sections twelve, twenty-two, thirty-  
 two, thirty-seven and forty, and to repeal section thirty-three of  
 an act of the legislature of West Virginia, entitled "An act for  
 the incorporation of savings banks", passed February twenty-  
 first, one thousand eight hundred and eighty-seven, and to amend  
 and re-enact sections six and seventeen of the last mentioned  
 act as amended and re-enacted by an act of the said legislature,  
 entitled, "An act to amend and re-enact sections five, six, seven,  
 seventeen, twenty-nine and thirty-four, and to repeal section  
 twenty-eight of an act of the legislature of West Virginia, enti-  
 tled 'An act for the incorporation of savings banks, passed  
 February twenty-first, one thousand eight hundred and eighty-  
 seven.'" Said amending act being passed February twenty-four,  
 one thousand eight hundred and ninety-nine, and being chapter  
 forty-five of the acts of the legislature of one thousand eight  
 hundred and ninety-nine, regular session.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

<p>SEC.                  12. Compensation of trustees.                  17. Trustees shall invest the deposits:                      securities.                  22. No certificates of deposit to issue:                      dividends; pass book; when a                      duplicate may issue.</p>		<p>SEC.                  32. Special meeting of trustees: notice.                  37. Dissolution: notice: publication:                      certificate to secretary of state.                  40. Laws governing.</p>
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*Be it enacted by the Legislature of West Virginia:*

That sections twelve, twenty-two, thirty-two, thirty-seven and forty,  
 of an act of the said legislature, entitled, "An act for the incorpora-  
 tion of savings banks", passed February twenty-first, one thousand  
 eight hundred and eighty-seven, and sections six and seventeen of  
 the last mentioned act as amended and re-enacted by an act of the  
 said legislature, entitled, 'An act to amend and re-enact sections five,  
 six, seven, seventeen, twenty-nine and thirty-four, and to repeal sec-

tion twenty-eight of an act of the legislature of West Virginia, entitled, "An act for the incorporation of savings banks", passed February twenty-first, one thousand eight hundred and eighty-seven, (said last named amending act being passed February twenty-fourth, one thousand eight hundred and ninety-nine, and being chapter forty-five of the acts of said legislature at the regular session of one thousand eight hundred and ninety-nine), be amended and re-enacted so as to read as follows:

Section 6. The said board of trustees shall elect from their 2 number a president and vice-president, and appoint such com- 3 mittees as they shall see fit, and from their number or otherwise 4 shall appoint a treasurer and such clerks, agents or employes of 5 the corporation as in their judgment shall be necessary for the 6 conduct of the corporation's business, and make such by-laws, 7 rules and regulations as they may think proper for the general 8 conduct of the business of the corporation, not inconsistent with 9 the constitution and laws of the United States or of this state.

Sec. 12. No trustee shall receive any compensation for his 2 services as trustee, except as hereinafter provided; nor shall he 3 be liable for any loss, except such as may happen from his negli- 4 gence, willful or corrupt misconduct.

5 It shall be lawful for the trustees of any such savings bank 6 to receive such reasonable compensation, when acting as officers 7 or agents of the corporation, as the majority of the trustees of 8 the corporation shall by resolution prescribe for specified duties 9 to be performed, such resolutions being approved by the judge, 10 or judges, of the circuit court of the county in which the said 11 savings bank is located; but it shall not be lawful to pay such 12 trustees, as such, for their attendance at meetings of the board.

Sec. 17. The trustees of any such savings bank shall invest 2 the deposits of the bank and the income derived therefrom only 3 as follows:

4 First—In the first mortgage or deeds of trust on real estate 5 situate in this state, or in states contiguous thereto, such real 6 estate in another state not being situated at a distance exceeding 7 fifty miles from such bank, to an amount not to exceed sixty 8 per cent of the valuation of such real estate; and no loan on 9 real estate security shall be made except upon the report of not 10 less than two members of the board of trustees who shall certify 11 to the value of the premises to be encumbered, according to their

12 best judgment, and such report shall be filed and preserved with  
13 the records of the corporation.

14 Second—In bonds or securities of the United States, or of  
15 any state, or of any county, magisterial district, independent school  
16 district, or other school district, city, town or village in this state,  
17 or in any bonds for which the faith of the United States is  
18 pledged; or in the notes of any citizen of this state, with a pledge  
19 of any of the aforesaid securities at no more than eighty per-  
20 cent of the market value and not exceeding the par value thereof.

21 Third—In the notes of any citizen of this state with a pledge  
22 as collateral of the stock of any bank or banking association in-  
23 corporated under the authority of this state or of the United  
24 States at no more than eighty per-cent of the market value and  
25 not exceeding the par value thereof; *provided*, that such corpora-  
26 tion shall not hold as security for loans more than one-quarter of  
27 the capital stock of any one bank, or banking association. Savings  
28 banks may deposit not to exceed twenty per cent of their deposits,  
29 on call, in such banks or banking associations, and may receive  
30 interest for the same.

31 Fourth—In loans upon personal notes of the depositors of  
32 the corporation, but not exceeding the amount of his deposit to  
33 a depositor; and in such cases the deposit and book of the de-  
34 positor shall be held by the corporation as collateral security for  
35 the payment of the loan.

36 Fifth—If such deposit and income cannot be conveniently  
37 invested, not exceeding one-third part thereof may be invested in  
38 bonds or other personal securities, payable at a time not exceed-  
39 ing one year, with at least two sureties, if the principal and sureties  
40 are all citizens of this state and resident therein.

41 Sixth—Fifteen per cent of the deposits of any such corpor-  
42 ation, but not exceeding one hundred thousand dollars, may be  
43 invested in the purchase of a suitable site and the erection or  
44 preparation of a suitable building for the convenient transaction  
45 of its business; and from portions of which, not required for its  
46 own use, a revenue may be derived.

47 Seventh—Any such corporation may take real estate, stocks,  
48 bonds and securities in payment in whole or in part of any debt  
49 bona fide owing to it, or may purchase the same if deemed neces-  
50 sary to secure or obtain payment of any such debt in whole or in  
51 part; and may manage, use and dispose of what has been taken or  
52 purchased as a natural person might do; but all taxes, foreclosure



53 expenses and costs of maintenance shall be paid out of the in-  
54 come of the bank.

Sec. 22. No savings bank organized under this act, shall  
2 make or issue any certificate of deposit, or pay any interest on a  
3 deposit, except semi-annual dividends, nor pay any interest or  
4 deposit, or portion of a deposit or check, drawn upon itself  
5 by any depositor, unless the passbook of the depositor be  
6 produced and proper entry be made therein at the time of the  
7 transaction; *provided, however*, that when any passbook issued  
8 by any such savings bank has been lost or destroyed, the person  
9 in whose name such book was issued, or his legal representatives,  
10 may make written application to the bank which issued such  
11 passbook for payment of the amount of the deposit represented  
12 by said book, or for the issuance of a duplicate book therefor, and  
13 shall give public notice of such application by advertising the  
14 same at least once a week for three weeks successively in a news-  
15 paper published in the city, town or village in which such bank is  
16 located; or if no newspaper be published in said city, town or vil-  
17 lage, in a newspaper having a circulation in said city, town or  
18 village. If said book shall not be presented to said bank within  
19 three months after the date of the first advertisement, as afore-  
20 said, said bank shall, upon proof that there has been given as here-  
21 inbefore provided, pay the amount due on said book or issue a  
22 duplicate therefor, and upon such payment or delivery of a new  
23 book all liability of the bank on account of the original book  
24 shall terminate.

25 Notwithstanding anything hereinbefore contained, any such  
26 bank may, in any case, at its treasurer's discretion, pay or cause  
27 to be paid to the owner the amount due on a lost or destroyed  
28 book issued by the bank, or issue a duplicate therefor to such  
29 owner, taking from the owner of the lost or destroyed book such  
30 security or indemnity to the bank, as the treasurer may deem  
31 sufficient, against loss, damages, expenses and costs in anywise  
32 arising to the bank from or by reason of such payment or issu-  
33 ance of such duplicate, and waiving the publication of such notice.

Sec. 32. Every such corporation may, at any time, hold  
2 special meetings of its trustees; and its treasurer shall also give  
3 notice of such special meetings upon the requisition in writing of  
4 the president or any three trustees. Notice of all meetings shall  
5 be given by mailing to each trustee a written or printed notice of  
6 such meeting at least a day before the meeting.

Set. 37. The trustees of any such corporation may at any  
2 time, in any annual meeting, or meeting called for the purpose,  
3 resolve to discontinue the business of the corporation, a majority  
4 of all the trustees being present and voting in favor of such dis-  
5 continuance; and may divide among the depositors, in proportion  
6 to their respective interests therein, the property and assets that  
7 may remain after paying all debts and liabilities of the cor-  
8 poration. Public notice of such resolution shall be immediately  
9 given by advertisement in some newspaper or newspapers of gen-  
10 eral circulation in the county where such savings bank is located,  
11 once a week for six successive weeks at least, before any dividend  
12 of the funds of the corporation shall be made; and the said resolu-  
13 tion shall be forthwith certified by the president under his hand  
14 and the common seal of the corporaton, to the secretary of state,  
15 who shall preserve the same in his office, and deliver a copy to the  
16 clerk of the house of delegates, to be printed and bound with the  
17 acts of the legislature.

Sec. 40. Savings banks incorporated under this act shall  
2 be subject to the provisions of the fifty-second, fifty-third, fifty-  
3 fourth and fifty-fifth chapters of the code so far as the same are  
4 applicable, and not inconsistent with anything hereinbefore con-  
5 tained.

6 Section thirty-three aforesaid is hereby repealed.

## CHAPTER 57.

(Senate Bill No. 102.)

AN ACT to require all bonds which are authorized by vote of the  
people, the payment whereof is by taxation, to be submitted to  
the attorney general for his approval or disapproval of the  
validity thereof; making all such bonds so approved valid, in-  
contestable and hinding; and providing a proceeding in the  
supreme court of appeals to annul, affirm or modify the approval  
or disapproval by the attorney general of any such bonds.

[Passed February 8, 1917. In effect ninety days from passage. Approved by the  
Governor February 16, 1917.]

Sec.

1. Bonds authorized by taxation to be submitted to attorney general before being sold; when bonds shall be transmitted to attorney general; certified copy of proceedings; attorney general may certify approval or disapproval; shall keep record of findings; open to inspection.
2. Shall give notice of approval or disapproval; how notice shall be given.
3. When bonds shall be valid and

Sec.

- binding; right of person aggrieved to petition supreme court of appeals; court or judge may hear and determine; method of procedure; bond required for costs; notice given attorney general of action of court; how to proceed in hearing of case; court to enter order; hearing to have precedence.
4. How expense incurred by attorney general in connection with bond issue shall be paid.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Whenever any county, district, school district or independent school district, municipality, or any other political division or divisions shall create bonded indebtedness the payment whereof is made by taxation, the bonds shall be submitted to the attorney general for his approval or disapproval of the validity thereof, before being sold, advertised or offered for sale.

Within two weeks from the time the result of an election authorizing the issuance of said bonds shall have been officially ascertained and certified as provided by law, the authority so issuing such bonds shall transmit them to the attorney general with a duly certified copy of all the orders, proclamations, notices, advertisements, affidavits, and records and of all its proceedings connected with or pertaining to said bond issue. The attorney general shall thereupon either approve or disapprove the validity of said bonds and attach to or stamp thereon his certificate to the effect that said bonds have been approved or disapproved, as the case may be, by virtue of the authority of this act. He shall keep on file in his office all of the papers pertaining to any bond issue submitted to him and shall record his findings of approval or disapproval in a well bound book kept for that purpose in his office, which shall be open to the inspection during business hours, of any person in interest.

Sec. 2. Upon approving or disapproving any such bonds the attorney general shall immediately notify the public corporation, which authorized the bond issue, of his action either by mail or telegram or both, and shall as soon as can be done, notify the people in the political division subject to taxation for the payment of said bonds, of his approval or disapproval by notice published once a week for two successive weeks in two newspapers of opposite politics, if there be any, published therein, or if no newspaper be published in said political division, then in some newspaper which is of general circulation therein.

Sec. 3. After ten days shall have elapsed from the day of  
2 the last publication of the notice to the taxpayers by the attorney  
3 general as provided for in section two, the said bonds, the validity  
4 of which have been approved by the attorney general, shall then  
5 become incontestable, and shall be valid and binding obligations  
6 upon the authority issuing the same and upon the taxable prop-  
7 erty within the political division which authorized the bonds by  
8 the vote of the people therein, and the validity thereof shall not  
9 be contested thereafter in any court of law or equity; *provided,*  
10 *however,* that any person in interest, or any taxpayer within said  
11 political division, feeling aggrieved by the action of the attorney  
12 general in approving or disapproving the validity of such bonds,  
13 may within ten days after the date of the last publication of the  
14 notice to the taxpayers provided for in section two (but not after  
15 said ten days) present his or its petition to the supreme court of  
16 appeals or to a judge thereof in vacation, praying that the action  
17 of the attorney general in approving or disapproving as afore-  
18 said, be reversed or modified; and if said court, or a judge there-  
19 of in vacation, be of the opinion to hear and determine the mat-  
20 ters in said petition set out, the case shall be proceeded with as  
21 in cases of original jurisdiction; but the petitioner shall file with  
22 the clerk of the court a bond with security to be approved by him,  
23 and in such sum as the court or judge may fix, for the payment  
24 of such costs as may be awarded against him in said court. The  
25 clerk of the court shall forthwith notify the attorney general of  
26 any action taken by the court or judge in vacation upon such  
27 petition; and for the hearing thereof the attorney general shall  
28 file with the clerk of said court all papers, documents, evidence  
29 and records, or certified copies thereof, which were before him  
30 and on which he based his approval or disapproval; and before  
31 the day fixed for final hearing he shall file with the clerk of said  
32 court a written statement of his reasons for the approval or dis-  
33 approval of the bonds. Upon the submission of the case, the  
34 court shall decide the matters in controversy and enter such order  
35 thereon as to it may seem to be just; but hearings upon such  
36 cases shall have precedence over those arising upon appeals and  
37 writs of error.

Sec. 4. The costs of publishing the notice to taxpayers  
2 directed to be made in section two, and the costs of certifying and  
3 copying all records, papers, and proceedings to be used by the  
4 attorney general in passing upon the validity of such bonds, and

5 all necessary expense incurred by the attorney general in connec-  
 6 tion with any bond issue shall be paid by the authority issuing  
 7 such bonds, and shall be charged by it as a part of the expense of  
 8 such bond issue, and paid by the authority issuing said bonds  
 9 out of the proceeds arising from the sale thereof, if the same be  
 10 finally approved; and if the same be finally disapproved, such  
 11 expense shall be paid out of the general funds of such authority.

## CHAPTER 58.

(Senate Bill No. 116.)

AN ACT to amend and re-enact section fourteen of chapter thirteen, acts of the legislature of one thousand nine hundred and thirteen, and sections twenty-nine and thirty-one of chapter seven, acts of the legislature of one thousand nine hundred and fifteen, being sections fourteen, twenty-nine and thirty-one of chapter thirty-two-*a* Barnes code of West Virginia, one thousand nine hundred and sixteen, all relating to prohibiting the manufacture, sale and keeping for sale of intoxicating liquors and the enforcement of the amendment of section forty-six of article six of the state constitution ratified on the fifth day of November one thousand nine hundred and twelve, and to further amend said chapter thirteen, acts of the legislature of one thousand nine hundred and thirteen, as amended by acts of the regular session of the legislature of one thousand nine hundred and fifteen, and the second extraordinary session of the legislature of one thousand nine hundred and fifteen, by enacting as additional thereto two sections, to be numbered sections thirty-five and thirty-six, inclusive, as parts thereof, and said sections to be numbered thirty-five and thirty-six, inclusive, as parts of said chapter thirty-two-*a*, Barnes code of West Virginia, one thousand nine hundred and sixteen.

[Passed January 31, 1917. In effect ninety days from passage. Approved by the Governor February 14, 1917.]

Sec.  
 14. Houses where intoxicating liquors are manufactured, stored, or furnished contrary to law, deemed nuisances; boats and vehicles where liquors are kept, deemed nuisances; such places may be proceeded against by suits; to maintain such nuisances, a misdemeanor; penalty.

Sec.  
 29. Duty of mayor or police to enforce laws; failure to discharge duty, cause of removal from office; removal made by circuit court of county; how charges shall be made and summons issued; court to hear charges without jury; if proof satisfactory, to remove officer; records to be in

SEC. custody of other officer until vacancy is filled; how vacancy shall be filled; citizen may prefer charges for removal; how "officer" may be construed; right of appeal. 31. Requirement as to quantity of liquor allowed; violation, a misdemeanor; penalty; duty of prosecuting attorney as to charges; provisions as to carriers; penalty for violations; jurisdiction of court.	SEC. 35. Right of real estate owner to terminate lease. 36. Violation of provisions, cause for cancellation of license; county court or municipal council may cancel license; by whom showing may be made; no refund of tax allowed; license not to be granted for two years after cancellation; void if granted within said period; how "person" may be construed; inconsistent acts repealed.
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*Be it enacted by the Legislature of West Virginia:*

That section fourteen of chapter thirteen, acts of the legislature of one thousand nine hundred and thirteen, and sections twenty-nine and thirty-one of chapter seven of the acts of the legislature of one thousand nine hundred and fifteen, being sections fourteen, twenty-nine and thirty-one of chapter thirty-two-a Barnes code of West Virginia one thousand nine hundred and sixteen, all relating to prohibiting the manufacture, sale and keeping for sale of intoxicating liquors and the enforcement of the amendment of section forty-six of article six of the state constitution ratified on the fifth day of November, one thousand nine hundred and twelve, be amended and re-enacted so as to read as hereinafter set out; and that said chapter thirteen, acts of the legislature of one thousand nine hundred and thirteen, as amended by acts of the regular session of the legislature of one thousand nine hundred and fifteen and the second extraordinary session of the legislature of one thousand nine hundred and fifteen be and is hereby further amended by enacting as additional thereto two sections, to be numbered sections thirty-five and thirty-six, inclusive, as parts thereof, as hereinafter set out, and said sections to be numbered thirty-five and thirty-six, inclusive, as parts of said chapter thirty-two-a.

Section 14. All houses, boat-houses, buildings, club rooms, 2 and places of every description, including drug stores, where in- 3 toxicating liquors are manufactured, stored, sold or vended, given 4 away, or furnished in any way contrary to law (including houses 5 in which clubs, orders, or associations, shall barter, give away, 6 distribute, or dispense, intoxicating liquors to their members by 7 any means or device whatever, as provided in section six of this 8 act), shall be held, taken and deemed common and public nui- 9 sances. All boats, cars, automobiles, wagons, or vehicles of any 10 kind, where intoxicating liquors are had, kept or possessed for the 11 purpose of transporting, or carrying, in any way, contrary to 12 law, shall be held, taken and deemed common and public nuisances.

13 'Boats, cars (including railroad and traction passenger cars oper-  
14 ating in this state), automobiles, wagons, or vehicles of any kind,  
15 shall be held, taken and deemed as places within the meaning of  
16 this act, and may be proceeded against by suit in equity under the  
17 provisions of section seventeen. And any person who shall main-  
18 tain, or shall aid or abet, or knowingly be associated with others  
19 in maintaining such common and public nuisance, shall be guilty  
20 of a misdemeanor, and upon conviction thereof, shall be pun-  
21 ished by a fine of not less than one hundred nor more than five  
22 hundred dollars, and by imprisonment in the county jail not less  
23 than thirty days nor more than six months for each offense, and  
24 judgment shall be given that such house, building, or any room  
25 therein, or other place, be abated or closed up as a place for the  
26 sale or keeping of such liquors contrary to law, as the court may  
27 determine.

Sec. 29. It is hereby made the duty of the mayor of a mu-  
2 nicipality, or the person acting as such, and the police of a mu-  
3 nicipality, to enforce the prohibition laws of the state within the  
4 municipality, independently of any ordinance, or want of ordi-  
5 nance of the municipality. If any mayor of a municipality, or the  
6 person acting as such, the municipal police, county, or district  
7 officer, shall fail, refuse or neglect to discharge any duty imposed  
8 upon him by law, prohibiting the manufacture, sale, keeping and  
9 storing for sale of intoxicating liquors, he shall be removed from  
10 office in the manner provided in this section. Such removal shall  
11 be made by the circuit court of the county wherein such officer  
12 resides. The charges against any such officer shall be reduced  
13 to writing, and entered of record by the court, and a summons  
14 shall thereupon be issued by the clerk of such court, containing  
15 a copy of the charges, and requiring the officer named therein to  
16 appear and answer the same on a day to be named therein, which  
17 summons may be served upon said officers in the same manner as  
18 a summons commencing an action may be served, and the service  
19 must be made at least five days before the return day thereof.  
20 And the court itself shall, without a jury, hear the charges, and  
21 upon satisfactory proof thereof, remove any such officer from the  
22 discharge of the duties of his office, and place the records, papers  
23 and property of his office in the possession of some other officer  
24 or person for safe keeping until the vacancy is filled. Any vacancy  
25 created under this section shall be filled in the manner required  
26 by law as to the county and district officers, and in the manner

27 prescribed by the charter or ordinance of the municipality. Any  
28 citizen of the county, district, or municipality, as the case may be,  
29 or the commissioners of prohibition, may prefer and prosecute to  
30 final judgment, charges for removal against any of the officers, in-  
31 cluding municipal police, mentioned in this section. The word  
32 "officer", as used herein, shall include and embrace municipal po-  
33 lice. Either party shall have the right of appeal to the supreme  
34 court of appeals of the state from judgment of the circuit court.

Sec. 31. It shall be unlawful for any person to bring or  
2 carry into the state, during any period of thirty consecutive days,  
3 or carry from one place to another within the state, in any man-  
4 ner, whether in his personal baggage, or otherwise, more than one  
5 quart of intoxicating liquors for personal use. If any person shall  
6 bring, or carry into the state, during any period of thirty con-  
7 secutive days, or from one place to another within the state, in  
8 any manner, whether in his personal baggage, or otherwise, more  
9 than one quart of intoxicating liquors for personal use, he shall  
10 be deemed guilty of a misdemeanor, and upon conviction thereof,  
11 shall be fined not less than one hundred nor more than five hun-  
12 dred dollars, and imprisoned in the county jail not less than  
13 two nor more than six months. And upon conviction of the same  
14 person for the second offense under this act, he shall be guilty  
15 of a felony, and be confined in the penitentiary not less than one  
16 nor more than five years; and it shall be the duty of the prose-  
17 cuting attorney in all cases to ascertain whether or not the  
18 charges made by the grand jury is the first or second offense; and  
19 if it be a second offense, it shall be so stated in the indictment  
20 returned, and the prosecuting attorney shall introduce the record  
21 evidence before the trial court of said second offense, and shall  
22 not be permitted to use his discretion in charging said second  
23 offense, or in introducing evidence and proving the same on the  
24 trial.

25 It shall be unlawful for any carrier operating in this state  
26 to knowingly carry for a passenger, or knowingly permit a pas-  
27 senger to carry into the state, or from one place to another within  
28 the state, more than one quart of intoxicating liquors as per-  
29 sonal baggage. But nothing contained in this section shall be  
30 construed as requiring a carrier to carry, or permit a passenger  
31 to carry into the state, or from one place to another in the state,  
32 any intoxicating liquors as personal baggage. If any carrier shall  
33 knowingly carry for a passenger, or knowingly permit a passenger



34 to carry into the state, or from one place to another within the  
35 state, more than one quart of intoxicating liquors as personal  
36 baggage, the carrier shall be deemed guilty of a misdemeanor, and  
37 upon conviction thereof, shall be fined not less than two hundred  
38 nor more than one thousand dollars. And a court of equity upon  
39 showing that a carrier has knowingly carried for a passenger,  
40 or knowingly permitted a passenger to carry into the state, or  
41 from one place to another within the state, more than one quart  
42 of intoxicating liquors as personal baggage, or through the want  
43 of due caution and care, has carried for a passenger, or permit-  
44 ted a passenger to carry into the state, or from one place to an-  
45 other within the state, more than one quart of intoxicating liquors  
46 as personal baggage, shall have jurisdiction to entertain such suit  
47 and to enter such decree and take such proceedings as are pro-  
48 vided for in section seventeen.

Sec. 35. The owner of any real estate shall have the right  
2 to terminate any contract of lease or rent of such real estate and  
3 demand and have possession thereof whenever the lessee, or any  
4 sub-lessee, tenant, or sub-tenant, has been held by any court of  
5 competent jurisdiction to have used the leased or rented prem-  
6 ises in violation of any of the provisions of this chapter. And no  
7 right to damages shall accrue thereby to the lessee, sub-lessee, ten-  
8 ant, or sub-tenant.

Sec. 36. If any person holding a state or municipal license  
2 to conduct a business requiring the payment to the state or  
3 municipality of a license tax shall himself violate any of the  
4 provisions of this chapter, or shall knowingly permit another to  
5 violate any of the provisions of this chapter, in the premises  
6 where such business is carried on, his license shall be cancelled.  
7 Upon satisfactory showing to the county court, municipal council,  
8 or other authority in lieu thereof, that issued the state or municip-  
9 al license, that the person holding such license has violated any  
10 of the provisions of this chapter, or has knowingly permitted an-  
11 other to violate any of the provisions of this chapter in the prem-  
12 ises where the business of such license was carried on, the county  
13 court, municipal council, or other authority in lieu thereof, shall  
14 cancel the license issued to such person. Such showing may be  
15 made by the state commissioner of prohibition, the prosecuting  
16 attorney of the county, or mayor of the municipality wherein  
17 the business was conducted, or any citizen thereof. No refund of the  
18 tax for the unexpired license year shall be made. And no person

19 whose license has been cancelled under the provisions of this  
 20 section, shall be granted or permitted a state or municipal license  
 21 for the conduct of any business requiring the payment of a state  
 22 or municipal license during a period of two years thereafter.  
 23 And any state or municipal license issued to such person during  
 24 said period of two years by any licensing authority in the state,  
 25 shall be void and of no effect. The word "person," as used herein  
 26 shall mean and include any firm, partnership or corporation.

27 All acts and parts of acts inconsistent herewith are hereby  
 28 repealed.

### CHAPTER 59.

(Senate Bill No. 134.)

AN ACT creating a board known as the state auditing board of  
 traveling expenses, prescribing its duties, and making certain  
 requirements respecting the expenditures of public moneys by  
 state officers and employes.

[Passed February 13, 1917. In effect ninety days from passage. Approved by the  
 Governor February 23, 1917.]

<p>SEC.                  1. State auditing board of traveling expenses created; who constitute; officers; record.                  2. The auditor shall not issue his warrant unless.</p>	<p>SEC.                  3. Claims shall not be paid for annual dues, etc.                  4. Expense accounts shall be itemized, in triplicate, verified by affidavit.                  5. Inconsistent acts repealed.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. A board to be known as the state auditing board  
 2 of traveling expenses is hereby created. The governor, attorney  
 3 general and the secretary of state shall be *ex-officio* members of,  
 4 and constitute said board. The governor shall be president, and  
 5 the secretary of state shall be secretary. A minute record shall  
 6 be kept by said board in which shall be entered a record of all its  
 7 proceedings.

Sec. 2. It shall be unlawful for the state auditor to issue  
 2 his warrant in payment of any claim presented by a state officer  
 3 or employe for expenses incurred while traveling without the  
 4 state, unless, the trip is authorized and the claim is approved by  
 5 the state auditing board of traveling expenses; *provided, how-*  
 6 *ever,* the state auditor is authorized to issue his warrant in pay-  
 7 ment of claims of state officers or employes without the approval  
 8 hereinbefore required, for expenses incurred while traveling with-

9 out the state where the state officer or employee is required to be  
10 present in a proceeding before a court, or where the state officer  
11 or employee be in the performance of a duty required by the Vir-  
12 ginia debt commission.

Sec. 3. No claim presented by a state officer or employee shall  
2 contain a charge for annual or other dues to voluntary organiza-  
3 tions. It shall be unlawful for the state auditor to issue his war-  
4 rant in payment of any claim for annual or other dues to volun-  
5 tary organizations.

Sec. 4. All expense accounts incurred by state officers or  
2 employes, whether traveling within or without the state, shall be  
3 verified by affidavit of the person incurring the expense, shall be  
4 itemized in detail, and no item shall be designated "miscellane-  
5 ous", "sundry", or terms of like general nature. If the account is  
6 for traveling without the state, it shall be made out in triplicate,  
7 one copy retained in the office of the officer or employee incurring  
8 the expense, one copy filed with the state auditing board of travel-  
9 ing expenses, and the other copy filed with the state auditor.  
10 If the account is for traveling within the state, it shall be made  
11 out in duplicate, one copy retained in the office of the officer or  
12 employee incurring the expense and the other copy to be filed  
13 with the state auditor.

Sec. 5. All acts or parts of acts inconsistent with this act are  
2 hereby repealed.

## CHAPTER 60.

(Senate Bill No. 145.)

AN ACT to authorize the laying of additional levies for the comple-  
tion of a new court house in any county, or to make permanent  
repairs to any court house now in use and to complete the same  
under existing law.

[Passed February 10, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

SEC. 1. County court may lay additional levy to complete or repair court		SEC. house. 2. Inconsistent acts repealed.
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of any county wherein the  
2 construction of a new court house has been begun, or any court

3 house now in use is in need of permanent repairs, and for which  
 4 the levies provided for in chapter ninety-two of the acts of the  
 5 regular session of one thousand nine hundred and fifteen will not  
 6 raise sufficient money, to complete such court house, or make  
 7 permanent repairs to any court house now in use, may, in addi-  
 8 tion to the levies provided for in the chapter aforesaid, lay a special  
 9 building levy for two years only, not to exceed thirty cents on the  
 10 one hundred dollars valuation on the taxable property in said  
 11 county, for the sole purpose of raising funds to complete such new  
 12 court house, or to make permanent repairs to any court house now  
 13 in use.

Sec. 2. All acts or parts of acts coming within the purview  
 2 of this act and in conflict therewith, are hereby repealed; *provided*,  
 3 *however*, that nothing in this act shall be construed to repeal the  
 4 provisions of chapter ninety-two of the acts of the regular session  
 5 of one thousand nine hundred and fifteen.

## CHAPTER 61

(Senate Bill No. 190.)

AN ACT to amend and re-enact section three and section seventy of  
 chapter three of the code of one thousand nine hundred and  
 thirteen relating to elections by the people, and to provide for  
 the election of United States senators.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
 without the Governor's approval.]

SEC. 3. Election of presidential electors, members of congress and United States senators.	SEC. 70. Certificate, to whom sent; disposi- tion of.
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*Be it enacted by the Legislature of West Virginia:*

That section three and section seventy of chapter three of the code  
 of one thousand nine hundred and thirteen (serial sections eighteen  
 and ninety-two) be amended and re-enacted so as to read as follows:

Section 3. Electors of president and vice-president of the  
 2 United States, shall be chosen by the voters of the state, at the  
 3 elections to be held for the purpose, on the Tuesday next after  
 4 the first Monday in November, in the year one thousand eight  
 5 hundred and ninety-two, and every fourth year thereafter, and  
 6 at least sixty days before every such election, the governor, by  
 7 proclamation published in some newspaper in every county where

8 a newspaper is printed, shall give notice of the time of such elec-  
9 tion, and the number of electors to be chosen. And, on the Tues-  
10 day, next after the first Monday in November, one thousand eight  
11 hundred and ninety-two, and in every second year thereafter, or  
12 until the congress of the United States shall otherwise provide,  
13 there shall be elected a representative in the congress of the United  
14 States, for the term beginning on the fourth day of March next  
15 after the election, for every congressional district.

16 At the general election to be held on the Tuesday next after  
17 the first Monday in November, one thousand nine hundred and  
18 eighteen, and every sixth year thereafter, and on the Tues-  
19 day next after the first Monday in November, one thou-  
19-a sand nine hundred and twenty-two, and every sixth  
20 year thereafter, there shall be elected a member of the United  
21 States senate, each for the term commencing on the fourth of  
22 March next succeeding his election. The names of candidates  
23 nominated for the office of United States senator shall be  
24 certified to and filed with the clerks of the circuit courts of the  
25 several counties, and the ballot commissioners of each county  
26 shall cause said names to be printed on the appropriate ballot  
27 in the same manner as is provided in this chapter for the certifica-  
28 tion and printing of the names of other candidates to be voted for  
29 by the electors of all the counties in the state.

Sec. 70. The separate certificates of the board of canvas-  
2 sers, made pursuant to the preceding section, shall be by them dis-  
3 posed of as follows: Of the certificates respecting the election  
4 for delegate or delegates, they shall transmit one to each person  
5 voted for as delegate, and shall transmit one to the secretary  
6 of state, who shall submit the same to the house, on the first day  
7 of the ensuing regular session, together with a list of the per-  
8 sons appearing thereby to be elected. Of the certificates respect-  
9 ing the election of senator, they shall transmit one to each per-  
10 son voted for as senator, and shall transmit one to the secretary  
11 of state, to be submitted by him to the senate, on the first day of  
12 the ensuing regular session, together with a list of persons ap-  
13 pearing thereby to be elected. Of the certificates respecting the  
14 election of governor, auditor, treasurer, state superintendent of  
15 free schools and attorney general, one as to each of said offices, shall  
16 be sealed up and transmitted by said commissioners to the secre-  
17 tary of state endorsed on the envelope as follows: "Returns of  
18 the election for governor, auditor, treasurer, state superintendent

19 of free schools and attorney general." The secretary of state shall  
 20 deliver the same to the speaker of the house of dele-  
 21 gates, on the first day of the next session of the legislature; and  
 22 the speaker shall, immediately after the organization of the house,  
 23 and before proceeding to other business, open and publish the  
 24 same in the presence of a majority of each house of the legisla-  
 25 ture, which bodies shall, for that purpose, assemble in the hall of  
 26 the house of delegates. The person having the highest number  
 27 of votes for either of said offices, shall be declared duly elected  
 28 thereto; but if two or more persons have an equal and the high-  
 29 est number of votes for the same office, the legislature shall, by  
 30 a joint vote of the two houses, choose one of said persons for said  
 31 office; and one of each of said last mentioned certificates, shall  
 32 also be transmitted, under seal, to the governor, who shall imme-  
 33 diately tabulate the vote in all the counties, for each office, and  
 34 cause the same to be published in some newspaper published at  
 35 the seat of government. Of the certificates respecting the elec-  
 36 tion for United States senator, for judge of the supreme court  
 37 of appeals, judge of a judicial circuit, representative in the  
 38 congress of the United States, and electors of president and vice-  
 39 president of the United States, respectively, the commissioners  
 40 shall transmit one in each case to the person voted for, and one  
 41 to the governor; and the governor shall ascertain who are elected,  
 42 and make proclamation thereof. Of the certificates respecting  
 43 the election of all county and district officers, one shall be trans-  
 44 mitted to each person for whom votes were cast.

## CHAPTER 62

(Senate Bill No. 192.)

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 eighty of the acts of one thousand nine hun-  
 dred and seven of the regular session of the West Virginia  
 legislature, Hogg's code, one thousand nine hundred and thir-  
 teen, serial section nine hundred and forty-one, thereof, re-  
 lating to property exempt from taxation.

[Passed February 21, 1917. In effect from passage. Became a law without the  
 Governor's approval.]

SEC.  
 57. Property exempt from taxation  
 must be entered upon the as-  
 sessors' books with true and

SEC. actual value but no taxes shall  
 be levied upon the same.

*Be it enacted by the Legislature of West Virginia:*

That section fifty-seven of chapter twenty-nine of the code of West Virginia, as last amended and re-enacted by chapter eighty of the acts of one thousand nine hundred and seven of the regular session of the West Virginia legislature, relating to property exempt from taxation, be and the same is hereby amended and re-enacted so as to read as follows:

Section 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 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 fires, and property used exclusively for the safe keeping thereof, and for the meetings of fire companies; and all 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 purchased or procured for the purpose of evading taxation, whether temporarily holding the same over the first day of the assessment year or otherwise. *Provided, however,* that the prop-

35 erty, both real and personal, which is exempt from taxation by  
36 this section shall be entered upon the assessors' books, together  
37 with the true and actual value thereof, but no taxes shall be  
38 levied upon the same or extended upon the assessors' books; and,  
39 *provided, further,* that such exemption from taxation shall apply  
40 to all property, including the principal thereof, and the income  
41 therefrom, held for a term of years or otherwise under a bona  
42 fide deed of trust, transfer or assignment, by a trustee or trus-  
43 tees required by the terms of such trust to apply, annually, the  
44 income derived from such property to education, religion, char-  
45 ity and cemeteries, when not used for private purposes or  
46 profit. Such transfer or assignment shall be in writing, and have  
47 the approval of the state tax commissioner endorsed thereon; and  
48 a copy thereof shall be filed in his office before such exemption  
49 shall apply to the property embraced therein; and all books and  
49-a papers showing the collection and distribution of money  
50 or property under or by virtue of any such trust shall be open  
51 to the inspection of said commissioner, his deputies or assistants,  
52 at all reasonable times. And, whenever from any cause, such  
53 commissioner shall determine that any such trust is not bona  
54 fide, or that it was created or is carried on for the purpose of  
55 evading taxation, then he shall withdraw his approval thereof  
56 by written notice served upon any trustee in such trust, and  
57 thereafter all property covered by such trust shall be subject to  
58 taxation; but any person beneficially interested may appeal from  
59 any such decision of said commissioner to the circuit court of  
60 the county wherein the trustee resides, and if such trustee re-  
61 side outside the state of West Virginia, then to the circuit court  
62 of the county wherein the seat of government is located; and  
63 with the further right of appeal to the supreme court of appeals  
64 by any party to the proceedings.

## CHAPTER 63

(Senator Bill No. 195.)

AN ACT to amend sections two, three, five, six, fifteen, twenty-three, twenty-five, twenty-seven, twenty-eight, thirty, forty-two, forty-seven, forty-eight, forty-nine and fifty of chapter seventy of the acts of one thousand nine hundred and fifteen, relating to the care of dependent, neglected, or delinquent children.



[Passed February 23, 1917. In effect ninety days from passage. Approved by the Governor March 3, 1917.]

Sec.		Sec.	
2.	Jurisdiction.	30.	Appeals.
3.	Juvenile courts.	42.	Protection.
4.	Summons.	47.	Duty of superintendent and matron: record report.
5.	Probation officers.	48.	Power to tax for support and establishment of home.
15.	Transfer from justice to police magistrates.	49.	How adopted.
23.	County board of visitors.	50.	How electors may discontinue maintenance of such detention home.
25.	Reports of the juvenile courts.		
27.	Support of children.		
28.	Order relating to support.		

*Be it enacted by the Legislature of West Virginia:*

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

#### *Jurisdiction.*

Section 2. The circuit courts of this state shall have original jurisdiction in all cases coming within the terms of this act, except that in counties where a court of common pleas or intermediate court having chancery jurisdiction has been or may be created, such court shall have exclusive original jurisdiction in all such cases, subject to appeal to the circuit court of such county; *provided*, that in any county where there is a criminal court and no court of chancery jurisdiction other than the circuit court, such criminal court, on the law side thereof, shall have concurrent jurisdiction with such circuit court as to all cases arising under this act. In all trials under this act any person interested therein may demand a jury of twelve persons, or the judge, of his own motion, may order a jury of the same number to try the case. The powers conferred by this act upon any court may be exercised by the judge thereof at chambers in vacation.

#### *Juvenile Courts.*

Sec. 3. The findings of the court shall be entered in a book or books to be kept by the clerk for that purpose, and known as the "Juvenile Record" and the court may for convenience be called the "Juvenile Court."

#### *Summons.*

Sec. 5. The summons shall require the person alleged to have the custody of such child to appear with the child at the

3 time and place stated in the summons; and shall also require  
 4 all defendants to appear and answer the petition on the return  
 5 day of the summons. The summons shall be made returnable  
 6 at any time within twenty days after the date thereof to the  
 7 court or the judge in vacation, and may be served by the sheriff,  
 8 or by any duly appointed probation officer, even though such  
 9 officer be the petitioner. The return of such summons, with in-  
 10 dorsement of services by the sheriff or by such probation officer  
 11 in accordance herewith, shall be sufficient proof thereof.

12 Whenever it shall appear from the petition or from affidavit  
 13 filed in the cause that any named defendant resides or has gone  
 14 out of the state, or on due inquiry cannot be found, or is concealed  
 15 within this state or that his place of residence is unknown so  
 16 that process cannot be served on him, or whenever any person is  
 17 made defendant under the name or designation of "all whom  
 18 it may concern", the clerk shall cause publication to be made  
 19 twice in some newspaper of general circulation published in his  
 20 county, and if there be none published in his county, then in  
 21 a newspaper published in the nearest place to his county in this  
 22 state, which shall be substantially as follows:

23 A, B, C, D, etc. (here giving the names of such defendant,  
 24 if any), and to "all whom it may concern" (if there be any de-  
 25 fendant under such designation).

26 Take notice that on the.....day of .....19....  
 27 a petition was filed by.....in the.....  
 28 court of.....county to have a certain child,  
 29 named ..... declared a dependent (or de-  
 30 linquent) and to take from you the custody and guardianship of  
 31 said child (and if the petition prays for the appointment of a  
 32 guardian with power to consent to adoption, and add,) "and to  
 33 give said child out for adoption."

34 Now, unless you appear within twenty days after the date  
 35 of this notice and show cause against such application, the peti-  
 36 tion shall be taken for confessed and a decree granted.

37

E. F., *Clerk.*

38 Dated (the date of publication).

39 And he shall also within ten days after the publication of  
 40 such notice send a copy thereof by mail, addressed to such de-  
 41 fendants whose place of residence is stated in the petition and  
 42 who shall not have been served with summons. Notice given by  
 43 publication as is required by this act shall be the only publication

44 notice required either in the case of residents, non-residents or  
45 otherwise. The certificate of the clerk that he has sent such  
46 notice in pursuance of this section shall be evidence thereof.  
47 Every defendant who shall be duly summoned shall be held to  
48 appear and answer either in writing, orally in open court, or to  
49 the judge in vacation on the return day of the summons or if  
50 such summons shall be served less than one day prior to the  
51 return day, then on the following day. Every defendant who  
52 shall be notified by publication as herein provided shall be held  
53 to appear and answer either in writing or orally in open court  
54 or to the judge in vacation within twenty days after the date of  
55 the publication notice. The answer shall have no greater weight  
56 as evidence than the petition.

57 In default of an answer at the time or times herein specified  
58 or at such further times as by order of court or the judge in  
59 vacation may be granted to a defendant, the petition may be  
60 taken as confessed.

61 If the person having the custody or control of the child shall  
62 fail without reasonable cause to bring the child into court or  
63 before the judge in vacation, he may be proceeded against as  
64 in the case of contempt of court. In case the summons shall  
65 be returned and not served upon the person having the custody  
66 or control of such child, or such person fails to obey the same,  
67 and in any case when it shall be made to appear to the court or  
68 judge by affidavit, which may be on information and belief, that  
69 such summons will be ineffectual to secure the presence of the  
70 child, a warrant may be issued on the order of the court or judge  
71 either against the parents or either of them, or the guardian or  
72 the person having the custody or control of the child, or with  
73 whom the child may be, or against the child itself to bring such  
74 person into court or before said judge. On default of the cus-  
75 todian of the child or on his appearance or answer, or on the  
76 appearance in person of the child in court or before said judge  
77 with or without the summons or other process and on the answer,  
78 default or appearance or written consent to the proceedings of  
79 the other defendants thereto or as soon thereafter as may be, the  
80 court or judge shall proceed to hear evidence. The court or  
81 judge may, in any case when the child is not represented by any  
82 person, appoint some suitable person to act on behalf of the child.  
83 At any time after the filing of the petition and pending the final  
84 disposition of the case, the court or judge may continue the

85 hearing from time to time and may allow such child to remain in  
86 the possession of its custodian or in its own home subject to the  
87 friendly visitation of a probation officer, or it may order such  
88 child to be placed in the custody of a probation officer of the  
89 court, or of any suitable person appointed by the court or judge  
90 to be kept in some suitable place provided by the city or county  
91 authorities, but in no event, except under order of the court or  
92 judge, to be held in the county jail or city lockup.

#### *Probation Officers.*

Sec. 6. The circuit courts and other inferior courts of the  
2 several counties in this state which have chancery jurisdiction  
3 shall have authority to appoint any number of discreet persons  
4 of good moral character to serve as probation officers during the  
5 pleasure of the court; said probation officers to receive no com-  
6 pensation from the county treasury except as herein provided.  
7 It shall be the duty of the clerk of the court, if practicable, to  
8 notify the said probation officer when any child is to be brought  
9 before the court, or judge, and it shall be the duty of such probation  
10 officer to make investigation of such case, to be present in court  
11 or before said judge to represent the interests of the child when  
12 the case is heard, to furnish such information and assistance as  
13 the court or judge may require, and to take charge of any child  
14 before and after the trial as may be directed by the court or judge.  
15 The number of probation officers who may receive compensation  
16 from the county, named and designated by the court, shall be  
17 as follows:

18 In counties having a population of over thirty thousand, two  
19 probation officers may be appointed, who shall each receive a  
20 salary of not exceeding six hundred dollars per year, and expenses  
21 may be allowed each probation officer in a sum not exceeding one  
22 hundred dollars per year; in counties having a population of over  
23 fifteen thousand and less than thirty thousand, one probation  
24 officer may be appointed at a salary not to exceed six hundred  
25 dollars per year, and expenses of probation work may be allowed by  
26 the county in a sum not to exceed one hundred dollars per year.

27 In all counties of over fifteen thousand population probation  
28 officers receiving compensation from the county, may be appointed  
29 by the judge of the circuit court, or other court having jurisdic-  
30 tion, and the said salary or expenses shall be paid in monthly

31 installments from the county treasury. In any county of less  
32 than fifteen thousand population, one probation officer, at a salary  
33 of not to exceed three hundred dollars per annum, to be paid as  
34 provided for probation officers in other counties, may be appointed  
35 by the circuit judge or judge of inferior courts having jurisdiction  
36 whenever in the opinion of the judge, the county superintendent  
37 of schools and a majority of the board of county commissioners of  
38 such county it shall be necessary so to care for the dependent and  
39 delinquent children of the county. The county superintendent of  
40 schools and the county commissioners in their respective counties  
41 shall constitute a board to investigate the competency of any person  
41-a appointed to act as a probation officer whenever such probation  
42 officer is to receive from the county a salary or other compensation  
43 provided for under this act. Any judge appointing such proba-  
44 tion officer shall transmit such appointment to such board of the  
45 county in which such appointment is made, and it shall be the  
46 duty of a majority of said board to approve or disapprove of such  
47 appointee, within thirty days after submission thereof by the said  
48 judge, and a failure to act thereon within such time shall constitute  
49 an approval of such appointment; if a majority of such board are  
50 of the opinion that such appointee does not possess the qualifica-  
51 tions for a probation officer, they shall notify the judge of their  
52 conclusions within thirty days from the submission of such ap-  
53 pointments to the respective members thereof, whereupon it shall  
54 be the duty of the judge to withdraw such appointment and appoint  
55 some one who shall receive the approval of said board. The court  
56 or judge having jurisdiction may apportion the allowance to proba-  
57 tion officers between any two or more of them, but not exceeding  
58 the total amount fixed herein as may be deemed best.

59 Probation officers receiving a salary or other compensation  
60 from the county, provided for by this act, are hereby vested with  
61 all the power and authority of police or sheriffs to make arrests  
62 and perform any other duties ordinarily required by policemen and  
63 sheriffs which may be incident to their office or necessary or con-  
64 venient to the performance of the duties; *provided*, that other  
65 probation officers may be vested with like power and authority upon  
66 a written certificate from the judge that they are persons of dis-  
67 cretion and good character, and that it is the desire of the court to  
68 vest them with all the power and authority conferred by law upon  
69 probation officers receiving compensation from the county.

70 In counties of over thirty thousand population, whenever in

71 the opinion of the judge the board of county commissioners and  
72 the superintendent of schools, additional probation officers to those  
73 allowed by law are necessary for the care of the dependent and  
74 delinquent children, not to exceed two assistant probation officers,  
75 in addition to the one provided for herein, may be appointed in  
76 the manner provided by this act, at a salary not to exceed six  
77 hundred dollars per year.

78 Salaries or compensation of paid probation officers permitted  
79 by this act shall be fixed by the judge, not to exceed the sums  
80 herein mentioned, and any bills for expenses not exceeding the  
81 sums herein provided for, shall be certified to by the judge as  
82 being necessary in and about the performance of the duties of pro-  
83 bation officer or officers. The appointment of probation officers  
84 and the approval thereof as to the qualification of such officers by  
85 the board herein designated, shall be filed in the office of the clerk of  
86 the court. Probation officers shall take oath such as may be  
87 required of other county officers to perform their duties and file  
88 it in the office of the clerk of the court, by which they have been  
89 appointed.

90 Nothing herein contained, however, shall be held to limit or  
91 abridge the power of the judge to appoint any number of persons  
92 as probation officers, whom said judge may see fit to appoint and  
93 who may be willing to serve without pay from the county for  
94 such services as probation officers.

*Transfer from Justice and Police Magistrates.*

Sec. 15. When in any county where a court is held as pro-  
2 vided in section two of this act, a male or a female child under  
3 the age of eighteen years is arrested with or without warrant such  
4 child may, instead of being taken before a justice of the peace  
5 or police magistrate, be taken directly before such court or the  
6 judge in vacation; or if the child is taken before a justice of the  
7 peace or police magistrate, such justice or magistrate shall inquire  
8 into such case, and unless he be of the opinion that no sufficient  
9 foundation exists for the charge of dependency or delinquency, it  
10 shall be the duty of such justice of the peace or police magistrate  
11 to transfer the child to the circuit or other court, having jurisdic-  
12 tion, and it shall be the duty of the officer having the child in  
13 charge to take the child before such court or the judge in vaca-  
14 tion, and in any case the court or judge may proceed to hear and  
15 dispose of the case in the same manner as if the child had been  
16 brought before the court or judge upon petition as herein pro-

17 vided. In any case, the court or judge shall require notice to  
18 be given and investigation to be made as in other cases under this  
19 act, and may adjourn the hearing from time to time for that  
20 purpose.

#### *County Boards of Visitors.*

Sec. 23. The court or judge of each county having jurisdic-  
2 tion may appoint a board of six reputable inhabitants of such  
3 county who will serve without compensation, to constitute a board  
4 of visitation, whose duty it shall be to visit, as often as once a  
5 year, all institutions, societies, associations and persons receiving  
6 children under this act; said visits shall be made by not less than  
7 two of the members of the board, who shall go together or make  
8 a joint report; the said board of visitors shall report to the court  
9 or judge, from time to time, the conditions of children received  
10 by or in charge of such associations, societies, institutions, and  
11 persons, and shall make an annual report to the state board of  
12 control in such form as said board may prescribe.

#### *Reports of the Juvenile Courts.*

Sec. 25. Between the first and fifteenth days of January of  
2 each year, the clerks of the courts having jurisdiction shall submit  
3 to the county commissioners of their respective counties a report  
4 in writing, upon blanks to be furnished by said commissioners  
5 showing the number and disposition of neglected, dependent or  
6 delinquent children brought before such court or judge, together  
7 with such useful information regarding such cases and the parent-  
8 age of such children and the character of their dependency or  
9 delinquency as may be reasonably obtained at trials thereof, and  
10 which may be required by the said commissioners; *provided*, that  
11 the name or identity of any such child or parent shall not be  
12 disclosed in such report.

#### *Support of Children.*

Sec. 27. If it shall appear, upon the hearing of the case that  
2 the parents, parent, or any person or persons named in such peti-  
3 tion who are in law liable for the support of such child, are able  
4 to contribute to the support of such child, the court or judge shall  
5 enter an order requiring such parents, parent or other person to  
6 pay to the guardian so appointed or to the institutions, associa-

7 tion, society or person to which such child may be committed, a  
8 reasonable sum from time to time for the support, maintenance  
9 or education of such child, and the court or judge may order such  
10 parents, parent or other person to pay to the guardian so ap-  
11 pointed or to the institution, association, society or person, to  
12 which such child may be committed, a reasonable sum from time  
13 to time for the support, maintenance or education of such child,  
14 and the court or judge may order such parents, parent or other  
15 persons to give reasonable security for the payment of such sum  
16 or sums, and upon failure to pay, the court or judge may enforce  
17 obedience to such order by proceeding as for contempt of court.  
18 The court or judge may, on application and on such notice as the  
19 court or judge may direct from time to time, make such altera-  
20 tions in the allowance as shall appear reasonable and proper.

#### *Order Relating to Support.*

Sec. 28. If the person so ordered to pay for the support,  
2 maintenance or education of a dependent, neglected or delinquent  
3 child shall be employed for wages, salary or commission, the court  
4 or judge may also order that the sum to be paid to him shall be  
5 paid to the guardian or institution, society, association, or person  
6 having custody of such child, out of his wages, salary or commis-  
7 sion and that he shall execute an assignment thereof *pro tanto*.  
8 The court or judge may also order the parent or the person so  
9 ordered to pay the sum of money for the support, maintenance or  
10 education of a child, from time to time to make discovery to the  
11 court or judge as to his place of employment and amount earned  
12 by him. Upon his failure to obey the order of court or judge he  
13 may be punished as for contempt of court.

#### *Appeals.*

Sec. 30. Cases under this act tried in any inferior court may  
2 be reviewed by writ of error or appeal to the circuit court and if  
3 tried in a circuit court by writ of error or appeal to the supreme  
4 court of appeals.

#### *Protection.*

Sec. 42. This act shall always be liberally construed in favor  
2 of the state for the purpose of the protection of the child from  
3 neglect or omission of parental duty toward the child by the par-



4 ents, as well also to protect the children of the state from the  
5 effects of the improper conduct or acts, or the bad example of any  
6 person or persons whomsoever, which may be calculated to cause,  
7 encourage or contribute to the dependency or delinquency of chil-  
8 dren, although such persons are in no way related to the child.

*Duty of Superintendent and Matron; Record Report.*

Sec. 47. It shall be the duty of the superintendent or matron,  
2 until further order of the court, to receive or detain temporarily,  
3 all children who are committed to the home by the circuit or  
4 other court of the county, and to keep a complete record of all  
5 children committed to said home. Such record shall contain the  
6 name, age and residence of each child and the cause of its de-  
7 tention, the length of time detained, the offense alleged to  
8 have been committed by such child, if any, and other useful data  
9 or information that may be directed to be kept by the court of  
10 such county having jurisdiction. A record shall also be kept by  
11 such superintendent or matron of all expenditures made by the  
12 county for the care and maintenance of such home. An annual  
13 report shall be made to the county court by the superintendent or  
14 matron on the first day of June in each year and he shall file a  
15 copy thereof with the county clerk of the county, which shall con-  
16 tain an itemized statement of all such expenses necessary to main-  
17 tain said home, together with the number of inmates therein dur-  
18 ing each month. The circuit or other court having juris-  
19 diction or the president of the county court, may at any time de-  
20 mand, in which case it shall be the duty of the superintendent or  
21 matron to furnish such information as said circuit or other court  
22 or the president of said county court may require, concerning the  
23 conduct, maintenance, or inmates of said home.

*Power to Tax for Support and Establishment of Home.*

Sec. 48. The county court of any county shall have the  
2 power and authority, in addition to taxes levied and collected for  
3 other county purposes in each county, to levy and collect annu-  
4 ally a tax not exceeding one mill on the dollar valuation upon all  
5 property within the county for the purpose of purchasing, erect-  
6 ing, leasing or otherwise providing, establishing, supporting and  
7 maintaining such detention home; *provided*, the sections of this  
8 act relating to the establishment and maintenance of county de-  
9 tention homes, shall be adopted and the levy and collection of such

10 tax authorized by the legal voters of the county in the manner  
11 provided by section forty-nine of this act.

*How Adopted.*

Sec. 49. The electors of any county may adopt and make  
2 mandatory upon the county court of such county the provisions  
3 of sections forty-four and forty-eight of this act in the following  
4 manner: Upon the petition of one hundred legal voters, who are  
5 freeholders of such county, the county court shall submit the prop-  
6 osition for the establishment and maintenance of a county deten-  
7 tion home as provided in sections forty-four and forty-eight hereof,  
8 to the legal voters of said county and shall cause a vote to be  
9 taken upon the question at the several places of voting in said  
10 county at the succeeding general election which is first held in the  
11 county after such vote is ordered taken, or, if the petition so  
12 specifies, the court shall order a special election for the purpose  
13 not later than ninety days from the filing of such petitions; but  
14 the order for and notice of such special election shall be published  
15 by such county court once each week for four successive weeks  
16 prior to such election in two newspapers of opposite politics, if  
17 such there be, published in said county. A vote shall thereupon  
18 be taken upon said question, and the result ascertained under the  
19 regulations prescribed for a general election of county officers;  
20 or, if the said vote is taken at a special election, the same shall be  
21 held by commissioners appointed for the purpose by the county  
22 court at the time said election is ordered and the result shall be  
23 ascertained and certified according to the regulations prescribed  
24 by law for ascertaining and certifying the election of county  
25 officers. The proposition so to be voted for shall be printed on  
26 a separate ballot to be prepared and provided in the same manner  
27 as other ballots, and such ballots shall be in form as follows:

28 Proposition to authorize county authorities  
29 to establish and maintain a detention home for  For  
30 dependent, delinquent or truant children, and to  Adoption  
31 levy a tax not to exceed one mill on the dollar  
32 valuation, to pay the cost of its establishment  Against  
33 and maintenance.  Adoption

34 If the majority of the votes cast for and against such proposi-  
35 tion shall be for such proposition, the act shall be adopted, and  
36 the county court shall enter of record an order declaring this act  
37 in force in such county, and the tax provided for in the act shall

38 thereafter be annually levied and collected in such county for the  
39 purposes specified in this act, until such time as the legal voters  
40 of the county shall abandon this act in the manner provided in  
41 section fifty hereof.

*How Electors May Discontinue Maintenance of Such Detention  
Home.*

Sec. 50. The electors of any county which shall have  
2 established a detention home may discontinue the maintenance  
3 of same by submitting the question of discontinuance to the voters  
4 of the county at any general or special election, on petition of one  
5 hundred legal voters, who are free holders of the county, in the  
6 same manner as provided for submitting the question of estab-  
7 lishment in section forty-nine. The proposition to be voted for  
8 in such general or special election shall be printed on a separate  
9 ballot to be prepared and provided in the same manner as other  
10 ballots, and such ballot shall be in form as follows:

11	Proposition to discontinue		
12	maintenance of a detention home	<input type="checkbox"/>	For
13	for dependent, delinquent and		Discontinuance
14	truant children and to discontinue		
15	levying and collecting tax for	<input type="checkbox"/>	Against
16	such maintenance.		Discontinuance

17 If a majority of the votes cast for and against the proposi-  
18 tion shall be for discontinuance, the county court shall enter of  
19 record an order for such discontinuance, and shall no longer levy  
20 and collect the tax herein provided for.

## CHAPTER 64

(Senate Bill No. 181.)

AN ACT to authorize the county court of Harrison county to establish  
and maintain a law library.

[Passed February 15, 1917. In effect ninety days from passage. Approved by the  
Governor February 23, 1917.]

SEC.		SEC.
1.	The county court of Harrison county authorized to establish a law library: no money to be	expended except on order of the circuit court or judge.
		2. Conflicting acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county court of Harrison county, be,  
2 and the same is hereby authorized to establish a law library for

3 the use of the judges of the courts of said county, all attorneys-at-  
 4 law practicing in said courts and all public officers of said county,  
 5 or any subdivision thereof or municipality therein; and for said  
 6 library to purchase law books, furniture and equipment, provide or  
 7 rent a suitable room or rooms and maintain the same, and for said  
 8 purposes to expend moneys. And the said county court shall have  
 9 authority, and the same is hereby given, to receive for said library  
 10 any law books by loan, gift or bequest. *Provided, however,* that no  
 11 books shall be purchased or moneys expended for said library ex-  
 12 cept upon the order of the circuit court of said county, or the judge  
 13 thereof in vacation, and said court, or judge, shall have power to  
 14 make and enforce all such rules and regulations as may be deemed  
 15 necessary for the government of said library and the use thereof.

Sec. 2. That all acts and parts of acts in conflict herewith,  
 2 in so far as the same may be applicable to said county of Harrison,  
 3 or said county court, are hereby repealed.

## CHAPTER 65

(Senate Bill No. 223.)

AN ACT providing for taking and preserving evidence in chancery causes and for hearing motions, actions at law and chancery causes in vacation.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC.

1. Chancery causes may be heard and determined in open court: witnesses testify orally or by deposition; rules of evidence; bills of exception not necessary, where evidence how taken.
2. Motions, civil actions or chancery causes may be submitted to

SEC.

- judge in vacation, when; consent to be certified; power and authority of judge in vacation; force and effect of judgment and decrees.
3. Judge to have same power as in term to enforce obedience; orders and proceedings to be certified.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Chancery causes may, by leave of the court, and  
 2 by agreement of counsel for the parties, be heard and determined  
 3 in open court; but in cases so heard the witnesses shall personally  
 4 appear before the judge to testify orally, unless their depositions  
 5 shall be taken out of court, under rules obtaining, by agreement of  
 6 counsel, or by order of the judge made for good cause. And the  
 7 rules of evidence, procedure and practice now in force, and as here-  
 8 after changed, shall apply in taking such evidence, except that

9 bills of exception shall not be necessary in any cases wherein the  
10 same are not now required. The evidence so taken in such chan-  
11 cery causes shall be taken down in shorthand by the official re-  
12 porter or other reporter agreed to by the parties in interest as part  
13 of his duties, and transcribed by him as provided for in respect  
14 to other matters; and like reporting charges for chancery causes and  
15 law causes shall be made, collected and accounted for. In case either  
16 party desire to appeal such chancery cause he shall, within ninety  
17 days after final or appealable decree, require the transcript of evi-  
18 dence which, when furnished, shall have the force and effect now ac-  
19 corded to depositions in chancery causes.

Sec. 2. Any motion, in a civil action, at law, or chancery  
2 cause, pending in a circuit court, or any other court or judge  
3 thereof, having jurisdiction of the subject matter, or any matter  
4 of law, or fact, arising in such motion, action at law, or chancery  
5 cause, may, by consent of parties, either in person or by counsel,  
6 next friend or guardian *ad litem*, in term time entered of record,  
7 or by like consent in vacation, be submitted to the judge of said  
8 court for such decision and decree, judgment, or order, therein  
9 in vacation as might be made in term (and such court may, either  
10 in term or vacation, without such consent, when it desires time  
11 to consider its judgment as to any motion, action at law, chan-  
12 cery cause, or matter of law, or fact arising therein, which has  
13 been fully argued and submitted, direct such motion, action at  
14 law, chancery cause, or matter of law or fact, to be submitted for  
15 decision, and decree, judgment, or order in vacation); *provided*,  
16 that no such consent shall be necessary as to any defendant whom  
17 the cause, action or motion has been matured by order of publi-  
18 cation, and who has not appeared by motion, demurrer, plea, or  
19 answer. When such consent is in vacation, the judge shall certify  
20 the fact to the clerk of the court in which the motion, action at  
21 law, or chancery cause is pending, to be entered in the law or  
22 chancery order book, as the case may be. The judge acting in  
23 vacation under this section, in addition to the other powers herein  
24 given to him, shall have authority to do any and all things, and  
25 to enter all judgments, decrees or orders in behalf of or at the  
26 request of a party desiring to take an appeal or to apply for a  
27 writ of error, that the court might do or enter in term time.  
28 The judge shall certify the judgments, orders and decrees made  
29 by him in vacation to the clerk aforesaid, to be entered in like  
30 manner as the vacation consent. All judgments, orders and de-

31 crees so made and entered, shall have the same force and effect  
 32 as if made and entered in term, except that in case of a judgment,  
 33 order or decree for money, the same shall be effective only from  
 34 the time of day at which it is received in the clerk's office to be  
 35 entered of record.

Sec. 3. The judge of every circuit court shall have the  
 2 same power in vacation that he has in term to issue process of con-  
 3 tempt to punish disobedience of and enforce obedience to any decree  
 4 or order made in his court. The orders and proceedings in such  
 5 case shall be certified and entered of record as provided in the  
 6 preceding section and shall be as valid as if made or had and  
 7 entered in term.

## CHAPTER 66

(Senate Bill No. 284.)

AN ACT to amend and re-enact chapter forty-three, forty-three-a and forty-three-b of the code of one thousand nine hundred and thirteen, and chapter eight of the acts of the second extraordinary session of the legislature of one thousand nine hundred and fifteen, relating to the establishment, classification, construction and maintenance of public roads and the regulation of traffic thereon; giving assent to the provisions of an act of congress, approved July eleven, one thousand nine hundred and sixteen, relating to construction of rural post roads; creating a state road fund and appropriating certain revenues therefor; creating a state road commission and defining the powers and duties thereof.

[Passed February 22, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

### SEC.

1. The purpose of the act.
2. Authority and control vested in state road commission and county courts.
3. Roads divided in two classes.
4. Public roads etc. defined, what included.
5. Referring to United States aid.
6. State road commission; powers and duties.
7. Organization.
8. Duty of secretary and treasurer.
9. Road commission power to establish rules.
10. Road commission, duty as to Class "A" roads.
11. Shall compile statistics as to public roads, etc.

### SEC.

12. Material used in roads receiving aid.
13. Headquarters at Charleston; authority, etc.
14. Power to investigate expenditures by county courts.
15. Power in connection with federal aid.
16. Duty of other officials when requested by road commissioner.
17. State road commissioner succeeds to state road bureau, etc.
18. Commission shall make annual report to governor, etc.
19. Duty of attorney general.
20. Class "A," main county, federal aid and state aid roads.

- Sec.
21. County court authority to designate, etc.
  22. The county court to lay additional levy.
  23. County court may contract for making roads, etc.
  24. Road bond issues; road levies; road funds.
  25. State Road commission to apportion to the several counties.
  26. How bonds for special road fund may be issued.
  27. Vote, how taken.
  28. Proceeds of bond issue.
  29. What to be done in county owing bonds, to secure a bond issue.
  30. Validity of bonds or special levies not effected.
  31. Additional levy to be laid.
  32. How money shall be expended.
  33. Capitation tax.
  34. County road engineers and supervisors.
  35. County road engineer, term of office, etc.
  36. May be removed from office.
  37. County road supervisor.
  38. Duty of county road engineer and supervisor.
  39. Duty as to public road meetings.
  40. May employ agents, etc. with consent of court.
  41. By direction of court may fix and sell sections of road.
  42. Duty when sections are not sold at road sale.
  43. Shall co-operate with state road commission.
  44. May purchase crushers or other implements for road.
  45. May with consent of county court purchase materials.
  46. Duty to make report in writing to court.
  47. Authority of state road commission shall prevail.
  48. District road patrolman; office created.
  49. County court may fill vacancy, or remove.
  50. Clerk of county court shall deliver to patrolman certificate.
  51. Duty of road patrolman.
  52. Patrolman police supervision.
  53. Owners of land fronting on highway to keep approaches in order.
  54. Court may provide additional equipment.
  55. Patrolmen must report: authorized to administer such oath.
  56. When work shall be done.
  57. Shall turn over to his successor.
  58. Penalty for failure to perform duty.
  59. The county court may require persons to work on roads.
  60. Penalty for failure to work, etc.
  61. Compensation to patrolman.
  62. Location, establishment and discontinuance.
  63. What deemed a public road, street or alley.
  64. Regarded as public roads.
  65. No road established or discontinued, unless.
  66. Grade.
  67. Notices and advertising.
  68. Width of bridges.
  69. Condemnation; incorporated town.
  70. Alteration.
  71. Rights acquired by court, reported by engineer.
- Sec.
72. When changes may be made; penalty for engineer.
  73. Road may be discontinued, owned in part by private citizens.
  74. Establishment or alteration.
  75. Compensation to owners, etc.
  76. Proceedings in circuit court as to compensation.
  77. As to toll bridge, or repair a bridge.
  78. A bridge across line between two counties; to repair.
  79. What shall be done by county courts, etc.
  80. The contract.
  81. When lawful to issue bonds.
  82. After completion how maintained.
  83. Duty of clerk of county court.
  84. Sidewalk.
  85. Penalty for injury to sidewalk.
  86. Jurisdiction of town or village construed.
  87. Bids and contracts.
  88. Certificate of purity must be furnished with offer to sell material.
  89. Claims of contractor must be certified by.
  90. Notices of temporary closing of road to be posted; penalty for disregarding notice.
  91. County court may appropriate to pay expenses when; duty of clerk; duty of road engineer, etc.
  92. Prison labor.
  93. Application.
  94. Who to determine the number, etc.
  95. Contract in writing.
  96. State road commissioner may establish stone quarries, etc.
  97. Guards, compensation, etc.
  98. Quarters, etc.
  99. Convicts transferred; expense to be paid.
  100. Clothing, etc. for convicts.
  101. Sick prisoner.
  102. Court to supply material, etc.
  103. Contracts after those now existing expire.
  104. Convict work by contract, how determined.
  105. If convict escape.
  106. Prisoners may be discharged.
  107. Governor designate some physician to investigate camps.
  108. Persons convicted with jail sentence, etc., shall work on public roads.
  109. Working and keeping of prisoners to be provided for.
  110. Court may omit the work part, when.
  111. Penalty for escape.
  112. Sheriff with approval may appoint guards.
  113. Form of commitment.
  114. Court may release person, when.
  115. Person charged with misdemeanor unable to give bond may elect to work on road, etc.
  116. Deduction for faithful compliance, etc.
  117. Traffic regulations, Automobile registration; chauffeurs' licenses.
  118. Speed limit, etc.
  119. Penalty for driving machine when intoxicated or under the influence of narcotics.

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| <p>SEC.<br/>120. Position and direction as to driving.<br/>121. No person shall race, or place a wager on any public road; horse trading prohibited on road during fair, etc.; penalty.<br/>122. What to do in approaching person as to passing.<br/>123. Stop and render assistance in case of accident.<br/>124. Motor vehicle shall be provided with.<br/>125. No vehicle to be left standing in public road without, etc.; no person without authority to climb upon any vehicle.<br/>126. Width and weight prohibited on roads unless by special permit.<br/>127. No person under fourteen years of age permitted to operate motor vehicle.<br/>128. Application for chauffeur license; penalty.<br/>129. No motor vehicle shall be driven on roads without the owner first having obtained certificate; how obtained.<br/>130. Duty of commission; how duplicate may be obtained; license tags.<br/>131. License may be refused or revoked.<br/>132. Fees.<br/>133. Dealers, tags, fees, etc.<br/>134. State, number and year shall be shown.<br/>135. When right to use numbers expire; what may be done.<br/>136. Foreign vehicles may use roads, when, etc.<br/>137. Fees collected to be paid by commission to auditor.<br/>138. Motor vehicles used for transportation of passengers and freight for hire.<br/>139. Power of state commission to make and enforce rules, etc.<br/>140. Penalty for operating without permit.<br/>141. Accounts, how kept.<br/>142. Privilege tax.<br/>143. Toll roads and bridges.<br/>144. Tolls.<br/>145. Penalty for refusal to pay or defrauding gate keeper.<br/>146. Toll rates.<br/>147. Where tolls are demanded, specifications shall be.<br/>148. When tolls are abandoned.<br/>149. Complaint as to toll bridge not being safe; what to be done,</p> | <p>SEC.<br/>150. How to secure privilege of erecting a wharf.<br/>151. Owner of land may erect wharf, if, etc.<br/>152. General provisions; duty of county court.<br/>153. } For injury to person or property<br/>154. } by reason of road, etc. being<br/>out of repair, damages may be recovered.<br/>155. Gates.<br/>156. Dam. how kept.<br/>157. Owner of land may erect a wharf, if, etc.<br/>158. How to secure privilege of erecting a wharf.<br/>159. Ferries across Shenandoah river.<br/>160. Delinquent taxes.<br/>161. Owner to remove obstruction, when.<br/>162. Duty of telephone and other companies as to poles and wires.<br/>163. Duty of pipe line companies.<br/>163-a. Unlawful to grant permission to operate gas lines along highways with diameter exceeding four inches.<br/>164. Cost of removing obstructions.<br/>165. Circuit court may upon petition act as to railroad, etc.<br/>166. Shade trees.<br/>167. County road engineer in charge of shade trees.<br/>168. Watering trough.<br/>169. Approaches from adjoining lands.<br/>170. Public road officials to pay over to successor taking duplicate receipts, etc.<br/>171. Trolley or electrical railway.<br/>172. Railroad company.<br/>173. Penalty for obstructing or interfering.<br/>174. Penalty for injuring, defacing, obstructing, etc.<br/>175. Obstructions.<br/>176. Violations; penalties.<br/>177. Speed limit over bridges; penalty; notice.<br/>178. Using chained wheel, or dragging log or stone prohibited, unless.<br/>179. Justices of the peace.<br/>180. Duty of county court as to appointees, etc.<br/>181. Duty of court as to promises, etc.<br/>182. General provisions as to violations.<br/>183. Inconsistent acts repealed, provided.</p> |
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*Be it enacted by the Legislature of West Virginia:*

That chapter forty-three, chapter forty-three-a and chapter forty-three-b of the code of one thousand nine hundred and thirteen, (serial sections one thousand seven hundred and twenty-eight to one thousand nine hundred and ninety-two inclusive) and chapter eight of the acts of the second extraordinary session of one thousand nine hundred and fifteen be, and the same are hereby amended and re-enacted to read as follows:



*Chapter Forty-three.*

Section 1. The purpose of this act is to amend, re-enact, 2 codify and embrace in one act all the general laws of this state 3 on the subject of public roads, ways and bridges, to provide a 4 complete system of law governing the construction and mainte- 5 nance of public roads and ways and the regulation of traffic 6 thereon, to classify such roads and provide for a connecting system 7 of highways throughout the state, to provide methods of raising 8 revenues for the construction and maintenance of such roads, 9 to provide for the co-operation of the state and federal govern- 10 ment in raising and expending such revenues, to create a state 11 road commission and prescribe the duties and define the powers 12 of such commission and of all state and local officers engaged 13 in the administration of the road laws of this state; and this act 14 shall be liberally construed, so as to effectuate the purposes thereof 15 as herein set out.

Sec. 2. The authority and control over the construction, 2 maintenance and regulation of all public roads within the state 3 is hereby vested in the state road commission and in the several 4 county courts, respectively, to the extent and under the pro- 5 visions and regulations herein prescribed. Such county courts, 6 under the regulations aforesaid, shall have the superintendence 7 and administration of the establishment and regulation of all 8 public roads, ways and bridges within their respective counties, 9 with authority to lay and disburse the county and district levies 10 applicable thereto. Said state road commission shall have and 11 exercise only such powers and authority as are in this act spe- 12 cified.

Sec. 3. The public roads of this state shall be divided into 2 two classes, to be known respectively as "Class A" and "Class B." 3 The roads in "Class A" shall include all main county roads to be 4 established as hereinafter provided and receiving federal or 5 state aid. "Class B" shall include all other roads which shall be 6 known and designated as district roads; *provided*, that such classi- 7 fication shall not apply to the streets and alleys of incorporated 8 cities and towns.

Sec. 4. The terms "public road", "highway" or "road" shall 2 be deemed to include the road-bed and all necessary culverts, 3 sluices, drains, ditches, water-ways, embankments, slopes, retain- 4 ing walls, bridges, tunnels and viaducts necessary for the conveni-

5 ence of travel, dispatch of freight and communication between  
6 individuals and communities; and such public road or highway  
7 shall be taken to include any road to which the public has access  
8 and is not denied the right to use, or any road or way leading  
9 from any other public road over the land of one or more persons  
10 to the land of another person, and which shall have been established  
11 pursuant to law. Any road shall be conclusively presumed to  
12 have been so established when it has been used by the public  
13 for a period of ten years or more, and public moneys or labor  
14 have been expended thereon, whether there be any record of its  
15 dedication or appropriation to public use or not. In the absence  
16 of any other mark or record, the center of the traveled way shall  
17 be taken as the center of the road, and the right-of-way shall  
18 be designated therefrom an equal distance on each side, but a  
19 road may be constructed on any part of the located right-of-way  
20 when it is deemed advisable so to do; *provided*, the exact location  
21 of such right-of-way shall be entered of record by the county  
22 court.

Sec. 5. The legislature of the state of West Virginia hereby  
2 assents to the provisions of the act of congress, approved July  
3 eleven, one thousand nine hundred and sixteen, entitled "An Act  
4 to provide that the United States shall aid the states in the  
5 construction of rural post roads, and for other purposes." The  
6 state road commission is hereby authorized to enter into all con-  
7 tracts and agreements with the United States government relating  
8 to the survey, construction and maintenance of roads under the  
9 provisions of the said act of congress, to submit such scheme or  
10 program of construction and maintenance as may be required by  
11 the secretary of agriculture and to do all other things necessary  
12 fully to carry out the co-operation contemplated and provided for  
13 by the said act. For the construction and maintenance of rural  
14 post roads the good faith of the state is hereby pledged to make  
15 available funds sufficient to equal the sums apportioned to the  
16 state by or under the United States government during each of  
17 the five years for which federal funds are appropriated by section  
18 three of the said act and to maintain the roads constructed with  
19 the aid of funds so appropriated, and to make adequate provision  
20 for carrying out such maintenance.

*State Road Commission; Powers and Duties.*

Sec. 6. The term "commission" when used in this or any

2 other section of this chapter, shall mean the state road commission,  
3 unless otherwise specified or clearly intended.

4       There shall be, and there is hereby created, a state road com-  
5 mission of the state of West Virginia, and by that name the com-  
6 mission may sue and be sued; contract and be contracted with.  
7 The state road commission shall consist of two members, who  
8 shall be appointed by the governor with the advice and consent of  
9 the senate. Said commissioners shall have and possess all the  
10 powers and duties prescribed in this chapter, or which may here-  
11 after be given it by legislative enactment. As soon as may be  
12 after this act becomes effective, and before the first day of June,  
13 one thousand nine hundred and seventeen, the governor shall ap-  
14 point two commissioners, who shall be residents and citizens of  
15 this state, one each from the political parties casting the highest  
16 number of votes for governor at the last preceding general election,  
17 one of whom shall be a practical civil engineer of known busi-  
18 ness qualifications and who shall have had at least three years  
19 responsible charge of the construction and maintenance of public  
20 roads and highways. The other member shall be of known  
21 and successful business qualifications and one shall be desig-  
22 nated by the governor as secretary-treasurer of said com-  
23 mission. Said commissioners shall immediately enter upon their  
24 duties and hold office for two and four years, respectively,  
25 from the first day of June, one thousand nine hundred and  
26 seventeen, the term of each to be designated by the governor, but  
27 their successors shall be appointed for the term of four years, ex-  
28 cepting that any person appointed to fill a vacancy shall serve only  
29 for the unexpired term, but any commissioner shall be eligible for  
30 reappointment. Any commissioner appointed to succeed another  
31 whose term has expired, or to fill a vacancy, shall be appointed  
32 from one of the two political parties casting the highest number of  
33 votes for governor at the last preceding general election, but, *pro-*  
34 *vided, always,* that not more than one of the commissioners serving  
35 at any one time shall have been appointed from the same political  
36 party. The commissioners, before entering upon their duties, shall  
37 take, subscribe and file with the secretary of state the oath provid-  
38 ed by section five of article four of the constitution. The secretary-  
39 treasurer of said commission shall execute a bond with security to  
40 be approved by the governor, in the penalty of not less than fifty  
41 thousand dollars, conditioned for the faithful accounting and pay-  
42 ing over of all moneys that may come into his hands by virtue of

43 his office, which bond shall be filed with the secretary of state and  
44 there preserved and recorded as other bonds required of state offi-  
45 cials. The governor may remove any commissioner for incom-  
46 petency, neglect of duty, gross immorality or malfeasance in of-  
47 fice, in the manner provided by law. No person while in the  
48 employ of, or holding any official relation to, any person,  
49 firm or corporation selling or furnishing any materials entering  
50 into the construction or maintenance of any of the roads or high-  
51 ways of this state, or any part thereof, or who is pecuniarily inter-  
52 ested therein, shall enter upon the duties of, or hold said office.  
53 Nor shall any of said commissioners be a candidate for, or hold  
54 any other public office, or be a member of any political committee  
55 while acting as such commissioner. In case either of said commis-  
56 sioners shall become a candidate for any other public office, or  
57 shall be a member of any political committee, his office as com-  
58 missioner shall be *ipso facto* vacated.

Sec. 7. Upon the appointment and qualification of the  
2 members of the commission, they shall at once proceed to organize  
3 by the selection of one of their number as chairman, who shall  
4 serve for one year and shall be eligible for re-election as such.  
5 The commission shall make necessary rules and regulations for  
6 its own government, and shall have power and authority to select  
7 such assistants, agents and employees as may be necessary in the  
8 performance of its duties and for the purpose of carrying out the  
9 provisions of this act, and fix their compensation; *provided, how-*  
10 *ever,* that the total compensation paid for any such assistants,  
11 agents and employees shall not exceed in any one year the appro-  
12 priation made by the legislature for that purpose; and, *provided,*  
13 *further,* that any of the county courts of the several counties of  
14 the state making demand upon said commission, and entering in-  
15 to an agreement with it, by which services are rendered to such  
16 court by any such assistant, agent or employee, shall provide for  
17 the payment of the necessary expenses incident thereto. Each  
18 commissioner shall devote his entire time to the performance of  
19 the duties of his office, and shall receive a salary of three thousand  
20 five hundred dollars per annum and the actual expenses incurred  
21 in the discharge of the duties of his office, to be paid monthly.  
22 The chairman and secretary-treasurer of the commission shall cer-  
23 tify to the state auditor the amount due each member and each  
24 employee of said commission, and the auditor shall issue his war-

25 rant therefor on the state treasury, payable out of the state road  
26 fund appropriated for such purpose.

Sec. 8. It shall be the duty of the secretary-treasurer to keep  
2 a full and true record of all proceedings of the commission, to is-  
3 sue all necessary notices, to keep all books, maps, documents and  
4 papers ordered filed by the commission, and all orders, rules and  
5 regulations made or approved by the commission. He shall also  
6 be responsible for the safe custody and preservation of all such  
7 documents and papers in his office. He may administer oaths in  
8 all parts of the state, so far as the exercise of such power is prop-  
9 erly incidental to the performance of his duty or that of the com-  
10 mission. He shall issue all licenses, registration certificates, re-  
11 cepts and other official documents provided for by this act, pub-  
12 lish the rules and regulations of the commission when required, and  
13 keep the proper records thereof. He shall receive all moneys col-  
14 lected by the commission from license or other fees, and all moneys  
15 and funds coming into the hands of the commission from any  
16 source, and shall once each week make a full report of such re-  
17 cepts to the auditor of the state and forthwith pay to such audi-  
18 tor the amount thereof, taking proper receipts therefor, and per-  
19 form such other duties as are incident to his position.

Sec. 9. The state road commission shall have power, by the  
2 affirmative vote of a majority of its members, to establish and from  
3 time to time amend rules and regulations not inconsistent with  
4 law, concerning the duties of county road engineers and their  
5 employees in relation to "Class A" roads and concerning all such  
6 public roads as may, under the provisions hereof, be under the  
7 supervision of the said commission; and said commission shall pre-  
8 scribe other rules and regulations required of them to carry into  
9 effect the provisions of this act.

10 Every general regulation adopted by the commission shall  
11 state the date on which it takes effect, which shall be not less than  
12 ten days after the date of publication. A copy of such rules and  
13 regulations, duly signed by the chairman of the commission and  
14 secretary-treasurer thereof, shall be filed in the office of the secre-  
15 tary of state, and a copy thereof shall be sent by the secretary-  
16 treasurer to each officer and to each county court affected there-  
17 by, and shall be published in such manner as the said commission  
18 may determine. Any violation of the regulations so promulgated,  
19 when said regulations are reasonable and not inconsistent with

20 law, shall be a misdemeanor and punished by fine of not less than  
21 ten dollars nor more than one hundred dollars.

Sec. 10. It shall be the duty of the state road commission  
2 to supervise and furnish information as to location, construction  
3 and maintenance of all "Class A" roads in this state; to provide  
4 for giving instruction in road building, and to supervise the  
5 construction of the main county roads. It shall further be the  
6 duty of said commission to see to the enforcement of all laws,  
7 rules and regulations relating to public roads, and especially  
8 their enforcement by the road officials; to aid when requested so  
9 to do, the county road engineers and their employees in establish-  
10 ing grades and preparing suitable systems of drainage, and to ad-  
11 vise with them as to the construction, improvement and mainten-  
12 ance of public roads in carrying out such arrangements as may be  
13 made respecting them with the several county courts; to cause  
14 plans, specifications and estimates to be prepared for the improve-  
15 ment of all such roads, when required so to do by the county court  
16 of any county or its county engineer; to investigate and determine  
17 the various methods of road construction adapted to the different  
18 sections of the state and the best methods of constructing, repair-  
19 ing and maintaining public roads and the bridges thereon.

Sec. 11. The said commission shall compile statistics con-  
2 cerning the public roads, and collect information in regard to  
3 them; shall gather and tabulate information and statistics re-  
4 lating to road building, improvement and maintenance and dis-  
5 seminate such information throughout the state by means of  
6 farmers' institutes or other meetings and such bulletins as may  
7 be issued by the colleges of agriculture and engineering, or by  
8 the commissioner of agriculture, and by such bulletins as the  
9 commission may see fit to issue; such public meetings to be held  
10 in each county under the general supervision and control of the  
11 commission, for the purpose of furnishing general information  
12 and instruction regarding the construction, improvement and  
13 maintenance of public roads and concerning the application of  
14 laws, rules and regulations relating to them. Reasonable notice  
15 shall be given the county court or road engineer of the time and  
16 place at which any such meeting is to be held.

Sec. 12. All materials of every kind used upon the main  
2 county roads receiving federal or state aid shall first be carefully  
3 analyzed by said commission, and no such material shall be used  
4 in the construction or maintenance of any such road until approved

5 in writing by said commission. The county courts of the several  
6 counties may make arrangements with said commission for the  
7 analysis of materials in the construction of any other road or  
8 roads in "Class B."

Sec. 13. The said commission shall have its office and head-  
2 quarters at Charleston, West Virginia. The said commission  
3 shall have authority to purchase all necessary stationery, supplies  
4 and equipment necessary for the efficient and economical conduct  
5 of its respective duties, subject to the limitation of the appropria-  
6 tion made by the legislature for that purpose, and may from time  
7 to time draw its requisition upon the auditor in payment therefor.

Sec. 14. The said commission, or any member thereof, or  
2 any person specially delegated by it so to do, shall have power and  
3 authority to investigate all expenditures made by the several  
4 county courts of this state in road construction and maintenance,  
5 the methods adopted, and the inspection and supervision pro-  
6 vided, and shall make report thereon to the county court and  
7 bring the same to the attention of the prosecuting attorney and  
8 the judge of the circuit court thereof, or any other official whose  
9 duty it is to see that the laws are properly enforced, and may  
10 make such recommendations respecting same as in their opinion  
11 may be proper and right; and it shall be the duty of any such  
12 prosecuting attorney to take such action in relation to any malfeas-  
13 ance or misfeasance by any officer in the discharge of his official  
14 duty as may be necessary to remove such person from office and  
15 to subject him to such fines and penalties as by law are prescribed  
16 for any offense that may have been committed by any such officer.

Sec. 15. The said commission shall have and possess all  
2 powers necessary and requisite to carry into effect, as respects  
3 this state, the provisions of the act of congress approved July  
4 eleven, one thousand nine hundred and sixteen, entitled "An Act  
5 to provide that the United States shall aid the states in the con-  
6 struction of rural post roads, and for other purposes", and shall  
7 have the power to enter into all contracts and agreements with  
8 the United States government relating to the construction and  
9 maintenance of rural post roads under the provisions of said  
10 act of congress, and to carry into effect generally the provisions  
11 of section five of this act.

Sec. 16. At the request of the state road commissioner,  
2 it shall be the duty of the commissioner of agriculture, the  
3 dean of the college of engineering of the state university, the

4 director of the experiment station of said university, and the  
5 heads of the several departments of science of said institution,  
6 to render to said commission all necessary aid and assist-  
6-a ance in the performance of its duties, as the duties of their  
7 respective offices and positions will permit, without extra charge  
8 or compensation for such services.

Sec. 17. The state road commission shall succeed to the  
2 office of the state road bureau, and all equipment, supplies, moneys,  
3 and all papers, books, maps, files, records, documents and other  
4 property now belonging to or in the custody of said state road  
5 bureau shall upon the organization of the state road commission  
6 be immediately turned over to said commission. Any powers,  
7 duties and obligations imposed upon the state road bureau or  
8 any of its officers by virtue of any contract heretofore entered  
9 into by it or by the several county courts of the state with con-  
10 tractors or other persons, shall be carried out and exercised by the  
11 commission herein created, or by its legally constituted agents  
12 or employees.

Sec. 18. The said commission shall make an annual report  
2 to the governor of its conduct and work, and the expenses thereof,  
3 and may recommend needed improvements in the public roads;  
4 and shall make such other reports as may be required by the  
5 governor or in its judgment are beneficial to the general public.  
6 Said annual report shall show the quantity of earth and stone  
7 removed and material manufactured and prepared; the number  
8 of miles of road under construction and the number completed,  
9 and especially such roads as are under the immediate supervision  
10 and control of said commission; the cost of such construction  
11 and materials prepared and used therein; the condition and needed  
12 repairs of roads previously constructed, together with the result  
13 of their investigation respecting previously constructed roads and  
14 the materials used therein; and for the purpose of obtaining all  
15 necessary and detailed information to be used in the preparation  
16 of said report, the said commission may require the several county  
17 courts or local road authorities, in which work is done under  
18 arrangements with said commission, to furnish such monthly  
19 reports as may be prescribed by said commission. Said com-  
20 mission shall cause to be prepared and filed in the office of the  
21 clerk of the county court of each county and the state department  
22 of archives and history copies of maps showing the locations of  
23 all main county roads and highways in the state; the report herein



24 provided to be filed with the governor shall be accompanied by  
25 a map or maps showing the location and improvement of all  
26 roads receiving federal or state aid up to the time of the  
27 completion of said report. Copies of all maps and reports made  
28 and prepared by said commission shall be kept in its office for  
29 public inspection.

Sec. 19. The attorney general of this state shall be the legal  
2 adviser and representative of said state road commission and  
3 shall prepare for it all contracts, forms and other documents  
4 when required by said commission.

*Class A, Main County, Federal Aid and State Aid Roads.*

Sec. 20. The terms "main county road," "federal aid road"  
2 or "state aid road," when used in this or any other section of  
3 this act, unless otherwise stated or clearly intended, shall mean  
4 any road constructed and maintained in whole or in part by funds  
5 derived from the county road levy supplemented by federal aid or  
6 the state road fund, and which are established as such with the ap-  
7 proval of the state road commission. All such main county roads  
8 and all roads receiving federal or state aid, shall be included in and  
9 constitute "Class A."

10 The county court of each county shall establish two or more  
11 main thoroughfares, highways or roads through said county, at least  
12 one of which roads shall pass through or connect with the county  
13 seat, and such roads shall be known as "main county roads," and  
14 shall be constructed and maintained in each county by taxation  
15 upon all the taxable property of the county, and by apportionments  
16 from the federal aid and state road fund.

17 Such main county roads shall be so located as to lead to the  
18 county seat of an adjoining or adjacent county, or to an impor-  
19 tant commercial center thereof, or of an adjoining state, and so  
20 that each of such roads will connect at the border of said county  
21 with a like road established or designated by the county court of  
22 another county under the provisions hereof, or connect at such  
23 border with a road of an adjoining state, and so far as practicable  
24 pass through or near important towns. In establishing any such  
25 main county road the same may include a road already estab-  
26 lished or such parts thereof as the court may deem proper, and  
27 one of said roads may traverse any part of the other of such roads.  
28 When practical, in the opinion of the county court, no such  
29 main county road shall have a grade exceeding five feet rise in

30 each one hundred feet, unless it shall be found necessary to  
31 have a steeper grade; and in no case shall such steeper grade  
31-a exceed nine feet rise per hundred feet, and such grade shall be  
32 for as short a distance as may be practicable, and the right-of-way  
33 for such roads shall not be less than forty feet in width, with  
34 necessary slopes for cuts and fills. All such main county roads  
35 shall have drainage structures of permanent construction, and all  
36 "breakers" shall be eliminated.

37 The method of establishing such main county roads shall be  
38 as follows: As soon as practicable after this act goes into effect,  
39 the state road commission shall prepare a map of this state show-  
40 ing a suggested general statewide system of inter-county roads,  
41 and shall send to the county court of each county a copy of such  
42 map or of such portion thereof as may relate to said county and  
43 the counties bordering thereon. The county court of each county  
44 shall, as soon as practicable after receiving such map, and not to  
45 exceed ninety days thereafter, designate to be established as "main  
46 county roads" two or more main thoroughfares, roads, highways,  
47 or routes for the location of same, through said county and ex-  
48 tending to the borders thereof, but one of said routes may traverse  
49 or include a portion of any other designated road or route. The  
50 court shall certify such designations to the state road commis-  
51 sion for approval or rejection. If the said commission shall as-  
52 certain that each of the roads or routes so designated is so lo-  
53 cated as to lead to the county seat of an adjoining or adjacent  
54 county, or to an important commercial center thereof, or to an  
55 adjoining state, and that each of such roads will connect at the  
56 border of said county with a like road so designated or established  
57 by the county court of another county under the provisions here-  
58 of, or connect at such border with the road of an adjoining state,  
59 and shall also ascertain that such roads or routes are practical,  
60 and that the same are located with due regard to the development  
61 of a state-wide system of inter-county roads, the commission shall  
62 approve two of the roads so designated in each county and certify  
63 its approval to the county court; or the commission, if it finds  
64 that the roads or routes so designated by said court are not prac-  
65 tical and do not comply with the provisions of this act, may sub-  
66 mit to said court, roads and routes which it will approve.

67 The county court shall thereupon order said roads or routes  
68 to be surveyed and located, under the direction and supervision  
69 of the said commission, or some one designated by it, unless such

70 survey and location, satisfactory to the commission, shall have been  
71 already made, and said court shall enter an order establishing  
72 the roads so approved or designated by the commission and sur-  
73 veyed and located as aforesaid, as "main county roads."

74 If the county court of any county shall fail or refuse to es-  
75 tablish the roads or routes designated and approved by the state  
76 road commission, then the county, whose court so failed or re-  
77 fused, shall not participate in the distribution of the federal or  
78 state aid funds hereinafter provided, until said court shall have  
79 established the main county roads as designated and approved by  
80 said commission, save and except that the county shall participate  
80-a in the distribution of the federal and state aid funds to the ex-  
80-b tent such roads are designated and approved by both the commis-  
80-c sion and the county court.

81 The several county courts and the state road commission in  
82 the designation and establishment of the main county roads afore-  
83 said, shall have due regard for, and shall as far as practicable lo-  
84 cate such main county roads along the general routes by which  
85 the old turnpike roads traverse the several counties.

86 In the location and establishment of said main county roads,  
87 the county courts of the several counties shall have power to ex-  
88 ercise the right of eminent domain for condemnation of rights-of-  
89 way in accordance with the law governing the location, changes  
90 and re-location of other roads; *provided*, that when any such road  
91 shall have been once established, its location shall not be changed  
92 or altered without the written consent and approval of the state  
93 road commission first having been given and made a matter of  
94 record by the court desiring such alteration.

Sec. 21. The county court shall have authority to designate  
2 as a connecting part of a "main county road" or a district  
2-a road any street, or portion of street, in any incorporated  
3 city, town or village, and may expend labor money,  
4 so far as may be necessary to put the same in good  
5 condition, but the municipality shall thereafter  
6 maintain in good condition, such "main county road" lying within  
7 its corporate limits. In any case where any municipality is un-  
8 able financially to construct and maintain the bridges on any  
9 main county road within its corporate limits, the county court  
10 may construct and maintain the same. And the county court of  
11 any county may take over any bridge or bridges heretofore built  
12 by any municipality on any main county road, when requested to  
13 do so by the authorities of such municipality, and thereafter

14 maintain the same. Such "main county roads" shall be laid off  
15 into sections not exceeding two miles in length, and each section  
16 shall be numbered.

Sec. 22. In addition to the general county and district levy,  
2 the county court shall lay a county road levy not to exceed twenty-  
3 five cents on each one hundred dollars assessed valuation of all tax-  
4 able property in the county, the proceeds of which shall be known  
5 as the "county road fund," and shall be expended only for the  
6 construction, improvement and maintenance of the "main county  
7 roads" and for the construction and maintenance of the bridges  
8 thereon after said roads are properly located; *provided*, that the  
8-a proceeds from said levy shall be expended under the authority  
8-b and direction of the county court, except where state or federal  
8-c aid is extended under the provisions of this act, when the ex-  
8-d penditure of said proceeds shall be under the direction of the  
8-e state road commission. In case of calamity, such as floods  
9 and the like, which shall result in unusual damage, or the  
10 washing away of bridges or roads, the county court of any  
11 county, with the written approval of the state tax commissioner  
12 and the state road commission, may lay a special emergency  
13 levy in excess of the special levy hereinbefore provided, not to  
14 exceed ten cents on each one hundred dollars assessed valuation  
15 of the taxable property of the county for such year or years as may  
16 be named in such approval; but in no case shall the combined  
17 special road levy and emergency levy exceed thirty-five cents on  
18 each one hundred dollars valuation of the taxable property of the  
19 county; *provided*, that in any county where the county court has  
20 already subscribed for or purchased, or contracted to purchase  
21 the whole or a portion only of the stock or bonds, or both, of  
22 any bridge or road company, the county court, for the purpose  
23 of carrying into effect such contract or option, may lay any levy  
24 or levies provided for by law before this act takes effect; and  
25 *provided, further*, that if in any one year the county road levy  
26 herein authorized produces a revenue in excess of the amount  
27 necessary to be expended on the main county roads, such excess  
28 may by the court be applied to the construction or repair of any  
29 of the important district roads, or roads in "Class B."

Sec. 23. The county court of any county may contract or  
2 pay for making, improving and keeping in order, the whole or  
3 any part of any main county or district road within the county.  
4 The court may permanently improve by the use of asphaltum, con-

5 crete, brick, stone, block or by macadamizing, or other process of  
6 equal merit, the main county or district roads within their county  
7 and may contract therefor with any contractor for the use of any of  
8 these foregoing systems, and take bonds and security in a penalty  
9 equal to fifty per. centum of the estimated cost of the work in  
10 question, from any such contractor for the faithful performance  
11 of his contract.

12 The state road commission shall prepare general plans and  
13 specifications for the construction and repair of the main county  
14 roads by means of the various kinds of materials, including therein  
15 the grading and improvement of the dirt or earth road; and trans-  
16 mit copies thereof to the several county courts of the state for their  
17 information. The county court in making application for state or  
18 federal aid shall specify therein, the character or kind of road  
19 to be constructed or repaired, the materials to be used, (which may  
20 be the grade, improved dirt or earth road, that it has provided reve-  
21 nue to supplement the fund applied for,) which application shall  
22 be made a matter of record by the court and certified to the  
23 commission by the clerk of said court. If the commission approve  
24 the proposed work it shall, upon request of the county court,  
25 prepare plans and specifications for the same and certify  
26 them to the court for its adoption. When the court shall  
27 have, by an order duly entered, adopted said plans and speci-  
28 fications or other plans agreed upon by the court and commis-  
28-a sion, and provided the revenue to supplement the aid fund  
29 apportioned to its county, then the court shall be entitled to  
30 apply for and receive the aid mentioned in the next succeeding  
31 section; *provided*, that nothing in this act contained shall be so  
32 construed as to give the state road commission authority or super-  
33 vision over district roads or roads in "Class B," unless by special  
34 contract with the county court.

*Road Bond Issues; Road Levies; Road Funds.*

Sec. 24. There is hereby created a "state road fund" which  
2 shall consist of the net proceeds of all state license taxes imposed  
3 and collected upon automobiles, motor or steam driven vehicles,  
4 and the registration fees imposed on chauffeurs on or after the  
5 first day of January, one thousand nine hundred and seventeen,  
6 and which may hereafter be imposed and collected thereon, and  
7 all sums of money which may be donated to such fund, or appro-  
8 priated to it by the legislature, or by the congress of the United

9 States, as provided by section five of this act, or from any other  
10 source. The auditor shall set aside said moneys as the "state road  
11 fund" and it shall be used only for the purposes named in this  
12 act. Said state road fund shall be used for the purpose of pay-  
13 ing the expenses of the state road commission as appropriated by  
14 the legislature, and the balance thereof shall be distributed among  
15 the counties annually, in proportion to the mileage of the main  
16 county roads in each county; *provided*, the said county court sup-  
17 plement the same by a like fund. The treasurer of the state shall  
18 be the custodian of the state road fund, and all disbursements  
19 therefrom shall be paid by him upon order or voucher, approved  
20 and signed by the chairman and secretary of the commission, and  
21 directed to the auditor, who shall draw his warrant therefor. All  
22 moneys accruing to the state road fund, as aforesaid, are hereby  
23 appropriated out of said fund for the purposes and to be paid as  
aforesaid.

Sec. 25. It shall be the duty of the state road commission  
2 at the beginning of each fiscal year, to apportion to the several  
3 counties of the state which have complied with the provisions of  
4 this act in the establishment of main county roads, and which  
5 agree to supplement said apportionment by a like sum, the state  
6 road fund, in proportion to the number of miles of main county  
7 roads in the several counties approved by the commission, and  
8 certify the same to the several county courts.

9 Any county court which has complied with all the provisions  
10 of this act and agrees to supplement said apportionment with a  
11 like sum, shall enter an order of record stating such fact and  
12 agreeing to contribute a like sum for the construction and main-  
13 tenance of main county roads, and apply to the state road com-  
14 mission for its distributable share thereof.

15 It shall then be the duty of the said road commission to set  
16 apart for the use and to be paid to said county its distributable  
17 share, and certify the same to the auditor of the state. The said  
18 commission making said distribution may in its discretion distribute  
19 to any county wholly federal or wholly state funds; in either event  
20 such distribution shall be taken and considered as the distribut-  
21 able share to which each county is entitled, regardless of whether  
22 it be state or federal aid. When said county court has contracted  
23 to improve its main county roads, or made provisions therefor, it  
24 shall be the duty of the state road commission to pay to said court,  
25 by requisition upon the auditor from time to time, such parts of

26 said apportionment as are shown, by proper estimates made by  
27 the engineer in charge of said work or construction, to be properly  
28 due upon such work, not exceeding one-half of the cost thereof.

Sec. 26. Subject to the limitations of sections seven and eight  
2 of article ten of the constitution, and when in the opinion of the  
3 county court the levies provided by law, together with any funds  
4 appropriated by the state or federal government, are insufficient to  
5 construct any main county or district road, and the bridges there-  
6 on, the said court, upon filing with the clerk thereof of a petition  
7 praying for the construction of such improvement, signed by twen-  
8 ty-five per cent. of the legal voters within any magisterial district,  
9 or in each of two or more magisterial districts in which such im-  
10 provement is located, or in such county, (such percentage to be  
11 determined on the basis of the aggregate county or magisterial  
12 district, or districts, vote cast for governor at the last preceding  
12-a general election as the case may be) the county court  
13 shall make an investigation of the proposed improvement as herein  
14 provided and, on approval of the same by the state road commis-  
15 sion, as to main county roads, shall submit the propositions of the  
16 issuance of bonds or for the authorization of a special road fund  
17 levy for a period of years, not to exceed ten, to the legal voters of  
18 the county, district or districts, as the case may be. Such peti-  
19 tion shall contain a statement specifying the roads to be built  
20 and improved, and a prayer for the submission of a road bond pro-  
21 position or a special road fund levy proposition to provide funds  
22 for such improvement; question of bond issues and special levies  
22-a for main county roads and district roads may, in the discretion  
22-b of the county court, be submitted at the same election.  
22-c Upon the filing of such petition with the clerk  
22-d of the county court, said court shall without delay instruct  
23 the county engineer, or some other engineer specially employed by  
24 it, or apply to the state road commission for an engineer to make an  
25 investigation and to report to the court an estimate of the prob-  
26 able cost of the proposed improvement. In case such investiga-  
27 tion and report are made by the county engineer or any specially  
28 employed engineer, the same shall be submitted to the state road  
29 commission for approval. Upon the approval of such proposed  
30 plan of improvement by said commission, as to main  
30-a county roads only, certified to the county court,  
31 said court shall submit to the legal voters of the county,  
32 district or districts, a proposition for such issue and sale of bonds,

33 or for such special road fund levy, as the case may be. The order  
34 of the county court submitting such proposition shall contain a  
35 summary of the report herein provided for, setting forth the ap-  
36 proximate extent and estimated cost of the proposed road im-  
37 provement, the kind and class of work, the valuation of  
37-a all the property of the county, district or districts  
38 as the case may be, and the existing indebt-  
39 edness. Such order shall specify the work for which the money  
40 to be raised by the sale of bonds or the laying of a special road  
41 fund levy is to be appropriated, and shall provide that no part of  
42 the proceeds of such bonds or levy shall be used for any other  
43 purpose than the improvement of the road or roads specified in  
44 such order; subject to the power and right of the county court  
44-a to alter or change the location of any district road so as to  
44-b obtain a better grade or alignment thereof or to reduce the  
44-c cost of construction, improvement or maintenance.  
44-d The county court shall cause a vote to be taken upon  
45 the question of such bond issue or such levy at the several voting  
46 places in said county, district or districts, at the succeeding general  
47 election for state and county officers, or any special election which  
48 is first held in the county after such vote is ordered taken; or, if  
49 the petition so specifies, the court shall order a special election for  
50 the purpose within ninety days from the certification of approval of  
50-a the engineer's report herein provided for; but such order for any  
51 election on the question of a bond issue or a special road fund levy  
52 together with a summary of the engineer's report herein provided  
53 for, shall be published throughout the said county, district or dis-  
54 tricts, in which said vote is to be taken, in the following manner:  
55     The clerk of the county court shall cause as many copies of  
56 such order to be made or printed as may be necessary, and sign  
57 the same; he shall forthwith post one in a conspicuous place in  
58 his office, and one at the front door of the court house.  
59     The court shall direct a copy to be published once each week  
60 for four consecutive weeks prior to the date of said election in two  
61 newspapers of opposite politics, if such there be, published in said  
62 county, district or districts.

Sec. 27. A vote shall thereupon be taken and the result  
2 ascertained under the regulations prescribed for a general election  
3 of county and district officers; or, if the said vote is taken at a  
4 special election ordered for the purpose, the same shall be held  
5 by commissioners appointed for the purpose by the county court



6 at the time said election is ordered, and the result shall be ascer-  
7 tained and certified according to the regulations prescribed by  
8 law for ascertaining and certifying the election of county and  
9 district officers.

10 The ballots used in taking such poll shall be the same as  
11 those used in voting for officers at the general election for state  
12 and county officers, except, when the same is taken at a special  
13 election, as hereinbefore provided, and there shall be written  
14 or printed thereon a brief statement of the question submitted,  
15 such as, in the case of a bond election:

16 "Special election to authorize a bond issue for the construc-  
17 tion of main county roads, according to the order of the.....  
18 entered on the..... day of....."; and directly  
19 underneath, in two separate lines, shall be printed the words:

20 "For Road Bond Issue and levy for Payment.

21 Against Road Bond Issue and Levy for Payment."

22 and in the case of an election on a special road fund levy propo-  
23 sition:

24 "Special election to authorize a special road fund levy of.....  
25 cents annually for a period not to exceed .....years,  
26 according to the order of the .....entered on  
27 the ..... day of ....."; and directly underneath,  
28 in two separate lines, shall be printed the words:

29 "For Special Road Fund Levy

30 Against Special Road Fund Levy."

31 If it shall appear by said poll that not less than three-fifths  
32 of the voters of the county or magisterial district or group of  
33 districts, who voted upon the proposed issuance of bonds or the  
34 proposed special road fund levy, have voted in favor of the same,  
35 the county court shall then have authority to issue the amount  
36 of the bonds or to lay the levy so voted in the name of the county,  
37 magisterial district or magisterial districts grouped together for  
38 the purpose of making one improvement, or any less amount,  
39 on any such terms as they may deem advisable, and provide for  
40 the payment of such bonds by taxation on the county, district  
41 or group of districts, or to lay such levy, as the case may be.

42 The county court shall have authority to issue and shall issue,  
43 as provided by law, said bonds for and in the name of said county,  
44 district or group of districts, and shall make provision for the  
45 payment of principal and interest of the same by said county,  
46 district or group of districts as is specified in the order under

47 which said vote is taken, or shall lay such levy on all the taxable  
48 property of such county, district or group of districts, as the case  
49 may be.

50 The president of the county court shall have power, when so  
51 directed by such court, by an order entered of record therein, to  
52 execute, sell and deliver the bonds of said county, district or dis-  
53 tricts and receive the proceeds therefrom; the said bonds of said  
54 county, district or group of districts shall be valid and binding  
55 thereon when signed by the president of the county court of such  
56 county and countersigned by the clerk thereof, with the seal of  
57 the county attached thereto.

Sec. 28. The proceeds of such bond issue or of such special  
2 road fund levy shall constitute a fund to be expended by the  
3 county court for the purpose specified in the order under which  
4 said vote was taken, and for no other purpose. This section and  
5 the two sections hereof immediately preceding shall be so con-  
6 strued as to permit a single district or a group of districts to  
7 issue bonds or authorize such levy for the construction and im-  
8 provement of main county roads and roads in "Class A," as well  
9 as roads in "Class B" in such district or districts, *provided, howev-*  
10 *er,* that the interest accruing from the deposit of funds derived  
11 from the sale of road district bonds in any and all county deposi-  
12 tories shall be credited to the district road fund by the sheriff of  
13 the county.

Sec. 29. No county wherein any magisterial district or  
2 districts have heretofore issued bonds for the construction of  
3 roads, and such district bonds, or any part thereof, are still out-  
4 standing and unpaid, shall authorize the issuance of county road  
5 bonds or authorize a special county road fund levy as provided  
6 in section twenty-seven and section twenty-eight of this act,  
7 unless three-fifths of the voters of each of such district or districts,  
8 who vote on any such county or district bond proposition or such  
9 county or district proposition for a special road fund levy, shall  
10 vote in favor of such bond proposition, or such special road fund  
11 levy proposition in an election at which such county or district  
12 proposition may be submitted under the provisions of this act.

Sec. 30. Nothing in this act contained shall effect the  
2 validity of any bond issues or special levies heretofore made or  
3 authorized, nor prevent or affect the performance of any  
4 contract heretofore entered into by any county court relating  
5 to the improvement of roads. And notwithstanding anything

6 herein contained, any and all moneys now or hereafter to come  
7 into the hands of any county court as the proceeds of any bond  
8 issue or special levy heretofore voted or authorized to be voted  
8-a in any county or district for road improvement or construc-  
9 tion, shall be paid out and expended by such court in the manner  
10 provided therefor at the time such bond issue or special levy  
11 was authorized.

Sec. 31. In addition to the general county and district levy,  
2 the county court shall lay a district levy not to exceed fifteen  
3 cents on each one hundred dollars' assessed valuation of all taxa-  
4 ble property in each of the several districts of said county, the  
5 proceeds of which shall be known as the district road fund of  
6 such district, and shall be expended only for the construction,  
7 improvement and maintenance of the district roads and parts  
8 thereof in said district, and for the construction and maintenance  
9 of bridges thereon after said roads are properly located. In case  
10 of calamity, such as floods and the like, which shall result in  
11 unusual damage, or the washing away of bridges or roads, the  
12 county court of any county, with the written approval of the  
13 state tax commissioner, may lay a special emergency district  
14 levy in excess of the district road levy hereinbefore provided, not  
15 to exceed ten cents on each one hundred dollars' assessed valua-  
16 tion of the taxable property of the district, for such year or years  
17 as may be named in such approval, but in no case shall the com-  
18 bined district road levy and emergency district levy exceed  
19 twenty-five cents on each one hundred dollars' assessed valuation  
20 of the taxable property of said district. Nothing contained in  
21 section two of chapter twenty-eight-a of the code shall be so con-  
22 strued as to limit the power and authority of the county court  
23 to lay the respective county and district road levies provided for  
24 in this act, though by so doing the total levies laid may exceed the  
25 limit provided by said section.

Sec. 32. Notwithstanding anything herein contained, any  
2 and all moneys now or hereafter to come into the hands of any  
3 county court as the proceeds of any county or district road levy  
4 laid for the fiscal year ending June thirtieth, one thousand nine  
5 hundred and seventeen, or for any preceding year, shall be ex-  
6 pended by said county court for the construction and mainte-  
7 nance of county and district roads in the manner provided by  
8 law previous to the taking effect of this act.

Sec. 33. The county court of each county shall levy for

2 road purposes a capitation tax of one dollar on each male inhabi-  
3 tant of the county who has attained the age of twenty-one years  
3-a and not liable to labor on the roads or pay the commuta-  
3-b tion mentioned in section sixty of this act. Such  
4 capitation tax for road purposes shall be collected by the  
5 assessor as provided by section fifty-three of chapter twenty-nine  
6 of the code, and the proceeds thereof shall be credited to the  
7 district road fund of the district in which the tax was collected.

*County Road Engineers and Supervisors.*

Sec. 34. There is hereby created in the several counties of  
2 the state the office of county road engineer. The county court  
3 in each of the counties in this state may appoint as county road  
4 engineer some engineer who is a practical road builder and com-  
5 petent to perform the duties relating to the roads and keeping  
6 records prescribed by this act. In the event that the county court  
7 shall not appoint a county road engineer as herein provided, then  
8 it may appoint a competent man as road supervisor for such  
9 county; but if a county road engineer be appointed he shall be *ex-*  
10 *officio* the road supervisor for his county, and any such official  
11 so appointed or designated by the county court to have charge of  
12 road work in any county shall be deemed a surveyor of roads  
13 within the meaning of the constitution. Every county road en-  
14 gineer and road supervisor provided for in this act shall, before  
15 entering upon the duties of his office, give bond, with security to  
16 be approved by the county court of the county, in such sum as  
17 may be required by said court, the same to be payable to the  
18 county court of the county, and to be conditioned for the faith-  
19 ful performance of his duties. The county court of any county  
20 not appointing an engineer, as in this section provided, may em-  
21 ploy a competent engineer for such time, and for such purpose,  
22 and upon such terms as may be agreed upon between the said  
23 court and said engineer.

Sec. 35. Such county road engineer shall hold office for the  
2 term of two years from and after the first day of January follow-  
3 ing his appointment, and until his successor is appointed and  
4 qualified. He shall receive such compensation, either by salary  
5 or per diem as may be fixed by order of the county court of the  
6 county, *provided*, that the same shall not be less than nine hundred  
7 dollars, nor more than thirty-five hundred dollars per year. The  
8 county surveyor of the county shall be eligible to the office of

9 county road engineer, and may hold both offices at the same  
10 time, provided he is competent and qualified under the provisions  
11 of this act. Vacancies in the office of county road engineer shall  
12 be filled by appointment for the unexpired term. It shall be  
13 the duty of the clerk of the county court to give written notice  
14 to county road engineers and road supervisors of their appoint-  
15 ment, as soon thereafter as practicable; and each person so ap-  
16 pointed shall, within ten days after having been notified of such  
17 appointment, qualify by giving bond as provided in the preceding  
18 section, and by taking the oath prescribed by section five of  
19 article four of the constitution. Such road engineer or super-  
20 visor shall be provided with office room in the court house of  
21 their county.

Sec. 36. Any county road engineer or road supervisor may  
2 be removed at any time by the county court of the county, upon  
3 its own volition or upon complaint by the state road commission,  
4 for incompetency, malfeasance or misfeasance in office, upon  
5 written charges after a hearing, of which ten days' notice shall  
6 be given by serving a copy of such charges upon such officer.  
7 Said hearing shall be held in the office of the county court of the  
8 county, and if upon such hearing it appears that the charges are  
9 sustained, the county court shall remove such officer, and forth-  
10 with serve notice thereof upon him by mail. Such notice shall  
11 state specifically the grounds for such removal, and the record  
12 of the proceedings shall be filed in the office of such county court.

Sec. 37. The county road supervisor shall hold office for  
2 the term of two years from and after the first day of January  
3 following his appointment, and until his successor is appointed  
4 and qualified. He shall be allowed a reasonable compensation  
5 by the court for the time in which he is actually engaged in his  
6 official capacity, but not to exceed three dollars per day, with  
7 actual traveling expenses when necessarily called out on emergency  
8 cases. He may be removed in the manner provided for the re-  
9 moval of county road engineers, and vacancies shall be filled by  
10 the court for the unexpired term.

Sec. 38. The county road engineer or road supervisor ap-  
2 pointed as provided in this act shall in all matters pertaining to  
3 "Class A," roads, co-operate with the state road commission in mat-  
3-a ters relating to "Class A" roads, in such manner and to such ex-  
4 tent as may be required by said commission in its rules and regu-  
5 lations, and shall at the same time act as the agent of the county

6 court of the county for which he was appointed, as to the supervi-  
7 ion of roads and other duties provided herein. He shall be subject  
8 to the general authority of the county court and to the rules and  
9 regulations prescribed by the state road commission, have general  
10 charge and supervision of all the roads, and bridges thereon, within  
11 his county, and shall see that the same are improved, repaired  
12 and maintained as provided by law, and shall have the general  
13 supervision of the work of constructing, repairing and improving  
14 such roads and bridges in his county; shall superintend the con-  
15 struction and improvements made upon said roads and bridges  
16 under the provisions of this act, and other work of like nature  
17 undertaken by the county court of the county, and shall make  
18 reports thereon from time to time as the court may direct; shall  
19 advise and direct those employed by or under him including the  
20 road patrolman herein provided for, as to the best methods of  
21 repairing, maintaining and improving such roads and bridges;  
22 shall examine the various formations and deposits of gravel and  
23 stone in his county for the purpose of ascertaining the materials  
24 which are most available and best suited for the improvement of  
25 the public roads therein, and when required by the state road  
26 commission shall submit samples of such materials and make a  
27 written report in respect thereto; shall establish or cause to be  
28 established such grades and recommend such means of drainage,  
29 repair and improvement as may seem to him necessary, when  
30 requested by the county court; shall cause to be placed and kept  
31 at the forks or crossings of such roads a guide board, on which  
32 shall be stated in plain letters the most noted place to which  
33 each road leads and the number of miles thereto; and shall, under  
34 the direction of the county court and state road commission, as  
35 aforesaid, perform all such duties as may be required to keep  
36 such roads in open and passable condition and in the best repair  
37 possible with the means at his disposal; and shall perform such  
38 other duties, regarding roads in "Class A," as may be required by  
39 the state commission.

Sec. 39. Whenever a public meeting in the interest of good  
2 roads for a county or district shall have been called by the state  
3 road commission, the county road engineer or supervisor as the  
4 case may be shall cause due notice thereof to be given through news-  
5 paper publications and otherwise, in such manner as may be pro-  
6 vided by the rules and regulations of such commission, and shall  
7 co-operate with such commission in holding any such meeting.

Sec. 40. By and with the advice and consent of the county court, the county road engineer or supervisor may employ such agents and employees as he may deem necessary to properly maintain and care for the roads under his charge, and may discharge such agents and employees at pleasure. Such agents and employees may receive such compensation per day as may be determined by the county court of the county; *provided*, that such compensation shall be as nearly as can be ascertained the same as the prevailing wages in the vicinity for work of like kind, not to be less than one dollar nor more than two dollars and fifty cents per day, according to services rendered; except in the case of assistant engineers required for special work, who shall receive not more than five dollars per day.

Sec. 41. If directed by the county court, such county road engineer or supervisor shall divide the main county or district roads of his county into convenient sections, not exceeding two miles in length, and shall annually, after two weeks' notice by publication in some newspaper published in the county, and by posting printed hand bills at one public place at least in each district of the county, let to contract the maintenance and repair of said roads, by contract for the period of one year, to the lowest responsible bidder, taking bond from the contractor in a penalty to be fixed by the court, and with condition for the faithful performance of the duties of said contract or under his said contract; and every such contract shall be promptly reported by the county court and approved by it before the same shall become effective. The road engineer or supervisor shall furnish to any person desiring to bid upon any such road contract, specifications of the work required to be done; or the engineer with the approval of the court may require the district patrolman to look after such roads as may be in his district.

Sec. 42. If any section or sections be not sold at any sale or sales, made under the provisions of this section, for want of a bidder or because of the rejection of any bids as provided for in this act, it shall be the duty of the county road engineer to sell such section or sections or new roads at private sale or have the same kept in repair, or such new roads opened, as provided in this act, or in any other manner the county court may direct. To this end he may employ and procure all necessary hands, horses and material for the proper discharge of his duties, at such compensation as the county court may determine accord-

11 ing to the provisions set forth in this act. It shall be unlawful  
12 for any county road engineer to appoint or employ, under the  
13 provisions of this section, as a laborer on the public roads, his  
14 father, son, son-in-law, grandson, brother, brother-in-law, nephew  
15 or first cousin by blood; *provided*, a sufficient amount of other  
16 efficient labor can be secured within the vicinity. Each county  
17 road engineer shall report to the county court at each regular  
18 term thereof and at such other time as the court may require, a  
19 full itemized statement of the expenditures made by him since  
20 his last report, giving number and names of hands and number  
21 of horses employed by him, the time each was employed, the  
22 amount paid to or for each, and such other matter as he may  
23 deem necessary or the court may require. Such statements of  
24 account shall first have been prepared according to the public  
25 accounting laws of this state and have been certified to by the  
26 agent or agents of the county road engineer having charge of the  
27 work.

Sec. 43. The county road engineer or supervisor shall make,  
2 or co-operate with the state road commission in making, the neces-  
3 sary surveys, grades, maps, plans and estimates for the permanent  
4 improvements of any main county road upon which the county  
5 court may desire to expend federal or state aid funds as provided  
6 in this act; and shall supervise the work of constructing such  
7 permanent improvements as provided in section thirty-nine  
8 hereof, making such reports concerning the progress of such work  
9 as the state road commission or the county court may require.

Sec. 44. The county road engineer or supervisor may pur-  
2 chase for the use of the county upon main county roads, or other  
3 roads, stone crushers, road rollers, traction engines, road machines  
4 for grading and scraping, tools and other implements, which shall  
5 be paid for from the county road funds; but any contract for  
6 the purpose of such equipment shall not be valid until approved  
7 by the county court. Such engineer or supervisor may in like  
8 manner lease or hire any of such equipment, the same to be paid  
9 for out of said county road fund.

Sec. 45. The county road engineer, or any county or district  
2 supervisor may, with the approval of the county court of the  
3 county, purchase any gravel, stone, earth or wood necessary in  
4 the construction, repair or maintenance of a public road, from any  
5 owner of such materials within the county. If such officer and  
6 the county court shall not be able to agree with such owner upon



7 the price to be paid for such material, the officer by direction of  
8 said court may proceed to acquire such property and the right to  
9 take and remove the same by condemnation proceedings; except  
10 that no gravel, stone or earth shall be so taken within one thousand  
11 feet of any house or barn, or from any lawn, orchard or vineyard.  
12 Any such road officer shall also be authorized to enter upon any  
13 land adjacent to a public road for the purpose of opening any  
14 existing drain or ditch or for digging a new ditch or drain for  
15 the free passage of water in order to drain such road; and to  
16 enter upon any land adjoining rivers, streams or creeks to drive  
17 piles, throw up embankments or perform any other labor necessary  
18 to keep such rivers, streams or creeks within their proper channel  
19 and prevent their encroachment upon public roads or abutments  
20 of bridges, or any other damage to such roads or bridges; and  
21 for any damage done to such lands by entry thereon as aforesaid,  
22 the county court may make a reasonable and proper allowance  
23 to the owner. All moneys provided by this section to be paid by  
24 the county court as compensation or damages shall be paid from  
25 the respective funds applicable to the maintenance of the roads  
26 benefited.

Sec. 46. It shall be the duty of the county road engineer or  
2 supervisor, at the end of each fiscal year to ascertain and report  
3 in writing to the county court of the county, the amount of money  
4 necessary to open and keep in repair all main county roads, and  
5 the roads of each of the magisterial districts of the county, payable  
6 during the next ensuing fiscal year, and it shall be the duty of  
7 the said court to carefully examine such reports and estimates  
8 therein contained, and to make such alterations and corrections  
9 therein as the court may think proper. Said report shall show  
10 the amounts estimated respectively for the maintenance of main  
11 county and of district roads, and the same shall be used by the  
12 court as the basis of laying all levies provided for in this act.

Sec. 47. Wherever in regard to the provisions of this act  
2 the same powers or duties have been conferred on, or prescribed  
3 for, two or more officials or agencies, or whenever any question  
4 as to a conflict of authority shall arise, the power and authority of  
5 the state road commission shall prevail over that of the county  
6 court, in matters pertaining to "Class A" roads, the county court  
7 over the county engineer or supervisor, and the county engineer or  
8 or supervisor over the district road patrolman or other official or  
9 employe engaged in work on the district roads.

*District Road Patrolman.*

Sec. 48. The office of district road patrolman is hereby  
2 created. The county court of each county may, between the first  
3 day of March and the first day of April of each year, appoint a  
4 road patrolman for each magisterial district, who shall be an  
5 able-bodied man between the age of twenty-one and fifty years, and  
6 a resident of such district or county. The term of office of such  
7 patrolman shall begin on the first day of April and continue for  
8 one year.

Sec. 49. The county court may fill any vacancy occurring in  
2 said office, and may remove a patrolman for good cause. Each  
3 patrolman of roads shall enter into a bond with the county court,  
4 with security to be approved by the court, in the sum of not less  
5 than five hundred dollars, conditioned for the faithful perform-  
6 ance of his duties, and to account for and pay over all moneys,  
7 tools and materials that may come into his hands by virtue of his  
8 office.

Sec. 50. The clerk of the county court shall, upon the ap-  
2 pointment of a road patrolman by the county court, make out and  
3 deliver to said road patrolman a certificate showing his appoint-  
4 ment, upon which certificate shall be printed a statement of the  
5 general duties of said patrolman as hereinafter provided.

Sec. 51. It shall be the duty of each road patrolman, at his  
2 own expense to provide himself with a mattock, shovel and such  
3 other tools as may be necessary in the performance of his duty;  
4 patrol the roads in his district daily except Sunday, and, with the  
5 labor and funds at his command, keep all drains and culverts  
6 open; see that all roads are well drained and kept clear of rocks,  
7 fallen timber, land slides, unnecessary shade, and other obstruc-  
8 tion of every kind and character. He shall have police supervi-  
9 sion and control over the placing of private foot crossings across  
10 any road in his district; shall remove or cause to be removed all  
11 dead timber standing within fifty feet of the road. Across each  
12 stream, where necessary, said patrolman shall see that there is  
13 placed and kept a sufficient bridge, bench or log for the accom-  
14 modation of foot passengers; shall inspect all bridges within his  
15 district and see that the same are in a safe condition; inspect the  
16 railing on said bridges; and see that the same is kept in good re-  
17 pair; shall notify, or cause to be notified, all persons who by law  
18 are liable to work on the roads, of the time and place at which  
19 they are required to attend for that purpose; shall direct and su-

20 perintend their work and keep an account of their time; and, sub-  
21 ject to the direction of the county road engineer or county road  
22 supervisor, as the case may be, said patrolman shall perform such  
23 other duties with respect to the roads of his district as the county  
24 court may prescribe.

Sec. 52. Such patrolman shall have general police super-  
2 vision over all roads within his magisterial district; including the  
3 streets and alleys of unincorporated villages, and shall have au-  
4 thority to require abutting property owners to remove and keep  
5 removed all garbage, refuse and filth of every kind and character  
6 that may accumulate on said streets and alleys, and order opened  
7 any street or alley on any town plat which is of record in the  
8 clerk's office of the county court.

Sec. 53. The owner or tenants of land fronting on the pub-  
2 lic roads shall construct and keep in repair all approaches and  
3 drive-ways to and over the public roads, under the direction of  
4 the patrolman, and it shall be unlawful for such owner or tenant  
5 to fill up any ditch, or place any material of any kind or character  
6 in any ditch so as in any manner to obstruct such ditch or to  
7 interfere with the purposes for which it was made.

Sec. 54. The county court may provide the road patrolman  
2 with such equipment and supplies, in addition to his regular  
3 equipment, as may be necessary to the proper discharge of his  
4 duties under this act, the same to be paid for out of any district  
5 road funds applicable thereto.

Sec. 55. Every patrolman of roads shall keep an exact ac-  
2 count of the number of days work done on the roads in his dis-  
3 trict by each person liable to work thereon; and may require any  
4 person performing labor not under the immediate supervision of  
5 the patrolman to swear to his account, and said patrolman, by  
6 virtue of his office, is authorized to administer such oath.

Sec. 56. Said patrolman shall, before the fifteenth day of  
2 June of each year, expend upon the roads of his district seventy-  
3 five per cent of all the labor and commutation funds under his  
4 control, and fifteen per cent of said labor and funds between the  
5 fifteenth day of June and the first day of November; the remain-  
6 ing ten per cent to be reserved by him as an emergency fund to  
7 be used at his discretion, or during the winter months. Said  
8 patrolman shall report quarterly to the county court the con-  
9 dition of the roads and bridges in his district, and render an item-  
10 ized account of all money and labor expended during said quar-

11 ter, with the names of the persons performing the labor, and the  
12 amount and condition of all equipment and materials. He shall  
13 pay to the treasurer of the county, to be placed to the credit of  
14 the district road fund, such portion of any quarterly balance of  
15 commutation funds unexpended as the court may order. He shall  
16 also, on or before the first day of November of each year, report  
17 to the county court the names of all persons who are liable to pay  
18 commutation. He shall recommend from time to time to the  
19 court such improvements upon the district roads in his district,  
20 and alterations therein, or such new roads as he thinks ought to  
21 be made, and the probable cost thereof. All reports shall be made  
22 in duplicate and one copy transmitted to the state road commis-  
23 sion.

Sec. 57. Every patrolman of roads shall turn over all ac-  
2 counts, moneys and papers pertaining to his office, and all ma-  
3 terials, tools and equipment belonging to the said district or  
4 county, to his successor, taking receipts therefor in duplicate, one  
5 of which shall be kept by the outgoing patrolman and the other  
6 filed with the clerk of the county court; if he fails to do so, he  
7 shall be liable to a fine and imprisonment as provided in the next  
8 section.

Sec. 58. Any patrolman who has been duly appointed and  
2 accepted the office, failing to perform the duties as prescribed in  
3 this act, without just cause therefor, shall be guilty of a misde-  
4 meanor; and upon conviction thereof, shall be fined not less than  
5 twenty-five nor more than one hundred dollars, and, moreover,  
6 shall be liable on his official bond for the breach of any of its  
7 terms and conditions.

Sec. 59. The county court of every county may require, by  
2 order duly entered, every male person, not under twenty-one nor  
3 over fifty years of age, who resides in any magisterial district and  
4 is not a pauper or insane person, having had at least three days'  
5 notice, to attend in person or by sufficient substitute, with proper  
6 tools and work on the roads in such magisterial district, under  
7 the direction of the patrolman thereof, at such places and on such  
8 days as the said patrolman may appoint, not less than one nor  
9 more than four days in each year; but if the person liable under  
10 this section neglects to perform said work in person or by sub-  
11 stitute, or if he elects so to do, he shall then pay to said patrol-  
12 man the sum of two dollars for each day he so fails to work,  
13 which shall be payable upon such failure or election. Such labor

14 and commutation shall be used wholly for the construction, main-  
 15 tenance and up-keep of the roads in said district. The pro-  
 16 visions of this section shall not apply to persons residing in any  
 17 incorporated city or town which, by its charter or ordinances,  
 18 is required to construct and maintain its streets and alleys.

Sec. 60. Every person coming within the purview of this  
 2 act who shall fail to attend and perform the labor required of  
 3 him, or to pay the commutation required in this act, or if he  
 4 attends at the time and place he is notified to attend, and shall  
 5 refuse to obey any lawful order or direction of the patrolman, or  
 6 shall spend his time in idleness or inattention to the work as-  
 7 signed to him, he shall be proceeded against as follows: The pa-  
 8 trolman shall keep a book for that purpose and assess him two  
 9 dollars for each day he fails to properly perform such work; *pro-*  
 10 *vided*, that such delinquent shall not have paid the commutation  
 11 aforesaid. The county court shall provide said patrolman with  
 12 blanks in form and effect as follows: ". . . . . ,  
 13 in the district of . . . . . , in the county of . . . . . ,  
 14 Dr. to road tax for failing to perform . . . . . days work on road,  
 15 \$. . . . . ," and shall place a duplicate of such assessment in  
 16 the hands of a constable in the county for collection within ten  
 17 days after the neglect or refusal, and take his receipt therefor.  
 18 Such receipt shall be in form or effect as follows: "Received  
 19 this . . . . . day of . . . . . , 19 . . . . . of . . . . . ,  
 20 patrolman of roads of . . . . . district, county of  
 21 . . . . . , assessment of road tax for collection  
 22 as follows: against . . . . . , for . . . . . days  
 23 work, \$. . . . . ," reciting the names of each person and the  
 24 number of days charged against him and the amount thereof.  
 25 Said patrolman shall file such receipt in his office, and shall enter  
 26 the amount thereof against said constable in a book kept for that  
 27 purpose. If said tax be paid to the constable he shall write  
 28 on said assessment blank the words "Received payment," and  
 29 sign the same in his official character and deliver to the person  
 30 so charged with said tax, but if the said tax be not paid on de-  
 31 mand, the constable may collect the same by distraint or other-  
 32 wise, in the same manner as a sheriff may distrain for and collect  
 33 county and state taxes. Any person claiming to be improperly  
 34 assessed with such tax may apply to the county court at its first  
 35 or second session after the same comes to his knowledge but not  
 36 afterwards, to have it corrected; but he shall give to the patrol-

37 man of roads at least five days' notice in writing of such appli-  
38 cation. If the court, after hearing such matter, be satisfied that  
39 the applicant has been improperly assessed with such tax, it shall  
40 correct the assessment accordingly; otherwise, it shall confirm the  
41 same. The application shall be heard and determined without cost.  
42 If the constable be unable to collect such tax within sixty days  
43 after the same is placed in his hands, he shall return the dupli-  
44 cate to the patrolman of roads from whom he received it, or to  
45 his successor in office, with the return thereon that he was un-  
46 able to make such collection, and for what reason; and any con-  
47 stable who shall falsely return such tax uncollected in whole or  
48 in part shall be guilty of a misdemeanor, and upon conviction  
49 thereof, fined not less than ten nor more than fifty dollars.

Sec. 61. Every patrolman of roads shall be allowed for his  
2 services by the county not less than two dollars nor more  
3 than three dollars for every day necessarily employed by him  
4 in performing his official duties, and his own affidavit shall  
5 be *prima facie* evidence thereof; and such account, when  
6 audited and allowed by the court, shall be paid as here-  
7 inbefore provided, out of the taxes collected for district road  
8 purposes, and constituting the district road fund; *provided*, that  
9 the patrolman of roads shall not be exempted from two days'  
10 labor on the roads each year, or commutation therefor, as herein-  
11 before provided in section sixty of this act. No road patrol-  
12 man shall engage in any other business which would prevent his  
13 giving his time and attention to the roads of his district, in ac-  
14 cordance with such regulations as may be prescribed by the county  
15 court.

*Location, Establishment and Discontinuance.*

Sec. 62. The interest which belonged to the state on the  
2 first day of July, one thousand eight hundred and sixty-eight  
3 (whether as owner or one of the several owners, or a shareholder  
4 or stockholder) in any road, (including turnpikes and plank  
5 roads) bridge or public landing lying wholly or in part within  
6 the limits of a county is transferred to and shall continue vested  
7 in such county so far as such road, bridge or public landing is  
8 within the said county; together with all the rights and powers of  
9 the state pertaining thereto as such owner, or one of several owners  
10 or as a shareholder or stockholder. But this section and the fol-  
11 lowing one shall not apply to any railroad or canal, lock or dam,

12 slackwater, or other improvement of a river or a navigable stream  
13 or to the suspension bridges across the Monongahela river at Fair-  
14 mont and Morgantown or to the Cumberland road, or to Maryland  
15 and Virginia Bridge Company, or to any bridge, toll-house or  
16 other property of that part of said last mentioned road.

17 A county may acquire, by agreement, condemnation, or other-  
18 wise, and hold the interest of the owners, shareholders, or stock-  
19 holders, or any one or more of them other than the state, in any  
20 road, bridge, or public landing, so far as the same is within the  
21 limits of said county.

Sec. 63. Every public road, bridge or landing, and every  
2 street or alley, in any incorporated city, town or village hereto-  
3 fore established and opened pursuant to law and which has not  
4 been lawfully discontinued or vacated, shall continue as such,  
5 until properly discontinued, and every road, street or alley, used  
6 and occupied as a public road, street or alley, shall in all courts  
7 and places be taken and deemed to be a public road, street or alley  
8 (as the case may be) whenever the establishment thereof as such  
9 may come in question.

Sec. 64. The roads, bridges and landings transferred by the  
2 state to the several counties in which they are located shall here-  
3 after be regarded as public roads, bridges and landings.

Sec. 65. No public road shall be established or discontinued  
2 or the location thereof changed without due notice thereof having  
3 been given according to the provisions of this act, except in case  
4 of changes made under section seventy-three hereof.

Sec. 66. The grade of any road to be hereafter estab-  
2 lished shall not exceed five feet rise per hundred feet, unless es-  
3 pecially authorized by the county court when such grade is im-  
4 practicable as to distance or cost of construction, and in no case  
5 shall a public road be established having a grade exceeding nine  
6 feet rise per hundred feet.

Sec. 67. All notices and advertisements for the establish-  
2 ment, alteration or discontinuance of any road, bridge or landing,  
3 shall be published at least two consecutive weeks in two news-  
4 papers of general circulation and of different politics, if there  
5 be such within the county.

Sec. 68. No bridge unless it be exclusively for footmen, shall  
2 be less than fourteen feet wide. All public roads which are now  
3 established in any of the counties of this state as public roads shall  
4 occupy a right-of-way not less than thirty feet wide, unless the

5 county court shall have made a special order for a different width,  
6 which order shall be a matter of record in the office of the county  
7 clerk. All public roads which may hereafter be established in any  
8 of the counties of this state, except main county roads, shall oc-  
9 cupy a right-of-way not less than thirty feet wide and the neces-  
10 sary slopes.

Sec. 69. Not more than two acres of land shall be con-  
2 demned for any landing, and no road or landing shall be estab-  
3 lished by the county court of the county upon or through any lot  
4 of any incorporated city, town or village, without the consent of  
5 the owner thereof, except as herein otherwise provided.

Sec. 70. When any road is altered, the former road shall be  
2 discontinued to the extent of such alteration, and no further, and  
3 the new one established.

Sec. 71. Nothing in this act shall be so construed as to pre-  
2 vent any county court from acquiring by right any land for pub-  
3 lic road purposes as provided in this chapter, but the title to all  
4 rights-of-way, whether secured by gift, purchase or condemnation,  
5 and all discontinuances of public roads, shall be reported by the  
6 county engineer to the county clerk and made a matter of record  
7 in the county clerk's office.

Sec. 72. With the consent of the owner of land in which a  
2 change is proposed to be made, given in writing, setting forth the  
3 exact changes proposed, the county road engineer or supervisor  
4 may change any public road in this county, except main county  
5 roads, and turnpikes; *provided*, such change does not materially  
6 increase the length or grade or require more work to keep the  
7 road in repair, or place the same on worse ground than it was be-  
8 fore such change, or render the said road in any respect worse  
9 than it was before the change. Any county road engineer who shall  
10 make such change otherwise than that prescribed in this chapter  
11 shall be guilty of a misdemeanor and on conviction thereof shall be  
12 fined not less than twenty-five dollars nor more than one hundred  
13 dollars. And in case such change is made in violation of the pro-  
14 visions of this section, the part of the road thus altered, shall not  
15 be established as a public road, and the former location shall be  
16 continued as such.

Sec. 73. The county court of the county, may upon peti-  
2 tion, direct any public road, bridge or landing other than a turn-  
3 pike, bridge or landing in which private citizens may hold a  
4 majority of the stock, or any main county road, or road to be



5 discontinued, but notice of such petition must be published  
6 according to the provisions of this act, and in addition, notices  
7 must be placed at three public places in every district in which  
8 any part of the said road or landing may be. Upon such petition,  
9 after notice given as aforesaid, the county court shall appoint  
10 two or more viewers or a committee of their own body, who,  
11 together with the county road engineer, shall view such road or  
12 landing and report in writing, whether in their opinion, and if  
13 any, what inconvenience would result from discontinuing the  
14 same. Upon such report and other evidence, if any, the court  
15 may discontinue the road, bridge or landing, taking care in every  
16 case which is an established post road, not to discontinue the same  
17 until another has been established; and in case of a road which may  
18 have been established by means of state aid the consent of the  
19 state road commission must have been obtained in writing, setting  
20 forth the changes allowed.

Sec. 74. When any person desires the establishment or alter-  
2 ation of a public road, bridge or landing in any county, or a  
3 public road leading from any public road or roads, he shall petition  
4 the county court of the county in which the road, bridge or  
5 landing is situated, setting forth in his petition specifically the  
6 nature and location of the proposed work, and the county court  
7 shall thereupon (and they may do so without such petition in  
8 any case in which they deem the interests of the people of the  
9 county require it) appoint two or more viewers, or a committee  
10 of their own body, who, together with the county road engineer,  
11 shall view the ground and report in writing the advantages and  
12 disadvantages which, in their opinion, will result as well to in-  
13 dividuals as to the public from the proposed work and the grades  
14 and bearings of the proposed roads and the facts and circum-  
15 stances that may be useful to enable the county court to determine  
16 whether such work ought to be undertaken by the county, or if  
17 the petition be for the establishment or alteration of a public  
18 road leading from another public road or roads, whether such  
19 road should be established, stating specifically, whether it would  
20 be necessary to take any burying ground, garden, yard, orchard  
21 or any part thereof, or to injure or destroy any buildings and the  
22 probable cost of the work, the names of the land owners whose  
23 property would have to be taken or injured, which of them would  
24 require compensation and the probable amount to which each  
25 of them would be entitled. They shall make careful examination

26 of other routes or locations than that proposed or petitioned for,  
27 keeping in view at all times the possible future development of the  
28 country and the accommodation of the general traveling public,  
29 and shall report in favor of the one they prefer, with the reasons  
30 for their preference. A map giving the grades and bearings of  
31 the routes and locations shall be returned with the report. The  
32 report may be recommitted by the court, with or without special  
33 instructions, or upon petition; or upon their own motion the  
34 court may appoint a special committee of viewers, who shall make  
35 examination and report according to the provisions of this section.  
36 In any case where it shall appear to the county court that the  
37 interests of the general public may be furthered thereby, they  
38 shall personally examine the proposed work, or shall appoint a  
39 committee of their own body to make examination as herein pro-  
40 vided. But in no case shall the county court alter or change the  
41 location of any main county road, or road in which the state or  
42 federal government shall have invested any money, according to  
43 any plan of state or federal aid, without the consent of the state  
44 road commission. If the court decide to undertake the proposed  
45 work, they shall appoint a day for hearing the parties interested  
46 and cause notice thereof to be given to the proprietors and tenants  
47 of the property which would have to be taken or injured to show  
48 cause against the same. Such notice shall be served on such of  
49 them as are found within the county and on any agent therein  
50 of any proprietor not so found and by sending another copy by  
51 mail, postage paid, to the last known postoffice address of any  
52 party interested who is not found in the county, and by giving  
53 notice through the public press as provided in this act.

54 Nothing in this act contained shall be so construed as to  
55 authorize the county court to establish main county roads other  
56 than in the manner provided in sections twenty-one and twenty-  
57 two of this act.

Sec. 75. If the court at any time have sufficient evidence  
2 before them to enable them to ascertain what would be a just  
3 compensation to the proprietors and tenants, and if such pro-  
4 prietors and tenants are willing to accept what the court deems  
5 just, the said court upon such acceptance, being reduced to writ-  
6 ing and signed by the proprietors and tenants may determine to  
7 undertake the work.

Sec. 76. Upon hearing the parties interested in an applica-  
2 tion for a public road, said county court shall decide for or against

3 undertaking the proposed work on behalf of the county. If it  
4 decides in favor of the same, and the compensation to be paid to  
5 any proprietor or tenant be not fixed by agreement, it shall order  
6 proceedings to be instituted and presented in its corporate name  
7 in the circuit court of the county, pursuant to the forty-second  
8 chapter of the code of West Virginia, to ascertain what will be  
9 a just compensation to each proprietor or tenant for the land  
10 proposed to be taken, and the said court shall lay a sufficient levy  
11 for that purpose. But, when such compensation shall be so ascer-  
12 tained, it shall be at the option of the county court to pay the  
13 same or to abandon the proposed undertaking. If it decides to  
14 pay the same, it shall lay a sufficient levy for the purpose as  
15 provided in this act. In any case where the petition is for the  
16 establishment or alteration of a public road leading from the  
17 main public road or roads, the court may refuse to undertake  
18 the proposed work, unless the petitioner or some one for him,  
19 shall deposit with said county court a sufficient sum to pay all  
20 damages and costs sustained by reason of the establishment or  
21 alteration of such public road. In such case, if it seems proper so  
22 to do, the court may establish any such public road, upon condi-  
23 tions that the petitioner shall pay all costs and damages as afore-  
24 said, and make and keep in repair such road, and erect and main-  
25 tain in good repair one or more gates across such public road  
26 where the road passes through a fence or fences, as is provided  
27 in section one hundred and fifty-six of this act; and the court may  
28 also impose upon such petitioner, his heirs or assigns, and upon the  
29 public such other conditions in reference to such road as the court  
30 may deem just. In the event that any of the conditions, so  
31 imposed by the court are not fully complied with, the court at  
32 any time, after giving at least sixty days' notice to the public and  
33 to the petitioner, his heirs or assigns, in such manner as the court  
34 may prescribe, may discontinue or abandon such road.

35 But the court, instead of proceeding in the manner hereinabove  
36 provided in this section, is authorized to enter upon any lands,  
37 other than those prohibited by law, and locate and build said road,  
38 and sixty days after said road is completed, cause to be sum-  
39 moned thirteen freeholders, to be nominated by the court, of  
40 whom the court may strike off four or any less number from  
41 the list, and the property owners or their representatives, or such  
42 of them as appear, may also strike off four or any less number,  
43 and after eight names are stricken from the list the remaining

44 five shall be commissioners appointed to assess the damages here-  
45 inafter provided. But where there is no appearance for the  
46 property owners, or if they appear and do not agree as to any  
47 one or more of the names to be stricken off on their behalf, or  
48 the right to strike off any one or more names is waived on the  
49 part of either of the property owners, or their representatives,  
50 or from any cause the full number shall not be stricken off by  
51 the court or parties aforesaid, the names or additional names, as  
52 the case may be, to be stricken from the list in order to reduce  
53 the number to five, shall be ascertained by lot under the direction  
54 of the court. Vacancies shall be filled, and any commissioner,  
55 for good cause shown, may be removed by the court.

56 The said freeholders or commissioners shall go upon the land  
57 and assess the damages and benefits, taking into consideration  
58 the benefits accruing to the property and the damages sustained  
59 to it, and shall fix the compensation or damages as said com-  
60 missioners may see proper, and the amount so fixed shall be paid  
61 out of the road fund of the county, in case of a main county  
62 road, or the road fund of a district, in case of a district road.

63 If the damages so assessed be not satisfactory to the property  
64 owner or owners, proprietor or tenant, or to the court, he or  
65 they, or said court, may, within six months after the assessment  
66 aforesaid, appeal or apply to the circuit court of the county and  
67 demand a trial therein, as in other condemnation proceedings;  
68 *provided, however,* before entering upon said land as authorized  
69 by this section, it shall be the duty of the county court or its  
70 representative to serve notice upon the owner or owners of said  
71 land, as provided by law, notifying such owner or owners that  
72 the road is to be located upon their land under the authority of  
73 this section. Any person who shall obstruct said road while in  
74 process of construction, or repair, or interfere with the engineer  
75 or other persons in charge of said work or construction, their  
76 agents or employees, shall be guilty of a misdemeanor and upon  
77 conviction thereof shall be fined not to exceed fifty dollars, and  
78 may be imprisoned not to exceed one month, or both, in the dis-  
79 cretion of the court.

80 In any proceeding authorized by this section, the revenues  
81 applicable to the payment of any damages assessed shall be  
82 deemed sufficient security, and to have been pledged for the pay-  
83 ment thereof.

Sec. 77. When it is necessary to build or repair a bridge, or

2 to purchase any existing toll bridge within any county or within  
3 any magisterial district, or across the boundary thereof, the county  
4 court of the county may contract for the same, or any part thereof,  
5 on such terms as may be agreed upon and take bond and security  
6 from the contractors in the sum of fifty per cent. of the amount  
7 of such contract, for its faithful performance, and pay for the  
8 work in full or in part, out of the county treasury or out of funds  
9 of the district or districts in which said improvement is located,  
10 or by issuing bonds or other evidence of debt for the amount as  
11 may be agreed upon and to this end they shall appoint a competent  
12 engineer to make a thorough investigation and estimate of the cost  
13 of said improvement. Upon receiving the estimate of cost, the  
14 court, being satisfied with the correctness of same and the neces-  
15 sity and importance of such improvement, may advertise for and  
16 receive proposals and make such other order in the premises from  
17 time to time as shall be necessary and proper.

Sec. 78. When it becomes necessary to build or repair any  
2 bridge across any stream on the line between two counties, or to  
3 construct or improve according to any plan of state aid, or to keep  
4 in repair any road or roads between two counties, or along the  
5 boundary lines thereof, the county courts of such counties may  
6 enter into such agreement therefor, as to them shall seem best,  
7 but if they disagree in relation thereto, it shall be the duty of the  
8 county court of each county to appoint two special commissioners,  
9 who, together with the county engineer of each county, shall meet  
10 and arrange the matter, and if they should disagree, they shall  
11 call to their aid one or more special commissioners from another  
12 county to assist them in their decision and whenever a decision is  
13 arrived at and if it is confirmed by the court of each county, sit-  
14 ting separate, it shall be binding. If the county court of any  
15 county, upon being required so to do, shall fail to appoint com-  
16 missioners, or if either court shall fail in any respect to fulfill its  
17 part of the agreement with respect to the work, the remedy by  
18 mandamus shall lie before the circuit court of the county whose  
19 county court is complained of on behalf of the county court of the  
20 other county, and the circuit court shall compel the county court  
21 complained of, to do what ought to be done in the matter.

Sec. 79. If the county courts shall determine to make im-  
2 provements, they shall have prepared plans and specifications of  
3 such work, and shall advertise for bids as provided in section  
4 eighty-eight of this act in each of the counties, and the contract

5 shall be awarded to the lowest responsible bidder who shall furnish  
6 satisfactory security to be approved by said county courts and said  
7 county courts voting separately shall approve of the plans and  
8 specifications, and shall jointly award the contract.

9 The commissioners appointed by the county courts as pro-  
10 vided in section seventy-nine hereof, together with the county road  
11 engineer of, each of the counties, shall constitute a  
12 joint committee and such joint committee shall receive the bids  
13 at the time and place specified in the advertisement and shall open  
14 and publicly announce the items comprising each bid according to  
15 the provisions of section eighty-eight of this act, and the  
16 members of the committee from each county shall forthwith re-  
17 port such bids to their respective county courts for action thereon.

Sec. 80. The contract for such work shall specify such share  
2 or portion of the costs thereof to be borne and paid by each county  
3 court, and each county court shall be severally liable for such  
4 share or proportions.

Sec. 81. If in the opinion of said county courts, or either  
2 of them, it be determined by resolution passed by either of said  
3 courts separately, to place in the tax levy for any one fiscal year  
4 its share or proportion of the costs of acquiring said lands, doing  
5 the work and making the improvements herein authorized, would  
6 be too burdensome on the taxpayers of such county or counties,  
7 then it shall be lawful for such county court to issue the bonds  
8 of such county according to law, to raise the funds wherewith to  
9 defray the cost aforesaid.

Sec. 82. After the completion of the work, the improvement  
2 so made shall be maintained by the county court or courts or other  
3 authorities of the counties or other political divisions joining in  
4 the improvement, who shall bear and pay the same share and cost  
5 of maintenance and repair that they severally bore toward the cost  
6 of improvement.

Sec. 83. It shall be the duty of the clerk of the county court  
2 to keep on convenient file or in books prepared for such purpose, a  
3 complete record of all titles to rights-of-way, all maps, plats and  
4 surveys, and all discontinuances of public roads within the county,  
5 which are now, or may hereafter be reported to the county court  
6 of the county.

Sec. 84. Any person or persons who may desire to do so,  
2 may build a sidewalk, composed of plank, gravel, concrete or  
3 other suitable material, along the side of any public road in this

4 state; *provided*, that the said walk does not exceed thirty-six  
5 inches in width and that the construction and repairing of the  
6 same and the use thereof shall be without expense of any kind  
7 to the public or to any person who may want to use the same;  
8 and, *provided, further*, that all persons who may desire, be per-  
9 mitted to use the same and that said sidewalk does not in any  
10 way interfere with the traveling public on any public road;  
11 *provided, further*, that if it is desired to build any such walk in a  
12 city or corporate town, the consent of the council of such city or  
13 town shall be obtained before such walk is built.

Sec. 85. Any person or persons who shall in any manner de-  
2 stroy, take up, or in any way injure any sidewalk already con-  
3 structed, or that may hereafter be constructed according to the  
4 provisions of the foregoing section, and shall fail to repair the  
5 same, shall be deemed guilty of a misdemeanor, and on convic-  
6 tion thereof, shall be fined not less than five nor more than fifty  
7 dollars.

Sec. 86. Nothing contained in this act shall be construed  
2 to take from the jurisdiction, charge or control of the council,  
3 trustees or other authority of any incorporated city, town or vil-  
4 lage, so much of any road, bridge, landing or wharf, or any other  
5 thing, as by the laws now in force, is exclusively under such juris-  
6 diction, charge or control.

#### *Bids and Contracts*

Sec. 87. All bids for work to be let by contract under the  
2 provisions of this act, whether for construction or maintenance,  
3 shall be received at the court house of the county in which such  
4 road is to be constructed and maintained at the time specified in  
5 the advertisements and shall be opened only in open court and the  
6 amount and items comprising each bid shall be publicly announced  
7 and the contract, if let, shall be let to the lowest responsible bidder  
8 who shall give bond with satisfactory security in an amount equal  
8-a to fifty per cent of the amount of such contract, conditioned  
9 for its faithful performance.

10 After such bids have been opened, as herein provided, it  
11 shall be the duty of the county court or other tribunal acting  
12 in lieu thereof, to publish in some newspaper published in the  
13 county, and if there be no paper published in the county, then  
14 in some newspaper of general circulation therein, which publi-  
15 cation shall be made in the first issue of such newspaper after

'16 the bids are opened, the names of all persons bidding on such  
17 contract, together with the itemized amount of their respective  
18 bids, designating the person to whom such contract was awarded,  
19 if awarded, together with the amount of his bid.

20 Any person who shall open any of the bids, at any other  
21 time or place than herein provided, or shall make known the  
22 name of the bidder, or the amount of his bid, otherwise than  
23 herein provided, shall be guilty of a misdemeanor, and fined  
24 not less than fifty nor more than two hundred dollars, and be  
25 imprisoned in the county jail not less than one nor more than  
26 six months. And any member of the county court, or other tri-  
27 bunal acting in lieu thereof, who shall violate the provisions of  
28 this act, shall be deemed guilty of misconduct in office, and  
29 shall forfeit his office, and in addition thereto shall be guilty  
30 of a misdemeanor, and upon conviction thereof shall be fined  
31 not less than fifty nor more than two hundred dollars and im-  
32 prisoned in the county jail not to exceed six months.

33 The county court may reserve from payment not more than  
34 twenty per cent of the amount accruing on said contract until  
35 the completion of said work and the approval thereof.

36 The court may reject any and all bids and may thereafter  
37 have the work done in any other manner that may seem advisable.  
38 In the event there shall be two bids of the same amount for any  
39 section of road or any other improvement thereon, the bid of  
40 the person owning the greatest amount of frontage or real estate  
41 abutting on said road on the section where the improvement  
42 is to be made shall be accepted. In the event that neither bid-  
43 der owns property abutting on said section to be improved, then  
44 in case of such equal bids, the bidder owning property nearest  
45 the section to be improved shall be given preference.

46 In the event the county court shall decide to have the work  
47 done otherwise than by contract, then the work shall be done  
48 under the direction of the county road engineer, or the court may  
49 appoint a competent superintendent, who, under the direction  
50 of the county road engineer, shall have the supervision of the  
51 road or roads of the district or section for which he was  
52 appointed. He shall devote his entire time and attention to the  
53 work or so much thereof as the court may direct, and he shall re-  
54 ceive such compensation for his services as may be determined  
55 by said court, or in case the court does not have a county road  
56 engineer or for any reason the court deems it advisable, where



57 there is a county road engineer, to appoint a special, competent,  
58 district engineer to take charge of any district, special or par-  
59 ticular piece of work or to assist in any state aid work, the court  
60 shall have the power so to do and fix the compensation of said  
61 district engineer.

62 All notices and advertisements for the letting to contract of  
63 public roads or any part thereof, under the provisions of this  
64 act, whether for construction or maintenance, or for the purposes  
65 of any supplies, equipment or material, shall, unless otherwise  
66 provided, be published for at least four consecutive weeks pre-  
67 ceding the date of the letting of said contract, at least once each  
68 week in two newspapers of general circulation and different  
69 politics, if there be such, within the county; if not, then in one  
70 paper of general circulation; the county court shall, if the proposed  
71 construction or maintenance is on "Class A" roads, notify the state  
72 road commission by copy of such advertisement and give the loca-  
73 tion in the county of the road and improvement to be made, to be  
73-a included in its reports, and if on "Class A" roads, furnish a copy  
74 of the plans and specifications submitted and if requested it shall  
75 be the duty of said road commission, prior to the final acceptance of  
76 any proposal by the county court, to report upon the plans and  
77 specifications for the contract, as to the sufficiency of all require-  
78 ments and on request of the court shall also furnish the county  
79 court for its private use an estimate of the reasonable cost of said  
80 improvements and to submit its recommendation in writing to the  
81 county court which recommendation after considering all bids  
82 shall be made a part of the records of said county.

83 No such contract shall be let to any person, association or  
83-a persons, company or corporation, who or which, is connected di-  
84 rectly, indirectly or otherwise, with any combination in the form of  
85 an unlawful trust in restraint of trade, or who, or which enters into  
86 any understanding, directly or indirectly, to limit in any manner  
87 competition in bidding upon the construction of any road or  
88 bridge, or for furnishing any materials used thereon and entering  
89 therein. Any such combination or unlawful trust is hereby  
90 prohibited; any person, association of persons, company or cor-  
91 poration entering into, or being a part of any such combination  
92 or unlawful trust, shall be guilty of a misdemeanor, and, upon  
93 conviction thereof, shall be fined not exceeding one thousand  
94 dollars; and every person, county or state officer or any employee  
95 of any county or the state, including the officers or members of

96 any corporation, who shall be engaged in any way in promoting  
97 any such combination or unlawful trust, or aiding or abetting  
98 the same, or knowingly committing any acts in pursuance there-  
99 of, in addition to being subject to the fine aforesaid, may in the  
100 discretion of the court, be imprisoned not exceeding six months.

Sec. 88. Any person, firm or corporation offering for sale  
2 or selling any paints, metal or metal eulverts, fence or fencing or  
3 any other materials or supplies for use upon or in the construction  
4 of any road or bridge or part thereof of any county,  
4-a city or town within the state, shall furnish there-  
5 with a certificate of its purity showing its chem-  
6 ical constituents and the percentage of impurities contained there-  
7 in. Any person, firm or corporation making or furnishing a  
8 false certificate shall be guilty of perjury and upon conviction shall  
9 be fined not less than twenty-five dollars nor more than two hundred  
10 dollars, and may be imprisoned not less than one month nor more  
11 than twelve months and any contract made by reason of any false  
12 statement or representation may be cancelled by the court.

Sec. 89. All claims of any contractor or con-  
2 tractors or others, which may under the provisions  
2-a of this act be due to such contractor or  
3 contractors or other persons, shall when certified by the county road  
4 engineer, be presented to the county court at the proper session  
5 thereof and if by them found correct, shall, upon the order or war-  
6 rant of said court, signed by the president and clerk thereof, be paid  
7 by the sheriff; *provided*, that it shall be the duty of the said road  
8 engineer to furnish the county court at such time as he may be  
9 directed by them so to do, with a certified statement showing  
10 the amount of each claim so due each contractor or contractors;  
11 except that in contracts for the construction of new roads, the  
12 payment shall be conditioned as set out in the original contract  
13 therefor, with the privilege to the court of reserving not more  
14 than twenty per cent. of payments on all estimates until the work  
15 is completed; and *provided, further*, that no county road engineer  
16 shall certify the claim of any such contractor' or contractors until  
17 upon examination, he shall find that the provisions of the contract  
18 have been strictly complied with.

Sec. 90. If it shall appear necessary to the engineer or other  
2 representative of the county court in charge to close a public road,  
3 which is being constructed or repaired under this act, so as to  
4 permit a proper completion of such work, he shall execute a

5 notice in duplicate, stating the necessity for closing such public  
6 road, and describing the portion to be closed; he shall cause to  
7 be posted at each end of the portion to be closed a copy of said  
8 notice and may have the same published in one or more news-  
9 papers in the county one week and shall thereupon close the same  
10 to public travel by erecting suitable obstructions and posting  
11 conspicuous notices. In the event the public road is closed, the  
12 engineer or other representative of the county court in charge  
13 may direct a detour or provide a new location by the construction  
14 of a temporary road to be used by the traveling public in lieu of  
15 the closed public road and may erect temporary bridges when  
16 necessary. For the purpose of locating and constructing such  
17 temporary road and bridge, the engineer or other representative  
18 of the county court in charge may enter upon the land adjoining  
19 or near to the closed public road and may, with the approval of  
20 the county court, agree with the owner of such lands, for the  
21 damages, if any, caused thereby; if the engineer or other repre-  
22 sentative of the county court in charge is unable to agree with  
23 such owner for the amount of damages, if any, the amount thereof  
24 shall be ascertained, determined and paid as provided in this act.  
25 When such public road shall have been closed to the public as  
26 provided herein, any person who disregards the obstruction and  
27 notice and drives or rides over the portion of the public road  
28 so closed, shall be liable for the damages done to any section or  
29 portion of the road being constructed, and shall be guilty of a  
30 misdemeanor and upon conviction thereof may be fined not less  
31 than five dollars nor more than fifty dollars.

Sec. 91. The county court, for the purpose of meeting and  
2 taking care of the necessary charges and expenses which may be  
3 incurred by the county road engineer or other representative of  
4 the county court having any road work in charge during the  
5 recess of the court, in performing the duties required of him  
6 under the provisions of this act, may at any regular term of the  
7 court set apart and appropriate out of the road fund of the county  
8 or any magisterial district thereof, and not otherwise appropri-  
9 ated, funds sufficient to pay said expenses. Said appropriation  
10 shall be based on a written itemized estimate to be certified and  
11 furnished to the county court by said engineer or other represen-  
12 tative of the court having said work in charge.

13 After the appropriation shall have been made as aforesaid,  
14 the said engineer, or other representative having said work in

15 charge, shall certify to the clerk of the county court the amount  
16 each and every person is entitled to receive by virtue of any work  
17 or labor performed or materials furnished, and sign the same in  
18 his official capacity; whereupon, the clerk shall have authority to  
19 issue an order payable out of the proper fund to the person entitled  
20 thereto, which order shall be paid as other orders issued by the  
21 clerk, payable out of the several road funds of the county or  
22 district.

23 The clerk shall keep a record of all claims so issued, showing  
24 the amount thereof, to whom issued, upon the authority of what  
25 road official and for what purpose, and make report thereof to  
26 the court at each of its regular sessions.

27 The clerk shall not issue orders or drafts in excess of the  
28 amount of the money appropriated by the court for the particular  
29 work mentioned in the estimates aforesaid.

30 It shall be the duty of the road engineer, or other represen-  
31 tative of the court having said work in charge, at each successive  
32 regular session of the court, to make a report in writing, showing  
33 what orders he has given authorizing the clerk to issue drafts or  
34 orders as aforesaid, under the provisions of this act, to whom  
35 payable and for what services. The said report of the county  
36 clerk and that of the road engineer, or other representative of  
37 the county court, shall be audited by said court, filed, and recorded  
38 in its order book, or appropriation record, or such other record  
39 as the court may provide. Said county road engineer, or other  
40 representative of the court having the said work in charge, is  
41 hereby prohibited from expending money or issuing orders to  
42 the clerk, in excess of the amount appropriated by the court for  
43 the purpose or purposes aforesaid. If any county road engineer,  
44 or other representative of the county court, or the clerk of said  
45 court, shall issue, or cause to be issued, any order or orders herein  
46 authorized, in excess of said appropriation, or improperly issue  
47 any such orders, or cause the same to be done, which are paid  
48 in the manner provided by law, said county road engineer, or  
49 other representative, or the clerk of said court, shall be liable  
50 for the same on his or their official bond. Nothing herein con-  
51 tained shall be construed as authorizing the payment to any road  
52 contractor, or contractors, of any sum which may be due to such  
53 contractor, or contractors, under the terms or provisions of his  
54 contract, or under the provisions of this act, until the estimate  
55 provided by such contract or contracts, and by law, has been made

56 and certified, as in said contract, or the law, is provided, and  
57 approved by the county court. It shall be unlawful for the county  
58 road engineer, or other representative of the county court having  
59 said work in charge, to directly or indirectly, discount any of  
60 the claims or orders authorized under this section. Any one  
61 violating this section shall be guilty of a misdemeanor, and upon  
62 conviction thereof shall be fined not less than ten nor more than  
63 twenty-five dollars.

64 It shall be the duty of the county to furnish to the county  
65 road engineer, or other representative having said work in charge,  
66 proper blank forms upon which to certify to the clerk of the  
67 county court the amounts which the several persons performing  
68 labor or furnishing material by virtue of this section are entitled  
69 to receive.

#### *Prison Labor.*

Sec. 92. Whenever the county court of any county proposes  
2 to improve permanently any road, or part thereof, in their county,  
3 and desires to use prison labor thereon, it may apply to the state  
4 road commission for a competent engineer to view the proposed  
5 road. Upon receipt of such application, the commission shall  
6 send such county court a blank form for the purpose of eliciting  
7 from the said county court such information touching the pro-  
8 posed road and improvement as it may desire, which blank form  
9 said county court shall fill out to the best of its ability and return  
10 to the commission. If the commission shall be satisfied that the  
11 proposed improvement will be permanent, and that the plans  
12 proposed by the local road authorities for such improvement are  
13 adequate and practicable, it shall cause said road or part thereof,  
14 proposed to be improved, to be viewed by a member of the com-  
15 mission, or its agent, and shall carefully prepare plans, specifi-  
16 cations and estimates of the cost of construction, with the mate-  
17 rials agreed upon by the commission. A copy of said plans,  
18 specifications and estimates of cost shall be submitted to the  
19 county court and a copy filed in the office of said commission.  
20 The expenses incurred by the commission or its assistants in per-  
21 forming the duties required under this section shall be paid by  
22 the county whose local road authorities requested the same to be  
23 done.

Sec. 93: Whenever any county court shall have decided to  
2 construct or improve the said road, or any part thereof, in accord-

3 ance with the plans and specifications of the state road commission,  
4 and shall have agreed with the commission respecting the location,  
5 construction and material of such road, which agreement shall  
6 be reduced to writing and recorded in the county clerk's office,  
7 then such county court may apply to the state board of control  
8 to send convicts to such county to be worked upon such road.  
9 Such application shall be in form prescribed by the board of  
10 control, and shall state the number of convicts desired, which shall  
11 not be less than ten, and the length of time for which the county  
12 court desired to contract. If the number of prisoners in the  
13 penitentiary available shall suffice to meet all the applications  
14 which may be before it, the board of control shall grant all such  
15 applications which are satisfactory to the board. If the number  
16 of prisoners available shall not be sufficient to fill all such appli-  
17 cations, the board of control shall file the applications, and fill  
18 them in the order in which they were received. The board shall,  
19 however, as far as possible, give equal service to all the counties  
20 making application, subject, however, to the judgment of the  
21 board as to the merits of the respective applications. The board  
22 of control may, for good cause, refuse any or all such applications,  
23 in which event the cause of such refusal shall be specified to the  
24 applicant.

Sec. 94. The board of control, with the advice and assistance  
2 of the warden of the penitentiary, shall determine what prisoners  
3 therein confined may, with safety and convenience, be assigned  
4 to such work, selecting preferably such prisoners as are believed  
5 to be most trustworthy.

Sec. 95. Whenever any such application shall be granted  
2 by the board of control in its original or modified form, a con-  
3 tract in writing, based thereon, shall be entered into between  
4 the board of control and the county court making such applica-  
5 tion, which shall set forth the terms of the agreement based on  
6 such application.

Sec. 96. The state road commission shall have authority,  
2 under proper rules and regulations, to establish and maintain  
3 stone quarries, crushers and brick kilns at places in the state  
4 where suitable materials may be obtained, to be furnished to the  
5 counties desiring to use the same in constructing and maintaining  
6 public roads and bridges, and to the state and counties for public  
7 buildings, and for any other purpose for which the state or county  
8 may desire to use such stone or brick. No brick kilns shall be

9 established until the materials available therefor have been care-  
10 fully analyzed by the commission and approved by it, and no  
11 material shall be used in the manufacture of brick or the building  
12 or improving of roads until after like analysis and approval. In  
13 selecting the location for said brick kilns, due regard shall be  
14 had to transportation facilities. The state convict road force may  
15 be employed by said commission at and about said kilns in the  
16 manufacture of brick under the same rules and regulations pro-  
17 vided herein for working said force on the public roads.

Sec. 97. The state prison road force shall be guarded when  
2 working on the roads of the state and in making road materials  
3 by guards detailed by the warden of the penitentiary, who shall  
4 designate one guard as the superior and the other or others as  
5 assistants; and such superior may by agreement with the county  
6 court act as and be the foreman in charge of such work. The  
7 state guards shall obey the rules prescribed for the maintenance  
8 of such camps. Any guard not obeying such rules shall, upon  
9 recommendation of the engineer in charge of the work, be imme-  
10 diately recalled and some other person detailed in his stead. The  
11 guards so detailed shall not exceed one guard and an assistant  
12 for thirty men, and one guard and two assistants for fifty men.  
13 The wages of every such guard shall be fixed by the warden of  
14 the penitentiary, but said wages for the superior shall not exceed  
15 seventy-five dollars per month and board, and for an assistant  
16 guard, not over sixty dollars per month and board. The warden  
17 of the penitentiary, his assistants or guards, at the request of the  
18 state road commission, may, so far as practicable, make trustees  
19 of the said state prison road force employed under this act. All  
20 guards and prisoners shall be under the direction of the state  
21 road commission or its engineer in charge, and shall work not  
22 to exceed ten hours per day, and each prisoner shall be paid for  
23 such time in excess of nine hours per day at the contract rate  
24 paid by the county for such prisoner's labor. The state board of  
25 health, state board of control and the state road commission shall  
26 jointly formulate rules and regulations governing such camps,  
27 and the state board of control shall allow such good time and  
28 other allowances as may be deemed wise for the government of  
29 state prisoners and prison camps, in addition to that allowed  
30 by law.

Sec. 98. The warden of the penitentiary shall provide suit-  
2 able and movable quarters, said quarters to be built, so far as

3 can be, with convict labor; and shall supply all necessary cooking  
4 utensils, beds and bedding and wagons for transporting the  
5 convicts, and camp fixtures for the camps or stations of said  
6 prison and road force.

Sec. 99. All convicts forming the state prison road force  
2 shall be transferred to and from the jails and the penitentiary, and  
3 the expense of such transfer shall be paid in the same way as  
4 is now provided by law for transporting convicts to the peniten-  
5 tiary, except that the prisoners of the state prison road force may  
6 be transported anywhere in the state, under the direction of the  
7 warden of the penitentiary.

Sec. 100. The warden of the penitentiary shall provide, in  
2 the same manner as he now provides, for convicts in the peniten-  
3 tiary, all clothing, food, quarters and guards for the state prison  
4 road force when at work on the public roads of any county in  
5 the state.

Sec. 101. Whenever any prisoner working on such roads  
2 shall become sick, or shall be disabled by accident or otherwise,  
3 he shall be attended by the physician employed by the county  
4 court to take care of the poor in the county, or by the jail physi-  
5 cian in such county, and the fees of such physician shall be paid  
6 by the county at such sum as may be agreed by the county court  
7 with such physician. In any case of emergency, the physician who  
8 can be most conveniently reached shall attend such prisoner until  
9 the physician for the poor or the jail physician can attend, and  
10 the reasonable fees of the physician first called shall be paid by  
11 the county court of such county.

Sec 102. Any county court desiring to obtain convict labor  
2 on its roads, under the provisions of this act, shall agree to sup-  
3 ply all necessary material, to be approved by said state road com-  
4 mission, with tools and terms as required by the plans and  
5 specifications of the commission.

Sec. 103. After the expiration of all contracts now existing  
2 between the state and any person, firm or corporation, for the  
3 employment of convict labor at the penitentiary, only such con-  
4 tracts shall be renewed or new contracts made under the provisions  
5 of law as may be necessary to employ all convicts not otherwise  
6 employed under the provisions of this act.

Sec. 104. If the local road authorities of any county propose  
2 to improve permanently any road, or part thereof, and desire to  
3 make use of the services of the state road commission under the



4 terms of this chapter, and to have the benefit of the provisions  
5 of this chapter creating a state convict road force, but shall prefer  
6 to make such improvements by contract, then the said commission  
7 may, upon request, furnish such local county road authorities, in  
8 advance of the letting of the contract, an estimate of the number  
9 of convicts available for use upon such proposed permanent road  
10 improvements, providing that such number of convicts to be so  
11 supplied by the said state road commission shall not exceed such  
12 number as that, estimating their labor at one dollar per day,  
13 per convict, exclusive of Sundays, and a reasonable allowance for  
14 bad weather, will amount to a contribution on the part of the  
15 state of more than fifty per cent of the total contract price of  
16 such proposed improvements. The convicts so employed upon  
17 construction work shall be and remain under the direct supervision  
18 and care of the warden of the penitentiary, and may be worked  
19 only for such hours and under such humane and reasonable rules,  
20 regulations and conditions as may be jointly prescribed and en-  
21 forced by the warden of the penitentiary and the state road com-  
22 mission, which said hours, rules, regulations and conditions shall  
23 be stated and promulgated in advance of the letting of the  
24 contract.

Sec. 105. If any convict escape from the state convict road  
2 force, he shall be punished as now prescribed by law for convicts  
3 escaping from the penitentiary.

Sec. 106. The warden of the penitentiary shall have power  
2 to discharge any of said prisoners working on said state convict  
3 road force, wherever they may be in the state, when the term  
4 of said prisoner shall have expired; and section twenty-two of  
5 chapter one hundred and sixty-three of the code of West Vir-  
6 ginia shall apply to all convicts working on said state road force.

Sec. 107. It shall be the duty of the governor to designate  
2 some competent physician, or physicians, to make monthly in-  
3 spection of all camps where convict road force is employed; and  
4 it shall be the duty of such physician to make monthly, a thorough  
5 investigation of the sanitary conditions of such camps, and make  
6 a regular report of each inspection to the governor, together with  
7 such recommendations as he may deem necessary; and to fur-  
8 nish a copy thereof to the warden of the penitentiary, to the state  
9 board of health, and to the local board of health of the county  
10 in which such camp may be located. Said physician for his ser-

11 vices shall receive the same allowance, and be paid in the man-  
12 ner as provided in section one hundred and two of this chapter.

Sec. 108. Whenever, hereafter, any male person over the  
2 age of sixteen years shall be convicted of an offense, the punish-  
3 ment of which by law is confinement in the county jail, before  
4 any court or justice of the peace, and sentenced by such court or  
5 justice of the peace to imprisonment in the county jail and to  
6 pay a fine and costs, he shall be sentenced by such court or justice  
7 of the peace to labor on the public roads of the county under the  
8 direction of the county road engineer or other representative of  
9 the county court having such work in charge, during the time  
10 of such imprisonment and until said fine and costs are satisfied;  
11 whenever any person is imprisoned by virtue of section ten of  
12 chapter thirty-six of the code and fails to execute the bond as  
13 therein provided, then he shall be required to work on said roads  
14 until said fine and costs are paid, under the regulations in this  
15 act prescribed; *provided*, said work shall not be required to be  
16 done on the streets or alleys of a city, town or village, which  
17 under its charter keeps its own streets and alleys in order, un-  
18 less the corporate authorities thereof shall first arrange with the  
19 county authorities to pay for such work to the keeper of the jail  
20 of said county the amount to which he shall be entitled for the  
21 board of such prisoners.

Sec. 109. The county court of each county shall provide  
2 for the working of such prisoners and shall provide for the safe  
3 keeping of such prisoners while performing such work, and to  
4 this end the border line of each county shall constitute and be  
5 considered the walls of the jail of such county, and the county  
6 engineer or other such representatives of the county court having  
7 such work in charge, shall be and are hereby empowered to adopt  
8 safe and humane methods of discipline and protection to en-  
9 force the provisions of this chapter and prevent escape of pris-  
10 oners.

Sec. 110. The court or justice of the peace before whom  
2 any such prisoner is convicted, for good cause appearing and en-  
3 tered of record, may omit from the sentence that part of the  
4 penalty requiring such person to work on the public roads of  
5 the county.

Sec. 111. Whenever any such person shall escape while  
2 working on such public roads and be recaptured he shall be  
3 taken by the officer having him in custody before any justice of

4 the peace in the county where such escape was made, who shall,  
 5 after a trial and upon conviction for such escape, sentence him  
 6 to labor on the public roads of said county, in addition to fines  
 7 and sentences imposed at his previous trial, not less than sixty  
 8 days nor more than six months and to pay the cost of making  
 9 the arrest, including all costs of trials, and in default of the  
 10 payment shall sentence said prisoner to work out said costs on  
 11 said public roads as herein provided.

Sec. 112. The sheriff upon recommendation of the county  
 2 engineer or other representatives of the county court having the  
 3 work in charge, and with the approval of the county court, shall  
 4 employ a sufficient number of persons to guard such prisoners,  
 5 not to exceed one for every ten prisoners so employed on such  
 6 county roads, and the wages of such guards shall be paid out of  
 7 the county treasury when allowed by the county court, and shall  
 8 not exceed two dollars and fifty cents per day for each guard.  
 9 Such guards when employed shall be subject to, and under the  
 10 direction of, the county road engineer or other representative of  
 11 the county court having the work in charge. The keeper of the  
 12 jail shall file with the clerk of the county court a monthly state-  
 13 ment showing the number of prisoners in jail awaiting trial, the  
 14 number of prisoners sentenced to work upon the public roads,  
 15 the number of days work performed, the number of days idle, the  
 16 reason therefor, and shall furnish a duplicate copy to the state  
 17 road commission. Whenever prisoners are worked from camps or  
 18 kept outside of the jail, the person in charge of the camp shall  
 19 furnish the jailer with the information herein required, or file  
 20 the same with the clerk of the county court under the direction  
 21 of the county road engineer, or other such representative of the  
 22 court.

Sec. 113. The clerk of every court, or the justice of the  
 2 peace before whom any person is convicted of an offense and sen-  
 3 tenced to be confined in the county jail or sentenced to pay a  
 4 fine and is confined for non-payment thereof, shall certify to the  
 5 jailer the length of sentence and the amount of fine in the man-  
 6 ner and form following:  
 7 "Commitment by.....for imprisonment  
 8 for.....sentence, fine and costs.

9 State of West Virginia,  
10 County of....., ss:

11 To the sheriff or any constable of said county, and to the  
12 jailer of said county:

13 *Whereas*, .....was this day convicted of  
14 the crime of ....., and was sentenced to  
15 confinement in the county jail for the period of ..... days  
16 (or months) from this date, and to pay the state a fine of.....  
17 ..... dollars and costs incurred, amounting to the  
18 sum of ..... dollars, itemized on the back here-  
19 of, and to labor on the public roads in said county until said  
20 fine and costs are paid, as provided in chapter.....of  
21 the acts of the legislature of the said state for the year.....:

22 You, the said sheriff or constable, are hereby commanded in  
23 the name of the state to forthwith safely convey the said.....  
24 ..... and deliver him to the said jailer with  
25 this process; and you, the said jailer, are hereby commanded in  
26 the name of the said state to receive and confine the said.....  
27 .....in said jail and to see that the said....  
28 .....labors according to law on the public  
29 roads until said sentence, fine and costs have been satisfied or  
30 until he is discharged according to law.

31 Given under my hand and seal this the ..... day of  
32 ....., 19.....

33 .....  
34 Clerk of Court, or  
35 Justice of the Peace.”

Sec. 114. The circuit, criminal or intermediate court  
2 wherein the said person was sentenced, or the judge thereof in  
3 vacation, or a justice before whom any such person was convicted,  
4 may, for good cause shown, release such defendant from such  
5 imprisonment and suspend the payment of fine and costs, but  
6 no such order shall be made by a justice or a judge in vacation  
7 of his court, until at least ten days notice in writing be given  
8 to the prosecuting attorney of the time and place at which the  
9 motion therefor shall be made.

Sec. 115. \*A person charged with misdemeanor, who is un-  
2 able to furnish a recognizance, or bail bond with satisfactory  
3 securities, according to law, or who is refused bail, may after be-  
4 ing committed to jail, elect to labor upon the public roads of the  
5 county in which such crime is alleged to have been committed;

6 and in such case the circuit, criminal or intermediate court of  
7 such county, or the judge thereof in vacation, may, in its dis-  
8 cretion, enter an order in the order book of such court permit-  
9 ting such person to labor on the public roads of said county, as  
10 herein provided, until such time as may be fixed by such court, or  
11 judge thereof in vacation. If, at his trial, such person is con-  
12 victed and sentenced to imprisonment in the county jail, or to la-  
13 bor on the public roads of such county, he shall be credited on  
14 his term by the number of days he has labored on such public  
15 roads; if fined, he shall be credited on the amount of fine and  
16 costs with one dollar and fifty cents per day for each day he  
17 labored on such road; and if acquitted, he shall be paid seventy-  
18 five cents for each day he labored on said roads, to be paid out  
19 of the road funds of the county or district in which such work  
20 is chargeable, when allowed by the county court.

Sec. 116. Every person sentenced to labor on the county  
2 roads under the provisions of this act, who faithfully complies  
3 with all the rules and regulations which may be prescribed by  
4 the county road authorities, governing the working of prisoners  
5 on the public roads, shall be entitled to a deduction from his sen-  
6 tence of five days for each month, on every jail sentence that may  
7 be imposed upon him. †

*Traffic Regulations—Automobile Registration—Chauffeurs' Licenses*

Sec. 117. For the purposes of this act, unless the same be  
2 contrary to, and inconsistent with the context, the words and  
3 phrases used in this act shall be construed as follows:

4 "Motor vehicle" shall include all vehicles propelled by any  
5 power other than muscular power, excepting such motor vehicles  
6 as run only upon rails and tracks. "Closely built up" shall mean  
7 (a) the territory of a city, village or town contiguous to the pub-  
8 lic highway which is at that point built up with structures de-  
9 voted to business; (b) the territory of a city, village or town,  
10 contiguous to a public highway not devoted to business, where  
11 for not less than one-quarter of a mile, the dwelling houses on  
12 such highway average less than one hundred feet apart; and, also,  
13 (c) the territory outside of a city or village contiguous to a pub-  
14 lic highway within a distance of one-half mile from any post  
15 office; *provided*, that for a distance of at least one-quarter of a  
16 mile within such limits the dwelling houses on such highway

17 average less than one hundred feet apart; and, *provided, further,*  
18 that the local authorities having charge of such highways shall  
19 have conspicuously placed thereon signs of a sufficient size to be  
20 easily readable by a person using the highway, bearing the words,  
21 "Slow down," and also an arrow pointing in the direction where  
22 the speed should be reduced. "Local authorities" shall include  
23 all officers of counties, cities, villages or towns, as well as all  
24 boards, committees, and other public officials of such counties,  
25 cities, villages or towns. "Chauffeur" shall mean any person  
26 operating a motor vehicle as mechanic, employee or for hire.

Sec. 118. No person shall operate a motor vehicle on any  
2 public road or street at a greater rate of speed than thirty-five  
3 miles per hour, and at no time shall such person use a greater  
4 rate of speed than will permit of absolute control of such vehicle  
5 at all times, so as not to endanger life or limb of any person, or  
6 the safety of any property, and shall not pass through, by or over  
7 a closely built up section, city, village, bridge, dam, summit of  
8 a hill, steep descent, street or road intersection, railroad or in-  
9 terurban crossing or curve, at a greater rate of speed than will  
10 permit of bringing the vehicle to a full stop in one-half the dis-  
11 tance that the road is in full view, the objective point being  
12 construed as the distance viewed. Any person driving such ve-  
12-a hicle at a greater rate of speed than permitted by this act, or  
12-b in violation of any of the safety provisions thereof, shall be  
12-c deemed guilty of reckless driving and shall be punished as  
12-d hereinafter provided. If such reckless driving result in the  
12-e death of any person, or in injury to person or property, the  
12-f person guilty thereof shall be punishable as for homicide or  
12-g for unlawful or malicious wounding as the case may be;  
12-h and shall also be liable in damages for any injury of any kind  
12-i resulting from such reckless driving. But nothing herein con-  
13 tained shall be construed as prohibiting any city, village or town  
14 from prescribing regulations not inconsistent herewith, relative  
15 to the speed at which such vehicles shall be operated.

Sec. 119. No person shall drive or operate any vehicle, mo-  
2 tor driven or otherwise, upon any public road or street of this  
3 state, when intoxicated or under the influence of liquor, drugs or  
4 narcotics; and any person so driving or operating any vehicle up-  
5 on any public road or street of this state while intoxicated or  
6 under the influence of drugs or narcotics shall be guilty of a mis-  
7 demeanor and upon conviction thereof shall be fined not less than

8 five nor more than fifty dollars, and may be imprisoned not less  
9 than ten nor more than sixty days, at the discretion of the court  
10 or justice trying the offense; and upon a second conviction for  
11 the like offense at any time within three years from the first,  
12 shall be fined as aforesaid and imprisoned not less than ten nor  
13 more than sixty days, and shall thereby be prohibited from oper-  
14 ating or driving a motor vehicle in this state for a period of  
15 one year. The court or justice before whom any such person may  
16 be convicted as aforesaid, shall forthwith notify the state road  
17 commission of such conviction, giving the name of the person  
18 convicted and the number of the car or vehicle driven by him.

Sec. 120. Every person using or driving any motor vehicle,  
2 buggy, wagon or other vehicle on any street or alley of any city,  
3 town or village, or in any "closely built up" territory, shall op-  
4 erate or drive the same on the right of the center of such street  
5 or alley. Every vehicle meeting another vehicle, person or ani-  
6 mal, shall pass on the right; every vehicle overtaking another  
7 vehicle, person or animal shall pass on the left. Every vehicle  
7-a turning from a street or alley into another street or alley  
8 to the right shall turn as near the right hand curb or side as  
9 possible; every vehicle turning into another street or alley to  
10 the left shall not turn until the front wheels thereof shall, if  
11 possible, have passed beyond the center of the intersecting streets  
12 or alleys. No vehicle, except on signal from a traffic officer, or  
13 in case of emergency or to allow another vehicle, person or animal  
14 to cross the highway, shall stop in any street or alley except on  
15 the right hand side thereof, and then in such manner as not to  
16 obstruct a crossing or interfere with traffic or the access to any  
17 fire plug, gasoline or oil station, or other place of public service  
18 or resort; nor shall any vehicle back or turn in any street or  
19 alley if it will thereby interfere with or retard traffic; *provided*,  
20 such turn can be made by going around a block. The driver of  
21 every vehicle approaching any street or passenger car which has  
22 stopped or is about to stop for the purpose of receiving or dis-  
23 charging passengers, shall have such vehicle under control and  
24 shall reduce its speed to a reasonable and proper rate for safety,  
25 and shall not pass a vehicle or street car while unloading or  
26 taking on passengers unless it be an established safety zone or he  
27 be signaled by the operator of said vehicle or street car so to  
28 pass.

Sec. 121. No person shall race any vehicle or animal or

2 place any wager upon any race upon any of the public roads or  
3 streets of this state, nor shall any person carry on the business  
4 of horse trading upon any road or street within one mile of any  
5 fair, religious meeting or any other religious association during  
6 the days and times such fair, religious meeting or association is  
7 being held. Any person violating the provisions of this section  
8 shall be deemed guilty of a misdemeanor and upon conviction  
9 thereof shall be fined not less than ten nor more than fifty dol-  
10 lars for each offense, and may be required to enter into a recog-  
11 nizance in the sum of three hundred dollars for continued good  
12 behavior for twelve months, and in default of entering into such  
13 recognizance may be committed to jail for not less than ten nor  
14 more than sixty days, or until said bond be filed and approved  
15 by a justice in the county.

Sec. 122. The driver or operator of any vehicle upon ap-  
2 proaching any person walking, riding, leading or driving any  
3 horse or animal shall sound a proper signal or warning, and if  
4 such animal being ridden, led or driven, shall appear to be fright-  
5 ened, or if the person in charge thereof shall signal by raising  
6 his or her hand, the driver of such vehicle shall bring the same  
7 to a stop and if traveling in an opposite direction shall remain  
8 stationary so long as may be necessary to reasonably allow such  
9 horse or other animal to pass. If traveling in the same direction  
10 such driver or operator shall use due diligence and care in pass-  
11 ing such animal; but no person riding, driving or leading any  
12 animal upon the public roads or streets of this state shall signal  
13 for such stop unless necessary.

Sec. 123. In case of any accident, such as collision with a  
2 person, animal or vehicle, all parties concerned must stop and  
3 render such assistance as may be reasonable and necessary within  
4 their power, and upon request all parties concerned shall exchange  
5 their names, addresses and numbers of operating licenses.

Sec. 124. Every motor vehicle operated or driven upon the  
2 public highways of this state shall be provided with adequate  
3 brakes in good working order and sufficient to control such vehicle  
4 when the same is in use, and an adequate horn or other device for  
5 signaling, sufficient under all condition to give timely warning  
6 of the approach of the motor vehicle; and shall during the period  
7 from thirty minutes after sunset to thirty minutes before sunrise,  
8 display at least one lighted lamp on the front and one on the rear  
9 of such vehicle, which shall also display a red light visible from



10 the rear; and white rays of such rear lamp shall shine upon and  
11 illuminate the number plate carried on the rear of such vehicle  
12 so that the said number will be clearly visible. Every such vehicle  
13 shall have devices to prevent excessive noise, annoying smoke,  
14 or escape of gasoline or steam, as well as the falling out of embers  
15 or residue from fuel; and all exhaust pipes carrying exhaust  
16 from the engine shall be directed parallel to the ground or slightly  
17 upward.

Sec. 125. No vehicle shall be left standing upon any high-  
2 way without first tying, locking or taking other reasonable pre-  
3 caution to prevent such vehicle being started in itself, or by unau-  
4 thorized persons. And no person shall without authority of the  
5 owner or person in charge thereof, climb upon or into any vehicle,  
6 whether the same is in motion or at rest, or hurl stones or other  
7 missiles at the same, or at the occupants thereof, or, while such  
8 vehicle is at rest and unriden, sound any signal device or attempt  
9 to manipulate any of the levers or machinery thereof, or set said  
10 vehicle in motion or otherwise damage, hinder or interfere with  
11 the same.

Sec. 126. No vehicle in excess of ninety inches in width  
2 shall be operated upon the highways of this state unless authorized  
3 by special permit from the state road commission, the county court  
4 of the county, the county or district engineer or patrolman, and  
5 then only upon highways of extra width; nor shall any vehicle,  
6 including load, exceeding thirty thousand pounds in weight, or  
7 on which the weight of the load is more than six hundred pounds  
8 per inch width of tire, the total width of the four tires being  
9 included in computing the weight thereof, be operated upon the  
10 highways of this state unless by special permit from one of the  
11 authorities hereinbefore designated, and then only upon highways  
12 specially constructed for heavy traffic. Any person operating any  
13 such vehicle under such a special permit shall be required to pay  
14 to the county court of the county the amount of any and all  
15 damages which may be caused to any highway by reason of the  
16 operation of such vehicle thereon, and the possession of said  
17 permit shall not relieve any person from liability for such  
18 damages.

Sec. 127. No person under the age of fourteen years  
2 shall operate any motor vehicle upon the highways of this state  
3 unless accompanied by the owner thereof or a duly licensed chauff-  
4 eur. No person shall act as chauffeur without first having ob-

5 tained a license so to do, in accordance with the next succeeding  
6 section.

Sec. 128. Every person desiring to operate a motor vehicle  
2 either as a chauffeur or carrying on the business of transporting  
3 passengers or freight for hire, shall file in the office of the state  
4 road commission, on a blank to be provided by such commission,  
5 an application, which shall state the name of the applicant, his  
6 address, and the trade name and motor power of the vehicle or  
7 vehicles he is able to operate, and shall pay a registration or license  
8 fee of three dollars. Such application shall be verified by the  
9 signature of two citizens of this state of at least two years prac-  
10 tical experience in operating motor vehicles, and be accompanied  
11 by a photograph of the applicant taken within thirty days prior  
12 to the filing of the application. The commission shall thereupon  
13 file the application and photograph in its office, register such  
14 chauffeur in a book or index to be kept for that purpose and assign  
15 to him a number; and the commission shall thereupon further  
16 issue and deliver to such chauffeur a certificate of registration and  
17 an enameled metal badge, corresponding in color with the license  
18 tags issued for the same year for motor vehicles, with the follow-  
19 ing words stamped thereon: "Registered Chauffeur, No. . . . .  
20 W. Va.", with the registration number inserted thereon, together  
21 with the year for which such license is issued, which badge shall  
22 be worn by such chauffeur in a conspicuous place upon his clothes  
23 at all times while driving a motor vehicle upon the highways.  
24 No such chauffeur shall voluntarily permit another person to wear  
25 his badge, nor shall any person while operating a motor vehicle  
26 wear any badge belonging to another person, or a fictitious badge.  
27 Duplicate badges, in case of loss, may be issued under such regu-  
28 lations as the state road commission may prescribe. Any person  
29 violating the provisions of this section shall be guilty of a mis-  
30 demeanor, and upon conviction thereof before any justice or court  
31 shall be fined not less than five nor more than twenty-five dollars.

Sec. 129. No motor vehicle shall be driven upon the public  
2 roads of this state, or upon any road or street within any incor-  
3 porated city, town or village within the state, without the owner  
4 first having obtained from the state road commission, as herein  
5 provided, a certificate of registration therefor. Such license or  
6 certificate may be obtained by causing to be filed with the com-  
7 mission, by mail or otherwise, a statement setting forth the  
8 character of the vehicle to be licensed, including the name of the

9 manufacturer, the style, type and factory number of such vehicle,  
10 the character of the motor power and the amount of such motor  
11 power stated in figures of horse-power as advertised by the man-  
12 ufacturer, the name, age, residence and business address of the  
13 owner of such motor vehicle, and the name of the county in which  
14 he resides; *provided*, that if such motor vehicle is a taxi-cab or  
15 motor truck, or motor vehicle used or to be used solely for com-  
16 mercial purposes, the applicant shall so certify, and state in the  
17 application the factory rated useful load capacity thereof.

Sec. 130. Upon receipt of any application for registration of  
2 a motor vehicle, as provided in the preceding section, the commis-  
3 sion shall cause such application to be filed, and upon the payment  
4 of the fee hereinafter provided, the commission shall assign to  
5 such vehicle a distinctive number and deliver to the owner a  
6 certificate of registration and number plate or plates as herein  
7 provided; and in the event of loss or destruction the owner may  
8 obtain a duplicate of such plates upon the payment of a fee of  
9 one dollar, and giving satisfactory evidence of such loss or de-  
10 struction. No motor vehicle shall be driven upon the highways  
11 of this state without the proper license or registration tag fastened  
12 thereon; an automobile shall be required to carry two such tags,  
13 and any other motor vehicle required to be licensed under the  
14 provisions of this chapter shall carry one such license tag.

Sec. 131. The commission may refuse to license any vehicle  
2 which is so constructed as to be a menace to the safety of its occu-  
3 pants or to the traveling public, or for the violation of any of the  
4 provisions of this chapter; and may revoke any license already  
5 granted for like reason.

Sec. 132. The annual registration fee for issuing such cer-  
2 tificate and furnishing such plates for all motor vehicles other  
3 than motor cycles shall be ten dollars for each vehicle weighing  
4 two thousand pounds or less, and an additional twenty-five cents for  
5 each one hundred pounds of weight, or fraction thereof, in excess  
6 of said two thousand pounds.

Sec. 133. For each set of registration tags issued to a man-  
2 ufacturer or dealer in motor vehicles other than motor cycles,  
3 a fee of fifteen dollars per year shall be charged. Such tags shall  
4 be marked "Dealer's Tag" and shall be interchangeable among  
5 the cars owned and used by such manufacturer or dealer during  
6 the fiscal year in which issued; but no such dealer's tag shall be  
7 used on any car engaged in transportation for hire, or livery busi-

8 ness. The annual license fee for motor-bicycles, tricycles and  
9 motorcycles shall be five dollars, and for each dealer's tag issued  
10 to a dealer handling such motor bicycles, tricycles and motorcycles,  
11 a like fee. Tags issued to such dealers shall be marked "Dealer's  
12 Tag", and shall be interchangeable as in the case of dealer's tags  
13 for other motor vehicles.

Sec. 134. All number plates, markers or tags shall show the  
2 name of the state, license number and year for which issued, and  
3 shall be of a distinctly different color each year; and all vehicles  
4 requiring one number plate or tag shall have the same attached  
5 to the rider's or driver's seat in such a manner as to be in full  
6 view at all times; and all vehicles requiring two number plates  
7 or tags shall have one in front and one in the rear, so attached  
8 as to be in plain view day and night; and all number plates shall  
9 be kept clean so as to be readable without any obscurity.

Sec. 135. Upon the transfer of ownership, destruction or  
2 permanent removal from the state of any motor vehicle, its certifi-  
3 cates of registration and the right to use the number plates or  
4 markers aforesaid shall expire; *provided*, that the commission shall  
5 permit the person to whom such plates or markers were originally  
6 issued either to surrender the same upon terms for refund, based  
7 on quarterly periods of use, or use the same on a new car by  
8 paying a transfer fee of one dollar, with an adjustment of addi-  
9 tional payments or refund, on a quarterly basis. And the com-  
10 mission shall make proper and equitable regulations for the ex-  
11 change or transfer of registration certificates and markers, and  
12 for the temporary use of any such plates or markers pending  
13 application to the commission for a transfer.

Sec. 136. Any foreign vehicle bearing legal native tag or  
2 mark showing that it has complied with the laws of the state or  
3 country from which it came, relating to the registration and  
4 licensing of vehicles, may use the roads and streets of this state  
5 without obtaining additional license or registration within this  
6 state, for such a period as the state or country from which such  
7 vehicle came permits vehicles from other states to remain within  
8 that state or country without re-licensing therein; *provided*, such  
9 state or country extends like consideration to vehicles from this  
10 state.

Sec. 137. All fees collected under the provisions of this act  
2 shall be paid by said state road commission to the state auditor,  
3 and by him placed to the credit of the state road fund.

*Motor Vehicles Used for Transportation of Passengers and Freight for Hire.*

Sec. 138. It shall be the duty of each owner of a motor vehicle to be used in public transportation of passengers for hire, or in public transportation of freight or merchandise for hire, or in the transportation of private merchandise or freight over any wholesale or retail delivery district, operating over state aid, federal aid, main county and district roads, or over such roads and the streets and roads within the corporate limits of any city or town, in this state, to procure a permit from the state road commission to operate said vehicle over said roads and streets, and to pay into the state treasury, to the credit of the state road fund, such annual privilege tax therefor as may be prescribed by said state road commission for the privilege of operating such motor vehicle over said roads and streets; *provided*, that the requirements of this section shall not apply to such motor vehicles when used for such transportation purposes wholly within the limits of any incorporated city or town. Application for such permit shall be made by such owner or operator on a blank to be prepared and furnished by the state road commission, and shall set forth all such facts as to the business to be carried on, the vehicles to be used, distances, routes, schedules, and such other information as the state road commission may require.

Sec. 139. The state road commission shall have full power to make and enforce rules and regulations for the protection of all streets and roads from unnecessary damage by the operation of such vehicles, and shall levy and collect such privilege tax on each permit granted, as will lay upon the owners or operators of each class of such vehicles an equitable share of the burden of cost for the up-keep and maintenance of such streets and roads. In carrying out the purposes of this act, the state road commission shall classify such motor vehicles and fix the amount of the privilege tax to be paid for a permit on vehicles of each class and shall prescribe rules and methods for the computation of such tax.

Sec. 140. It shall be deemed a misdemeanor for any person to operate without such permit any vehicle coming within the classification fixed by said commission as requiring such permit, and any person found guilty thereof shall be fined not less than ten and not more than one hundred dollars for each offense. The state road commission shall have the power to assess and collect

7 fines and penalties from holders of permits who fail or refuse to  
8 conform to the rules and regulations of said commission, and may  
9 revoke the permit of any person who violates such rules and regu-  
10 lations.

Sec. 141. The state road commission shall devise a system of  
2 keeping a separate account of all moneys collected and remitted  
3 to the auditor under the provisions of section eight, and shall  
4 on or before the first day of January and July of each year, pre-  
5 pare a statement showing the amount so collected, for the use  
6 of state aid, federal aid, main county and district roads, and  
7 streets and roads within each county, district and incorporated  
8 city and town, within this state, and said state road commission  
9 shall from time to time cause such roads and streets to be in-  
10 spected, and if the respective authorities have kept such roads  
11 and streets in repair and said commission shall certify such facts  
12 to the auditor who shall upon receipt of such certificate transmit  
13 his warrant, drawn upon the treasurer, payable to the proper  
14 town, city or county official, for ninety per cent. of the amount  
15 so collected for the use of such streets or roads other than state  
16 aid and federal aid roads, within the respective jurisdiction,  
17 to be used in repair and maintenance of streets and roads upon  
18 which such motor vehicles for the transportation of passengers  
19 or freight were operated. The amount so to be distributed for  
20 the maintenance of streets and roads within any county, dis-  
21 trict, incorporated city, or town, shall be computed upon a pro rata  
22 mileage basis, in accordance with rules to be prescribed by the  
23 state road commission.

24 All moneys collected from the licensing of such vehicles and  
25 credited under said rules to their operation over state aid, federal  
26 aid, and inter-county roads, including ten per cent. of all moneys  
27 collected for the use of main county and district roads, and streets  
28 and roads within incorporated towns and cities, shall be paid into  
29 a general state road fund, to be used as the state road commission  
30 may direct in the maintenance and repair of state aid, federal  
31 aid, and inter-county roads.

Sec. 142. The privilege tax provided for in section one hun-  
2 dred and thirty-nine of this act, shall be levied in addition to the  
3 prescribed regular state tax on motor vehicles, and no other license  
4 fee or tax shall be charged by the state or any municipality or  
5 other political subdivision thereon, except the regular property tax,  
6 with respect to such vehicles and their operation.

*Toll Roads and Bridges.*

Sec. 143. When any joint stock company incorporated by 2 this state shall have been formed to construct a road or bridge, 3 wholly or in part in any county, the county court of such county 4 may subscribe for, take, hold and dispose of stock in such company 5 under the regulations, and subject to the restrictions prescribed 6 by law.

Sec. 144. No tolls other than for maintenance of such 2 road or bridge shall be charged or collected for traveling upon any 3 of the public roads or over any of the public bridges of this state, 4 except those which are now collecting such tolls according to the 5 laws of this state.

Sec. 145. A collector of tolls on any turnpike authorized by 2 law to receive tolls, may refuse to allow any person, animal or 3 vehicle to pass on such road until the lawful toll is paid. If any 4 person, animal or vehicle pass a toll gate on such roads, or other 5 proper place for payment, without paying or tendering the toll, or 6 if any person misrepresent the distance he may have traveled on 7 such road, such person in possession of such animal or vehicle shall 8 be fined not exceeding twenty dollars, and the like penalty shall 9 be incurred when any person, animal or vehicle subject to toll 10 is passed through any private gate, bars or fence for the purpose 11 of evading the payment of toll. Whoever shall defraud or at- 12 tempt to defraud the company by evading or attempting to evade 13 the payment of toll for crossing a bridge, or aid another to do 14 so, shall for every such offense, upon conviction, be fined ten dol- 15 lars.

16 A gatekeeper on any toll bridge shall keep such money of 17 small denomination on hand, as may reasonably be required in 18 the ordinary course of the business, for making change for pas- 19 sengers, and it is the duty of passengers to offer money for passage 20 of a denomination as nearly as possible to the amount charged 21 for such passage. This section shall not apply to persons now 22 having a lawful right to pass on such roads without the payment 23 of toll.

Sec. 146. On all turnpikes now owned wholly or in part by 2 individuals or corporations in this state tolls not exceeding the 3 following rates may be received in every section of five miles 4 which has been completed, to-wit: For a single horse, mare, 5 gelding, mule, jack or jennet, three cents; and for every horse,

6 mare, gelding, mule, jack or jennet, in addition, one cent, if the  
7 same be not hitched to any vehicle; for twenty sheep or hogs,  
8 five cents; and for twenty cattle, ten cents, and so on in propor-  
9 tion for a greater or less number; for a riding carriage, whether  
10 two or four wheeled, if the road be a macadamized road or a brick  
11 road or some other permanently improved road, ten cents; but if  
12 not macadamized or not a brick road or other permanently im-  
13 proved road, five cents; and for a cart or wagon, if the tires of  
14 the wheels are less than four inches wide, three cents for each  
15 animal drawing it. For a fractional part of a section, tolls may  
16 be received bearing the same proportion to the tolls for a full sec-  
17 tion that the said fractional part bears to such full section; *pro-*  
18 *vided*, that when the toll from the fractional part would be less  
19 than one cent, they may charge and receive one cent; *provided*,  
20 *further*, that all coaches, carriages, vehicles and horses used by per-  
21 sons in going to and from divine worship, funerals, and grist mills  
22 for the purpose of having grinding done, shall be exempt from  
23 tolls.

Sec. 147. The said tolls may be demanded and collected of  
2 every person passing the toll gate, whether he shall have traveled  
3 the whole or only a part of the section or fractional part; *pro-*  
4 *vided*, that the said toll road or turnpike shall be made so as to  
5 conform to the following specifications: All roads or turnpikes  
6 shall have a smooth road bed of not less than fifteen feet in width,  
7 exclusive of ditches, and shall be well side-ditched and drained.  
8 All cross-drains shall be under-drained or riprapped when nec-  
9 essary. All running streams requiring bridges of fifty feet in  
10 length or less, and such others as the county court of the county  
11 may direct, shall have a bridge or culvert across the same suffi-  
12 ciently strong and sufficiently wide to insure safe passage to all  
13 kinds of vehicles; *provided, further*, that no toll shall be collected  
14 unless said toll road or turnpike be constructed in accordance with  
15 this section, but no such tolls shall hereafter be imposed and col-  
16 lected in Ohio county, Jefferson county or in Brooke county; and  
17 *provided, further*, that any citizen of this state may bring an ac-  
18 tion or suit to prevent the unlawful collection of such tolls.

Sec. 148. Whenever the collection of tolls for traveling  
2 over or upon any toll road or turnpike has been abandoned by  
3 any county, person, company or corporation, or is prevented by  
4 law or by final order of any court having competent jurisdiction,  
5 or whenever any of the main public roads are improved under



6 the provision of section twenty-five of this act, it shall be the duty  
7 of the county court of the county wherein such road or turnpike,  
8 or any part thereof, is located, to keep the same macadamized and  
9 piked and in good repair, and to pay for the work and all  
10 expenses incident thereto out of the county road fund.

Sec. 149. Whenever complaint in writing on oath shall be  
2 made to the county road engineer of the county in which there  
3 shall be, in whole or in part, any toll bridge, belonging to any  
4 person or corporation, representing that such toll bridge has be-  
5 come, or is unsafe for public use, the county road engineer shall  
6 forthwith cause to be made a careful and thorough examination of  
7-8 such toll bridge, and if upon examination thereof, he shall be of  
9 the opinion that the same has, from any cause, become danger-  
10 ous or unsafe for public use, he shall thereupon give immediate  
11 notice to the owner of such toll bridge or to any agent of such  
12 owner acting as the agent, in respect to such bridge, that he has  
13 on complaint made, carefully and thoroughly examined the bridge  
14 and found it to be unsafe for public use. Such owner shall there-  
15 upon immediately commence repairing the same and cause such  
16 repairs to be made within one week from the day of such notice  
17 given, or within reasonable time thereafter as may be necessary  
18 to thoroughly repair the bridge, so as to make it in all respects  
19 safe and convenient for public use. For neglecting to take proper  
20 and effective measures to repair such bridge, its owner shall for-  
21 feit fifty dollars and shall not demand or receive any toll for using  
22 the same until it shall be fully repaired. The county road engi-  
23 neer shall cause such repairs to be made and the owners of the  
24 bridge shall be liable for the expense thereof and for the service  
25 of a foreman at three dollars per day, and upon the neglect or re-  
26 fusal to pay the same upon presentation of an account thereof, the  
27 county road engineer may recover the same by action in the name  
28 of the county.

Sec. 150. Any person desiring the privilege of erecting a  
2 wharf at or on any public landing, may present a petition to the  
3 court of such county for such privilege; but notice of the petition,  
4 or his intention to present the same, must be posted at the front  
5 door of the court house and at three public places in the district  
7 before the petition is acted upon. The said court upon petition  
8 and notice, may grant such privilege upon such conditions and  
9 limitations, and fix such rates and charges for wharfage as it  
10 seems fit. But it may at any time afterwards, upon ten days

11 notice to the owner of such wharf, or his tenants, revoke such  
12 privilege or alter such conditions or limitations, or regulate the  
13 rates of charges.

Sec. 151. Any person owning land upon a water course may  
2 erect a wharf on the same, or a pier or bulkhead in such water  
3 course, opposite his land, so that the navigation be not obstructed  
4 thereby, and so that such wharf, pier or bulkhead shall not other-  
5 wise injure the private rights of any person. But the county  
6 court of the county in which such wharf, pier or bulkhead shall  
7 be, after causing ten days' notice to be given to the owner there-  
8 of, of its intention to consider the subject, if it be satisfied that  
9 such wharf, pier or bulkhead obstructs the navigation of the  
10 water course, or so encroaches on any public landing as to pre-  
11 vent the free use thereof, may abate the same.

#### *General Provisions.*

Sec. 152. So far as any road, bridge, or public landing be-  
2 longs to or is under the care or control of a county, it shall be  
3 the duty of the county court to cause the same to be kept in good  
4 repair and condition. And when any county acquires the interest  
5 of the state, or any other stockholder in any road, bridge or pub-  
6 lic landing, under either of the two preceding sections, the county  
7 court of such county shall have all powers, rights and privileges,  
8 perform all the duties and be subject to the same liabilities that  
9 were vested in, held, exercised or required to be performed by or  
10 imposed upon the state or other former stockholders therein.

Sec. 153. Any person who sustains an injury to his person  
2 or property by reason of a public road, bridge, street, sidewalk  
3 or alley in any incorporated city, town or village, being out  
4 of repair, may recover all damages sustained by him by reason  
5 of such injury, in an action on the case in any court of compe-  
6 tent jurisdiction, against the county court, city, town or village  
7 in which such road, bridge, street, sidewalk or alley may be,  
8 except that such city, town or village shall not be subject to such  
9 action, unless it is required by its charter to keep the road, bridge,  
10 street, sidewalk or alley therein, at the place where such injury  
11 is sustained, in repair. If it is not so required, the action and  
12 remedy shall be against the county court. When judgment is  
13 obtained against the county court, such court shall levy upon the  
14 taxable property of the district in which such injury is sustained,

15 a sufficient sum to pay such judgment with interest and costs,  
16 and the cost of collecting the same, and when it is obtained  
17 against a city, town or village, the proper corporate authorities  
18 thereof shall lay such levy on the property subject to taxation in  
19 such city, town or village. And in case of a failure by either  
20 so to do, or to pay the judgment as required by law, the circuit  
21 court of the county shall compel the laying of such levy, or the  
22 payment of such judgment, or both, by mandamus. The sum-  
23 mons in such case against the county, shall issue against such  
24 court and be served as provided by chapter thirty-nine of the  
25 code of West Virginia, and if the case be against a city, town or  
26 village, it shall issue against the same by its corporate name and  
27 be served on the mayor, recorder, treasurer or two councilmen.

Sec. 154. Any person who may be injured as aforesaid by  
2 reason of a turnpike, road or bridge, belonging to any com-  
3 pany or person, or to any county in its corporate capacity, being  
4 out of repair, may recover all damages sustained by him by reason  
5 of such injury, in the manner prescribed in the preceding section,  
6 against such company, person or county, or against the lessee for  
7 the time being of any such road or bridge. Any judgment  
8 against a city, town or village or county under this section,  
9 may be enforced by the circuit court by writ of mandamus. The  
10 enactment of this section shall not affect any action or suit now  
11 pending for any such company as is mentioned herein, but the  
12 same may be prosecuted and judgment enforced with like effect,  
13 as if this section had not been enacted.

Sec. 155. The county court of a county may, upon petition,  
2 permit gates to be erected across any county road therein, or cause  
3 any gate erected across a county road to be removed, but notice of  
4 every petition for that purpose must be first posted at the front  
5 door of the court house, and at three public places in the vicinity  
6 of the gate proposed to be erected or removed, at least three weeks  
7 before the meeting at which such order is made.

Sec. 156. The owner or occupier of every dam shall, as  
2 far as the road passes over the same, keep such dam in good order  
3 at least fourteen feet wide at the top; and also keep in good  
4 order a bridge of like width over the pier-head, flood gates or  
5 any waste cut through or around the dam; and shall erect and  
6 keep in good order, a strong railing on both sides of such bridge  
7 or dam. If he fails to comply with this section he shall pay a  
8 fine for every twenty-four hours failure, of two dollars, but the

9 fines shall not in any one prosecution exceed fifty dollars; and  
10 where a mill dam is carried away or destroyed, the owner or occu-  
11 pier thereof shall not henceforth be subject to such fine until one  
12 month after the mill shall have been put in operation. And every  
13 owner of a dam hereafter built, which dam, by the backing of  
14 water or otherwise, obstructs any public road, or if any race or  
15 ditch connected therewith shall materially obstruct any such road,  
16 shall, whenever it may be necessary for the safe and convenient  
17 crossing of the same, or the pond created thereby, build and keep  
18 in repair over and across the said dam, pond, race or ditch, a  
19 bridge of like kind and description as hereinbefore specified, and  
20 for the failure to do so every such owner or occupier shall be fined  
21 as hereinbefore provided.

Sec. 157. Any person owning land upon a water course  
2 may erect a wharf on the same, or a pier or bulkhead in such  
3 water course, opposite his land, so that the navigation be not ob-  
4 structed thereby, and so that such wharf, pier or bulkhead shall  
5 not otherwise injure the private rights of any person. But the  
6 county court of the county in which such wharf, pier or bulkhead  
7 shall be, after causing ten days' notice to be given to the owner  
8 thereof of its intention to consider the subject, if it be satisfied  
9 that such wharf, pier or bulkhead obstructs the navigation of the  
10 water course, or so encroaches on any public landing as to prevent  
11 the free use thereof, may abate the same.

Sec. 158. Any person desiring the privilege of erecting a  
2 wharf at or on any public landing, may present a petition to the  
3 court of such county for such privilege; but notice of the petition,  
4 or his intention to present the same, must be posted at the front  
5 door of the court house and at three public places in the district  
6 in which it is proposed to erect such wharf, three weeks at least  
7 before the petition is acted upon. The said court upon petition  
8 and notice, may grant such privilege upon such conditions and  
9 limitations, and fix such rates and charges for wharfage as it  
10 seems fit. But it may at any time afterwards, upon ten days  
11 notice to the owner of such wharf, or his tenants, revoke such  
12 privilege or alter such conditions or limitations, or regulate the  
13 rates of charges.

Sec. 159. The county court of any county in the state of  
2 West Virginia, through which the Shenandoah river runs, may  
3 establish on and across said river not more than three free ferries;  
4 and such ferries shall be provided with sufficient landings and

5 boats, and such attendants of said boats as may be necessary to  
6 accommodate public travel. The court shall pay all expenses of  
7 establishing such ferries, providing and maintaining the necessary  
8 boats and the necessary attendants thereof out of the county treas-  
9 ury.

Sec. 160. Delinquent lists of taxes uncollected under the  
2 provisions of this act shall be returned and disposed of as school  
3 and other district levies are returned and disposed of according to  
4 law.

Sec. 161. It shall be the duty of the owner or occupant of  
2 land situated along the public road, to remove all obstructions  
3 within the bounds of the road which have been placed there either  
4 by himself or by his consent.

Sec. 162. It shall be the duty of all telephone, telegraph,  
2 electric railway or other electrical companies, to remove and re-  
3 set, telephone, telegraph, trolley and other poles and the wires  
4 connected therewith when the same constitute obstructions to  
5 the use of the public road by the traveling public.

Sec. 163. It shall be the duty of all pipe line companies  
2 whose lines shall have been laid across or along any public road  
3 in this state for the purpose of transporting any natural gas, oils,  
4 or water or any other substance, to fill up all excavations made  
5 thereby and to make the public road in all respects as good as it  
6 was before the excavation was made and to keep the same. If  
7 such obstructions are not removed or such poles or wires are not  
8 removed, or re-set, or such excavations are not properly filled and  
9 maintained, within thirty days after the serving of a notice, by  
10 the county road engineer personally or by mail upon such owner  
11 or occupant or upon such company at its principal place of busi-  
12 ness or an agent of the company within the county, requesting the  
13 same to be done, the county road engineer shall cause such ob-  
14 structions to be removed and such poles and wires to be re-set  
15 and such repairs on the excavation to be made as may be neces-  
16 sary to place the same in its original condition. The expenses  
17 thereby incurred shall be paid, in the first instance, out of the  
18 moneys levied and collected and available therefor and the amount  
19 thereof shall be charged against such owner, occupant or company  
20 and levied and collected, as provided in section one hundred and  
21 sixty-four of this chapter.

Sec. 163-a It shall be unlawful for the county court of any  
2 county in this state or any other tribunal, acting in lieu thereof,

3 to grant any permit or franchise to any corporation, individual or  
4 person in this state, or to any foreign corporation, the right to op-  
5 erate or maintain any gas main line or lines along any of the pub-  
6 lic roads or highways in this state, with a diameter exceeding four  
7 inches; *provided, however*, that this act shall not prevent any oil  
8 company or other person transporting oil or gasoline along the  
9 public highways of this state, and that nothing herein contained  
10 shall be construed to give such company, an unlimited franchise  
11 without paying to the land owners through whose lands such road  
12 runs or passes, the usual and customary right-of-way paid therefor,  
13 or to be paid to the land owners for such right-of-way; such  
14 grant, if made, shall only be construed to give such company or  
15 person the right to use the easement in said public road and not  
16 to vest any right of eminent domain therein. The purpose of  
17 this act being to secure to the people of this state, the free and un-  
18 limited use of the public roads without let or hinderance or ob-  
19 struction from any one.

Sec. 164. The county road engineer or supervisor shall as-  
2 sess the costs of removing obstructions and removing and reset-  
3 ting poles and wires pursuant to sections one hundred and sixty-  
4 three and one hundred and sixty-four of this act, against the  
5 owner, occupant or company neglecting to perform their duty  
6 imposed by the sections above referred to.

7 Such county road engineer or supervisor shall serve person-  
8 ally or by mail, upon such owner, occupant or company, a written  
9 notice stating that, at the time and place specified therein, he or  
10 his agent will assess such costs against the owner, occupant or  
11 company neglecting to perform such duty. Such notice shall be  
12 served at least ten days previous to the time specified therein. If  
13 directed against a company, it may be served upon it at its prin-  
14 cipal place of business or upon any agent of the company within  
15 the district or county. At the time and place so specified he shall  
16 hear the parties interested and shall thereupon complete the as-  
17 sessment, stating therein the names of the owner, occupant or  
18 company, the amount assessed against him or it and shall re-  
19 turn such assessment to the county court of the county who shall  
20 cause the amount stated therein to be levied against the owner, oc-  
21 cupant or company, and any uncollected tax shall be a lien upon  
22 the property affected. The amount so levied shall be so collected  
23 as other taxes levied by such court, and shall be paid into the dis-

24 trict road fund to be applied in re-imbursing the fund from which  
25 such cost was defrayed.

Sec. 165. The circuit court of the county in which is any  
2 public road, or any portion thereof, taken for railroad purposes  
3 by any other corporation than a street railway company, unless  
4 such public road or portion thereof is in an incorporated city,  
5 town or village which has the control of all its roads, streets and  
6 alleys, or has been constructed since such railroad, may upon  
7 petition of any party interested, served upon said company as any  
8 other civil process, appoint a committee of three to inquire  
9 whether such public road or portion thereof is unsafe for travel  
10 by reason of such railroad, or whether an alteration of such public  
11 road or the construction of a new public road is thereby rendered  
12 necessary for the public safety and convenience; and such com-  
13 mittee shall view the ground where such danger is complained  
14 of and shall also give written notice both to the parties making  
15 the complaint and to the parties complained of, or their agents  
16 in the county, of an opportunity to be heard, not less than fifteen  
17 days after the service upon such parties of a copy of such notice,  
18 and after the hearing shall report thereon to said court which  
19 may make any proper order in the premises; and if it shall order  
20 any such alteration or construction, and said company neglect  
21 or refuse to comply with such order, the county court of the  
22 county shall alter or construct such public road and may recover  
23 the expense thereof from said company.

Sec. 166. The county road engineer may, by an order in  
2 writing authorize the owners of property adjoining the public  
3-4 roads, at their own expense to locate and plant shade trees, fruit  
5 trees or nut bearing trees suitable for shade along public roads.  
6 Such trees not to be planted within less than fifteen feet of the  
7 center of the road. Such trees shall be planted at least sixty  
8 feet apart and according to plans and regulations sent out by the  
9 state commissioner of public roads.

Sec. 167. The county road engineer shall have the full care  
2 and control of all such public shade trees in his county, except  
3 within the limits of an incorporated city, town or village, and  
4 shall prosecute complaints for malicious injury to, or unlawful  
5 acts concerning public shade trees.

Sec. 168. The county road engineer may authorize the  
2 owner or occupant of lands to construct and maintain a water-  
3 ing trough beside the public road to be supplied with fresh water,

4 the surface of which shall be at least two feet above the level of  
5 the ground and easily accessible for horses with vehicles.

6 The county road engineer shall, annually give a written order  
7 upon the county court of the county for two dollars to be paid  
8 out of the road fund of the district, to such owner or occupant  
9 for maintaining such watering trough and keeping the same sup-  
10 plied with fresh water.

Sec. 169. The owner or tenant of lands fronting on the pub-  
2 lic road shall construct and keep in repair, all approaches or drive-  
3 ways to and from the public road, under the direction of the  
4 county road engineer and it shall be unlawful for such owner or  
5 tenant to fill up any ditch, or place any material of any kind or  
6 character in any ditch so as in any manner to obstruct or inter-  
7 fere with the purposes for which it was made.

Sec. 170. Every public road official who is now in office or  
2 who may hereafter be in office by virtue of this chapter shall, at  
3 the expiration of his term of office, pay over to his successor all  
4 the money in his hands by virtue of his office, taking duplicate re-  
5 ceipts therefor, one of which shall be filed with the clerk of the  
6 county court. If he fail to do so he shall be liable to double the  
7 amount in his hands, to be recovered by the county before any  
8 justice or court having jurisdiction.

Sec. 171. No trolley or electrical railway shall be con-  
2 structed upon the road bed of any of the public roads of this state,  
3 except the rails of the same be of the flat or 'L' shaped type  
4 so that wagons and other vehicles may with safety travel thereon.

Sec. 172. Every railroad company heretofore or hereafter  
2 incorporated which has by the building of their road, or other-  
3 wise, obstructed, or shall hereafter obstruct any public road, shall,  
4 as far as possible, put the road so obstructed in as good condition  
5 at every crossing of the railroad as it was before the obstruction.

6 Every railroad company which has changed, or shall hereafter  
7 change the grade or location of any public road, shall put the  
8 same in as good repair and on as practical a grade as such public  
9 road was before its change; and if said road, after construction,  
10 becomes damaged or injured, or is caused to be damaged or in-  
11 jured by reason of the construction of said railroad, the said rail-  
12 road company shall be liable for all damages occasioned thereby,  
13 and for all costs incurred in repairing and keeping in repair the  
14 roads so damaged or injured as aforesaid.



Sec. 173. Whoever shall obstruct or cause to be obstructed, 2 any walk or driveway to, or upon a bridge, or shall loiter upon 3 or about the entrance upon the same, or in any wise interfere with 4 the gatekeeper or passengers upon a bridge, shall, upon conviction, 5 be fined ten dollars.

Sec. 174. If any person without authority from the super- 2 intendent of said road, or person acting as agent thereof, shall re- 3 move, injure or deface any of the milestones or posts, parapets, 4 walks, culverts, bridges, masonry of any kind, gates or toll houses 5 belonging to said road authorized by law to receive tolls, or shall 6 turn any stream of water from its regular course toward or upon 7 such road, so as to injure the same, or shall obstruct any of 8 the gutters, drains or culverts of such road, or shall connect any 9 public or private road with such road, without securing such road 10 from injury by reason of such connection, or by the flow of water 11 at the place of such connection, or shall place or leave on such 12 road any earth, ashes, stone or other obstruction to the travel 13 and use of such road, or shall so place or leave thereon any vehicle 14 as to interfere with such travel, or shall fastlock or rough lock 15 either of the wheels of any vehicles upon a part of the road not 16 covered with ice, except the same rest on an iron shoe at least 17 six inches wide, he shall be deemed guilty of a misdemeanor, and 18 upon conviction thereof shall be fined not less than ten dollars 19 nor more than fifty dollars.

Sec. 175. Obstructions within the meaning of this chapter 2 shall include trees which have been cut or have fallen either on 3 adjacent land or within the bounds of the public roads in such 4 manner as to interfere with the travel therein; limbs of trees 5 which have fallen within the public road or branches of trees 6 overhanging the public road, so as to interfere with travel therein; 7 land slides, carcasses of dead animals, lumber, wood or logs piled 8 within the bounds of the public road, machines, vehicles, and im- 9 pliments abandoned or habitually placed within the bounds of the 10 public road, fences, buildings or other obstructions within the 11 bounds of the public road, earth, stone or other material placed in 12 any ditch or water-way along the public road; telegraph, telephone, 13 trolley or other poles and wires connected therewith, erected on the 14 public road in such a way as to interfere with the use thereof, or 15 any other thing which will prevent the easy, safe and convenient 16 use of such public road for public travel.

Sec. 176. Any person who shall kill a tree and leave it standing within a distance of fifty feet of any public road, or without lawful authority, shall wilfully break down or destroy any bench or log placed across a stream for the accommodation of travelers, or destroy, injure, deface or alter any guideboard, milestone or milepost, or obstruct or injure any road or any ditch made for the purpose of draining a road, or injure any statue, monument, chair or other seats or any lamp or lamp posts, constructed or being in any public road, space or park, or any railing or fence erected for public use or enclosing any such space or park, or any walk or crossing for foot passengers, or any sewer, curbing or paved gutter, or throw or place, or cause to be thrown or placed upon any highway any tacks, nails, scrap metal, bottles, glass, crockery, wire or other substance injurious to the feet of animals or the tires of vehicles, shall be guilty of a misdemeanor and upon conviction be fined not less than ten nor more than fifty dollars.

Sec. 177. Any person who shall drive or ride on or over a bridge faster than a walk shall be fined five dollars. The county court of any county may prescribe, by an order, what number of stock of any kind may be driven over any bridge within their county at any one time; but in every such case they shall cause a printed copy of such order to be kept posted in a conspicuous place at every bridge to which the same is applicable.

Every person violating any such order, posted as aforesaid, or who shall tear down, alter or deface the same, except when ordered by such court to do so, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten nor more than fifty dollars.

Sec. 178. Any person who shall use on any public road not covered with ice a vehicle with a chained wheel, unless the same rests upon an iron shoe, at least six inches wide, shall be fined not more than five dollars. Every person who shall draw upon the public roads any log or stone with the end thereof dragging on the ground so that the road shall be injured thereby and shall not immediately put such road in as good repair as before, shall be fined not more than five dollars, in excess of the cost of repair of said road.

Sec. 179. Justices of the peace shall have concurrent jurisdiction with the circuit court to enforce the misdemeanor penalties herein prescribed.

Sec. 180. The county court shall see that all its appointees

2 and employees, faithfully perform their respective duties, obey  
3 its orders and expend all moneys and labor as ordered and directed  
4 by the court and as required by this act.

Sec. 181. The county court shall carry out all promises, per-  
2 form all duties, and discharge all obligations imposed upon it by  
3 any of the provisions of this act, the same as if each were specifi-  
4 cally enjoined.

Sec. 182. The violation of any of the provisions of this act  
2 for which no punishment is hereinbefore specifically provided,  
3 or the committing of any act herein declared to be unlawful and  
4 for which no punishment has been specifically provided, shall be  
5 deemed a misdemeanor, and any person found guilty thereof shall  
6 be punished by a fine of not less than five nor more than one  
7 hundred dollars, or by imprisonment in the county jail not ex-  
8 ceeding sixty days, or by both such fine and imprisonment, at  
9 the discretion of the court.

Sec. 183. Chapters forty-three, forty-three-*a* and forty-  
2 three-*b*, and sections forty-four and one hundred and four of chap-  
3 ter thirty-two of the code of one thousand nine hundred and thir-  
4 teen, and chapter eight of the acts of the legislature of one thous-  
5 and nine hundred and fifteen, second extraordinary session, to-  
6 gether with all other acts and parts of acts coming within the  
7 purview of this act and inconsistent herewith, are hereby repealed;  
8 *provided, however*, that this act shall not be construed to repeal or  
9 affect any local act or acts heretofore passed relating to roads,  
10 streets, alleys, bridges or public landings, and not herein speci-  
11 fically referred to, amended or re-enacted.

## CHAPTER 67

(Senate Bill No. 286.)

AN ACT to amend and re-enact sections fifteen, sixteen, seventeen,  
eighteen, nineteen, twenty, twenty-one and twenty-four of chap-  
ter thirty-one of the code; serial sections of the code of one  
thousand nine hundred and thirteen, one thousand and seventy-  
three, one thousand and seventy-four, one thousand and seventy-  
five, one thousand and seventy-six, one thousand and seventy-  
seven, one thousand and seventy-eight, one thousand and  
eighty and one thousand and eighty-three, relating to the sale of  
real estate for delinquent taxes and to the redemption thereof  
from such sales and deeds to purchasers thereof:

[Passed February 23, 1917. In effect ninety days from passage. Approved by the Governor March 3, 1917.]

SEC.	SEC.
15. When and how land sold may be redeemed.	19. Purchaser may secure deed for real estate, when; form of notice; fee; form for deed.
16. May be paid to clerk of county court.	20. Valid deed; fee.
17. What purchaser of undivided interest may do.	21. Clerk of county court and deputy prohibited from purchasing; penalty.
18. What purchaser of entire tract may do.	24. Where two or more tracts charged and sold, what deed or deeds may be made.

*Be it enacted by the Legislature of West Virginia:*

That sections fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one and twenty-four of chapter thirty-one of the code; serial sections of the code of one thousand nine hundred and thirteen, one thousand and seventy-three, one thousand and seventy-four, one thousand and seventy-five, one thousand and seventy-six, one thousand and seventy-seven, one thousand and seventy-eight, one thousand and eighty and one thousand and eighty-three, be amended and re-enacted so as to read as follows:

Section 15. The owner of any real estate so sold, his heirs or assigns, or any person having a right to charge such real estate for a debt, may redeem the same by paying to the purchaser, his heirs or assigns, within one year from the sale thereof, the amount specified in the receipt mentioned in the tenth section of this chapter and such additional taxes thereon as may have been paid by the purchaser, his heirs, or assigns, with interest on said purchase money, and taxes at the rate of twelve per centum per annum from the time the same may have been so paid, and such additional expenses as may have been incurred by such purchaser before the expiration of said one year in procuring survey and giving notice as provided in section nineteen of this chapter. And the person in whose name any such real estate was returned delinquent and sold, his heirs, devisee and personal representative and the grantee or vendee of such person in whose name such real estate was so returned delinquent and sold, his heirs, devisee and personal representative shall have the right at any time before the maturing of the notice provided for in section nineteen of this chapter to so redeem any real estate so sold upon paying to the purchaser the amount specified in the receipt mentioned in the tenth section of this chapter and such additional taxes thereon as may have been paid by the purchaser, his heirs or assigns, and such additional expenses of survey and notice, as aforesaid, as may have been incurred, with interest

25 thereon from the time the same was so paid by such purchaser  
26 at the rate of twelve per centum per annum.

Sec. 16. What is authorized to be paid by the preceding  
2 section may be paid by such person as is mentioned therein,  
3 within the time therein specified, to the clerk of the county court  
4 of the county, in any case in which the purchaser, his heirs or  
5 assigns, may refuse to receive the same, or may not reside, or  
6 cannot be found in the county; and a receipt therefor, showing  
7 when and by whom the payment was made, and the amount paid  
8 shall be signed by the clerk, and a duplicate thereof filed by him  
9 in his office; but if the purchaser, his heirs, or assigns, dispute  
10 the right of any one so paying money to the clerk to redeem the  
11 real estate, for the redemption of which such money is paid, he or  
12 they may, within one year after such payment, give to such per-  
13 son, or to his heirs, executors, or administrators, a notice in  
14 writing of such dispute, and requiring him or them to appear  
15 before the circuit court of the county on a day to be named in the  
16 notice, and prove his or their right to redeem the said real estate.  
17 Such notice shall be served at least ten days before that on which  
18 it is returnable, and if the party served therewith fail to appear,  
19 or if he appear and fail to prove to the satisfaction of the court  
20 that he has the right to redeem said real estate under the pro-  
21 visions of the next preceding section, the court shall make an  
22 order according to the facts and also directing the clerk of the  
23 county court to execute to the purchaser, his heirs or assigns, a  
24 deed for the said real estate in the manner hereinafter required;  
25 and it shall be the duty of the clerk to execute such deed in the  
26 same manner and within the same time as if the money afore-  
27 said had not been paid him. In every such case the clerk shall  
28 pay the money so received by him to the person paying it, or  
29 to his legal representative, on demand; but if the decision of the  
30 court be that such person has the right to redeem such real es-  
31 tate, the clerk shall pay said money to the purchaser or his legal  
32 representative. When the owner of real estate sold for the non-  
33 payment of taxes thereon, or any other person having the right  
34 to redeem the same, shall pay the amount mentioned in section  
35 fifteen of this chapter, the purchaser, his heirs or assigns to whom  
36 such payment is made, shall sign and give to the owner or other  
37 person redeeming, duplicate receipts showing when and by whom  
38 payment is made and the amount paid; or duplicate certificates  
39 or statements that the former owner or other person having such

40 right, redeemed the real estate. If such purchaser or other per-  
41 son, to whom such amounts are actually paid, shall refuse or fail  
42 to sign and give such receipts when lawfully required to do so,  
43 he shall pay to the person making such payment twice the amount  
44 thereof, which may be recovered by action on the case in any  
45 court having jurisdiction. *Provided*, that no such recovery shall  
46 be had in case of a decision of the circuit court against the right  
47 of such person to redeem such real estate as herein provided. One  
48 of said duplicate receipts or writings shall be filed with the clerk  
49 of the county court of the county in which the real estate was  
50 sold, on or before the day on which the right to redeem the same  
51 will expire under the provisions of the said fifteenth section of  
52 this chapter, and the clerk shall endorse on both such duplicates  
53 the fact and time of such filing. If the same be not filed, such  
54 redemption shall be void as to creditors and subsequent assignees  
55 of the benefit of the purchase of such real estate, from the pur-  
56 chaser thereof, his heirs or assigns, for a valuable consideration  
57 without notice, at any time before the same is so filed. If such  
58 receipt or writing be filed after the time herein required, it shall  
59 operate as a notice to all persons from and after the date of such  
60 filing. This section shall not be deemed applicable to a redem-  
61 tion of real estate under the provision of section thirty of this  
62 chapter. The clerk of the county court of every county shall in  
63 the month of June in each year in which real estate is required  
64 to be sold for the nonpayment of taxes thereon, make a list of  
65 all real estate redeemed as aforesaid, not before included in a  
66 similar list, and certify the same to the auditor. If the taxes  
67 on any such real estate charged to the owner thereof for the year  
68 in which the sale was made be not paid, such real estate shall be  
69 included in the lists of real estate which the auditor shall cause  
70 to be delivered to the sheriff of the proper county, and may be  
71 sold for any unpaid taxes thereon for any year previous to that  
72 in which it was sold as aforesaid and subsequent to the year or  
73 years for the taxes of which it was sold, or for that year, as if  
74 such former sale and redemption had not been made.

Sec. 17. The purchaser of a part, or an undivided interest  
2 of any tract or city, town or village lot of land, so sold and not  
3 redeemed as hereinbefore provided, his heirs or assigns, before  
4 obtaining a deed therefor shall, at his or their expense, have the  
5 quantity or undivided interest so purchased, surveyed and laid  
6 off at his or their expense; the said quantity so laid off to be

7 bounded in part by either or any of the lines of the tract, at the  
8 option of the purchaser, his heirs or assigns, so as not to include  
9 the improvements on the same (if it can be avoided), and to be  
10 in one body, the length whereof shall not be more than double  
11 the breadth, where that is practicable. A plat and description  
12 thereof shall be returned to the clerk of the county court of the  
13 county in which the sale was made, and said clerk shall record  
14 the same in the deed book along with the deed to the purchaser,  
15 his heirs or assigns, if one be made.

Sec. 18. The purchaser of an entire tract of land so sold  
2 and not redeemed as hereinbefore provided, his heirs or assigns,  
3 shall, at his or their expense, have a report or a survey, at his  
4 option, made, showing and specifying the metes and bounds of  
5 such tract, as far as the same can be ascertained. If a survey  
6 be made a plat thereof as provided in the next preceding section  
7 shall be returned to the clerk of the county court and be by him  
8 recorded as provided in said section. If a report only be made,  
9 it shall be to said clerk, and shall, in addition to what is herein-  
10 before prescribed, give such description of the tract sold as will  
11 identify the same, and the clerk shall record such report in the  
12 deed book as provided in said next preceding section. The sur-  
13 vey or report made in pursuance of this and the next preceding  
14 section, shall be made by the surveyor of the county in which the  
15 sale is made, or if he be interested, or if for any reason it be im-  
16 proper for him to act, or if there be no such surveyor, then by  
17 some competent and proper surveyor appointed by the county  
18 court of the county in which the real estate was sold, for the pur-  
19 pose, who shall take an oath that he will faithfully discharge the  
20 duties of his appointment to the best of his skill and judgment;  
21 which oath may be taken in open court, or before any person  
22 authorized by law to administer oaths, and a certificate of his  
23 having so taken said oath shall be filed with the clerk of the  
24 county court. If the purchase be of an entire city or town lot,  
25 no survey or report thereof need be made.

Sec. 19. After the expiration of one year from the day of sale  
2 and the making of the survey or report mentioned in the seven-  
3 teenth and eighteenth sections of this chapter, and after having  
4 caused the notice hereinafter provided for to be served in the man-  
5 ner and for the time hereinafter provided for, the purchaser of  
6 any real estate so sold and not redeemed as aforesaid, may obtain  
7 from the clerk of the county court of the county in which such

8 sale was made a deed of conveyance for the same. Such deed  
 9 shall be made to the purchaser himself, or to such person as he  
 10 may direct, either in writing acknowledged as a deed is required  
 11 to be acknowledged, or by his joining therein; and if the pur-  
 12 chaser has died, the same shall be made to his heir at law or de-  
 13 visee, or if he assign his purchase during his lifetime by a writ-  
 14 ing such as is hereinbefore mentioned, it shall be made to such  
 15 assignee, or to his heir at law or devisee. But before such pur-  
 16 chaser, his heir, devisee or assignee shall be entitled to such deed  
 17 he shall, within three months, after the expiration of the said  
 18 one year from the day of sale and between that day and two  
 19 years after the day of sale by the sheriff, file, or cause to be filed  
 20 with the clerk of the county court of the county in which the  
 21 real estate was sold, or lies, the survey or report mentioned in the  
 22 seventeenth and eighteenth sections of this chapter, with a re-  
 23 quest to the clerk for the deed herein provided for, and upon  
 24 his making such request of such clerk it shall be the duty of the  
 25 clerk to issue notice to the person in whose name the said real  
 26 estate was returned delinquent and sold, his heir, devisee or per-  
 27 sonal representative, and also to any grantee or vendee of such  
 28 person, his heir, devisee or personal representative, which notice  
 29 shall be served upon all of the said persons so interested at least  
 30 sixty days before the execution of such deed by the clerk; and if  
 31 such person or persons so interested in redeeming the real estate,  
 32 or any of them, shall be non-residents of the state, such notice  
 33 shall be published in some newspaper published in the county  
 34 in which the real estate lies for four successive weeks prior to the  
 35 time appointed for the execution of the deed, and a copy thereof  
 36 shall be for a like period posted at the front door of the court  
 37 house of the county. Such notice shall be served and return made  
 38 thereon in the manner provided by law for the service and return  
 39 of process generally. Such notice shall be in form or effect fol-  
 40 lowing:

41 "To .....

42       You will take notice that ....., the  
 43 purchaser of the following real estate (or ....., the  
 44 assignee, heir or devisee of ....., the pur-  
 45 chaser of the following real estate) (here describe the real estate  
 46 sold) located (here describe city, town or village, or if not land  
 47 within such city, town or village, give the district and the general  
 48 description thereof), which was sold by the sheriff of .....



49 county at the sale for delinquent taxes made on the ..... day  
 50 of ....., 19...., and a deed has been required as pro-  
 51 vided by law, which deed will be made to the said .....  
 52 on or after the ..... day of ....., 19...., unless  
 53 you against that day redeem the said real estate from the said  
 54 sale. The amount necessary to redeem is as follows:

55	Amount paid sheriff at said sale.....	\$.....
56	Amount taxes paid on the property since	
57	said sale .....	\$.....
58	Amount paid surveyor for survey and report	\$.....
59	Amount paid for notice and service thereof	\$.....
60	Interest . . . . .	\$.....
61	Total .. . . . .	\$.....
62	Given under my hand this ..... day of .....,	

63 19.....

64 .....  
 65 Clerk of the County Court of  
 66 ..... County, West Virginia.

67 The clerk shall receive for his services in issuing such notice  
 68 fifty cents for the original and twenty-five cents for each copy  
 69 thereof, and the person applying for such deed shall pay to the  
 70 clerk a sum sufficient to pay his fees for issuing the notice and  
 71 also for procuring the service thereof as hereinbefore provided.  
 72 The person in whose name such real estate was returned delin-  
 73 quent and sold, his heir at law, devisee or personal representa-  
 74 tive, or the grantee or vendee of such person, his heir at law,  
 75 devisee or personal representative shall have the right within the  
 76 time fixed as aforesaid in the said notice to redeem such real es-  
 77 tate by paying the amounts therein specified and as provided in  
 78 the fifteenth and sixteenth sections of this chapter. If such real  
 79 estate shall not be so redeemed against the date fixed in the no-  
 80 tice from the clerk as aforesaid, which day shall be some day after  
 81 one year from the date of the sale by the sheriff and within two  
 82 years from the date of the sale by the sheriff, then such person  
 83 so applying for such deed shall be entitled thereto and the clerk  
 84 of such county court shall then execute such deed, which shall  
 85 be in form or effect following:

86 "This deed made this ..... day of ....., 19....,  
 87 by ....., clerk of the county court of  
 88 ..... county, West Virginia, (or by .....,  
 89 a commissioner appointed by the circuit court of the county of

90 ..... , West Virginia, or by ..... , a com-  
91 missioner appointed by the judge of the circuit court of the  
92 county of ..... , West Virginia, in vacation) of the first  
93 part and ..... , of the second part.

94 WHEREAS, In pursuance of the statutes in such case made  
95 and provided, ..... , sheriff, (or .....  
96 deputy for ..... sheriff,) of the said county, did  
97 in the month of ..... , in the year 19...., sell the real  
98 estate hereinafter mentioned and described for the taxes delin-  
99 quent thereon for the year ..... , and .....  
100 became the purchaser thereof (or ..... acres, part of  
101 the tract of land, or the one undivided ..... part of the  
102 tract of land, as the case may be) charged with taxes in the said  
103 county as a tract (or part of a tract as the case may be) of  
104 ..... acres in the name of ..... , for the sum  
105 of \$....., that being the taxes, interest and commis-  
106 sions due thereon at the date of said sale, and the costs of pub-  
107 lication, and the fee for the receipt for the purchase money; and

108 WHEREAS, More than one year has elapsed since the time of  
109 the said sale and purchase, as appears by the sheriff's receipt  
110 for the purchase money; and

111 WHEREAS, The said ..... has caused a sur-  
112 vey and plat and description of the real estate so purchased to  
113 be made and filed with the clerk of the county court (or caused  
114 a report to be made to the clerk of the county court specifying  
115 the metes and bounds of the real estate so purchased, as the  
116 case may be); and

117 WHEREAS, The clerk of the said county court caused the no-  
118 tice required by section nineteen of chapter thirty-one of the  
119 code to be served upon the persons entitled thereto, and the said  
120 real estate has not been redeemed in the manner provided by law,  
121 and the time set for redemption in the said notice having ex-  
122 pired.

123 Now, therefore, this deed witnesseth that the party of the  
124 first part for and in consideration of the premises and in pur-  
125 suance of the statute, doth grant unto the party of the second  
126 part, his heirs and assigns forever, the real estate so purchased  
127 as aforesaid situate in the county of ..... bounded  
128 and described as follows:

129 .....

130 Witness the following signature and seal:

131

132

.....  
Clerk of the County Court. (Seal)

133 If the purchase is of a city, town or village lot, or part  
134 thereof, or an undivided interest therein, the above form must  
135 be varied according to the facts.

136 The notice and return of service thereon hereinbefore re-  
137 quired to be issued by the clerk of the county court and caused  
138 to be served upon the persons entitled to redeem, shall be re-  
139 corded by the clerk of the county court along with the plat and  
140 description or report of surveyor, as provided in the seventeenth  
141 and eighteenth sections of this chapter.

Sec. 20. Every such deed in form or substance as prescribed  
2 in the next preceding section, shall be valid and sufficient to pass  
3 to the grantee therein the legal and equitable title to the real es-  
4 tate therein mentioned, as provided for in section twenty-five of  
5 this chapter. For every deed executed under the provisions of  
6 this chapter, the clerk or commissioner executing the same shall  
7 be entitled to a fee of five dollars to be paid by the grantee therein,  
8 on the delivery of the deed, in addition to the fees provided for  
9 in the nineteenth section of this chapter.

Sec. 21. No clerk of the county court of the county in which  
2 said real estate shall be sold for delinquent taxes thereon, nor his  
3 deputy, shall directly or indirectly purchase any real estate so  
4 sold, or be in any way directly or indirectly interested with any  
5 other person in such purchase.

6 Every person violating this section shall forfeit one hundred  
7 dollars for each offense, and the sale shall be absolutely void.

Sec. 24. Where two or more tracts or parts of tracts, or city;  
2 town or village lots, charged to the same person, or persons, with  
3 taxes, for the same year, or years, shall have been sold for taxes  
4 and purchased by the same person at such sale, the purchaser  
5 thereof, or his heirs, devisees or assigns may obtain from the clerk  
6 of the county court several deeds for each tract or part of a tract,  
7 and city, town or village lot, or undivided interest therein, or  
8 for any number of them less than the whole, or he may obtain  
9 one deed for the whole of them as he may prefer; but every such  
10 deed shall describe each tract and part of a tract, and each lot  
11 and undivided interest in a lot separately; and such deed when  
12 so made for several tracts and parts of tracts, and several lots  
13 and undivided interests in several lots, shall be as valid and

14 effectual to pass to the grantee therein the title, legal and equitable  
15 to every such tract, and part of a tract, and to every such lot and  
16 undivided interest in a lot, as a separate deed for each would have  
17 been if such separate deed had been made to such grantee; but no  
18 such deed shall be made or obtained after two years from the date  
19 of the sale of such real estate, except that on computing the said  
20 period of two years any time during which proceedings are pend-  
21 ing to compel the execution of such deed as provided in the twenty-  
22 second section of this chapter, or during which the making of such  
23 deed is enjoined or stayed by any legal process or proceeding,  
24 shall not be computed.

## CHAPTER 68

(Senate Bill No. 198.)

AN ACT to amend and re-enact section nineteen of chapter fourteen of the code, relating to rewards for the apprehension of criminals and to the employment of persons to detect, apprehend and prosecute criminals.

[Passed February 19, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 19. Rewards for persons charged with offense.

*Be it enacted by the Legislature of West Virginia:*

That section nineteen of chapter fourteen of the code be amended and re-enacted so as to read as follows:

Section 19. The governor may offer a reward for apprehending and securing any person convicted of an offense or charged therewith, who shall have escaped from prison, or for apprehending and securing any person charged with an offense, who, there is reason to fear, cannot be arrested in the common course of proceeding. And in case a judge of the supreme court of appeals, of a circuit court, of a criminal court or an intermediate court, or of any court of record in this state, shall be assassinated, or his assassination attempted, or a felonious assault be committed upon him, and the assassin or person making such assault shall not at once be apprehended and arrested, the governor shall forthwith offer such a reward, not exceeding ten thousand dollars, as in his discretion will result in the arrest of such criminal. But no such reward shall be paid to any sheriff or other officer who may arrest

15 such person by virtue of any process in his hands to be executed.  
16 And the governor may employ any person to aid in the detec-  
17 tion, arrest and prosecution of one accused with the assassination or  
18 attempted assassination or felonious assault upon a judge of the  
19 supreme court of appeals, of a circuit court, of a criminal court, of  
20 an intermediate court, or of any other court of record in this state,  
21 and agree to pay, and pay to such person or persons so employed,  
22 such sum or sums, not exceeding ten thousand dollars, as in the dis-  
23 cretion of the governor may seem to be reasonable.

24 And the governor may employ any person to aid in the detec-  
25 tion of persons charged with or suspected of crime. Such persons  
26 so employed in either case to be paid out of the contingent fund at  
27 the governor's disposal.

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## CHAPTER 69

(Senate Bill No. 44.)

AN ACT to amend and re-enact section one hundred and seventy-  
three of chapter forty-five of the code of West Virginia, as  
amended by chapter sixty-five of the acts of one thousand nine  
hundred and fifteen.

[Passed February 7, 1917. In effect ninety days from passage. Approved by the  
Governor February 15, 1917.]

SEC. 173. University students who may be admitted in military department; term  
of service; provision as to re-enlistment.

*Be it enacted by the Legislature of West Virginia:*

That section one hundred and seventy-three of chapter forty-  
five of the code of West Virginia, as amended by chapter sixty-five  
of the acts of one thousand nine hundred and fifteen, be amended  
and re-enacted so as to read as follows:

Section 173. Besides prescribing the general terms upon  
2 which students may be admitted to the university, the regents  
3 may admit all male students not under sixteen years of age; and  
4 not over twenty-five years of age, as cadets in the military de-  
5 partment. Their term of service shall be four years; but any  
6 cadet at the expiration of his first term shall be entitled to re-  
7 enlist for the further term of two years upon giving notice of his  
8 intention to the commandant of cadets at least thirty days before  
9 the expiration of such term.

## CHAPTER 70.

(Senate Bill No. 76.)

AN ACT to create and establish agricultural, industrial, and vocational departments at the preparatory branch of the West Virginia University at Keyser, Mineral county, West Virginia, and in other schools of this state; and to accept the benefits of an act passed by the senate and house of representatives of the United States of America in congress assembled providing for the promotion of vocational education.

[Passed February 7, 1917. In effect ninety days from passage. Approved by the Governor February 16, 1917.]

SEC.

1. Creating vocational department at preparatory branch of West Virginia university at Keyser; board of regents "state board": power of board to co-operate with other authorities; board to make rules as to management and instruction; to employ teachers and fix compensation.

SEC.

2. State board of control to have supervision of finances; may acquire lands.  
3. Additional powers conferred on said board by act.  
4. State accepts benefits of act; will comply with requirements.  
5. Board of regents given power to co-operate with federal board.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That in order to promote improvement and advancement in agriculture, horticulture, home economics, domestic science, mechanics and other industrial occupations and vocations, and the best means of promoting a desire among the people of the state to cultivate the soil and to follow agriculture, industrial vocation and other occupations, that there be and there is hereby created and established at the preparatory branch of the West Virginia university, located at Keyser, Mineral county, and in other schools of this state that may be designated for this purpose by the state board of regents, a department to be known as the "Agricultural, industrial and vocational department." The state board of regents is hereby designated as the "state board," to co-operate with any federal authority now existing, or that may be hereafter established; and said board shall have all necessary power to so co-operate with any federal board or other authority acting under any law of congress now existing, or that may hereafter be passed, relating to agricultural, industrial or vocational education. The said board of regents shall be authorized to make and promulgate rules, provisions and regulations for the government, management, operation and control of such department, and to prescribe the kinds and means of giving practical instruction in said department; to employ and fix the com-

23 pensionation of teachers, supervisors, directors of agricultural sub-  
24 jects, and teachers and instructors in industrial, home economics,  
25 domestic science, mechanics and other industrial vocations and oc-  
26 cupations.

Sec. 2. The state board of control shall have general super-  
2 vision and control of the finances of said department, as is now  
3 provided by law in such cases, and to acquire by lease, purchase  
4 or condemnation such an amount of land as may be deemed re-  
5 quisite and sufficient for the purpose of the proper conduct of said  
6 department hereby created. In case it becomes necessary to ac-  
7 quire lands for the purposes aforesaid, by condemnation, the pro-  
8 ceeding shall be as far as practicable, according to the laws of the  
9 state of West Virginia now existing, providing for the taking and  
10 acquiring of lands for public purposes without the consent of the  
11 owners.

Sec. 3. The powers conferred by this act on the state board  
2 of regents and the state board of control shall be in addition to  
3 the power and authority they already have under the laws of the  
4 state of West Virginia relating to the said preparatory branch of  
5 the West Virginia university at Keyser.

Sec. 4. The state of West Virginia does hereby accept the  
2 benefits of said act referred to above passed by the senate and the  
3 house of representatives of the United States of American in con-  
4 gress assembled, entitled "An act to provide for the promotion  
5 of vocational education; to provide for co-operation with the states  
6 in the promotion of such education in agriculture and the trades  
7 and industries; to provide for co-operation with the states in the  
8 preparation of teachers of vocational subjects; and to appropriate  
9 money and regulate its expenditure," and will observe and com-  
10 ply with all the requirements of said act.

Sec. 5. The state board of regents is hereby designated as  
2 the state board. for the purpose of the said act, and is hereby given  
3 all necessary power to co-operate with the federal board of voca-  
4 tional education in the administration of the provisions of said  
5 act of congress.

## CHAPTER 71.

(Senate Bill No. 80.)

AN ACT to amend and re-enact chapter fifty-two of the acts of one  
thousand eight hundred and seventy-two, entitled "An act to

provide free schools for the district of Spencer, in the county of Roane," and to amend and re-enact chapter seventy-one of the acts of one thousand eight hundred and seventy-seven, which amended and re-enacted section one of said chapter fifty-two of the acts of one thousand eight hundred and seventy-two, and to add to said chapter additional sections, being fifty-two in number, relating to free schools for the district of Spencer, in the county of Roane.

[Passed February 15, 1917. In effect from passage. Approved by the Governor February 23, 1917.]

## SEC.

1. Boundaries of town of Spencer and suburbs; same to constitute Spencer independent school district; how farms shall be listed for taxation; boards of education to select boundary commission, who shall make survey and furnish plat.
2. Board of education to consist of president and two commissioners; how governed.
3. Designation of board; how members shall be elected.
4. Meetings of board to elect members.
5. Board to be owner and have power to provide for buildings and supplies.
6. How vacancies may be filled.
7. Regular and special meetings of board of education.
8. Other meetings of board, and purpose of same.
9. Assessment of property for taxation in school district.
10. Board has power to establish library.
11. Board to appoint superintendent of schools for district; fix term and salary; board has power to remove; cause for removal; powers and duties of superintendent.
12. Board of examiners; how selected; fee charged applicants for examination; requirements as to

## SEC.

- certificates; board of examiners to hold meetings; compensation for services; how paid.
13. Board to appoint persons to make enumeration of youth of school age in district; fee allowed.
  14. Board to appoint teachers, supervisors and principals, and fix compensation; subject to rules and regulations; cause for removal; superintendent to appoint substitutes; also appoint janitors; fix compensation and remove for cause.
  15. Provisions as to school attendance by children in district; for neglect of such duty, person offending guilty of misdemeanor; penalty; bond may be required; disposition of moneys recovered; penalty for failure to give bond; "offense" construed within meaning of this act, as to school attendance; what shall constitute defense to proceedings instituted; child adjudged incorrigible to be committed to boys' or girls' industrial school; attendance vested with police powers; officers to keep record of their transactions; circuit court or justice of the peace of Roane county shall have jurisdiction.
  16. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That the whole of said chapter fifty-two of the acts of one thousand eight hundred and seventy-two, entitled "An act to provide free schools for the district of Spencer, in the county of Roane," passed February sixteenth, one thousand eight hundred and seventy-two, and chapter seventy-one of the acts of one thousand eight hundred and seventy-seven, passed February twenty-seven, one thousand eight hundred and seventy-seven, amending and re-enacting section one of said chapter fifty-two of the acts of one thousand eight hundred and seventy-two, be amended and re-enacted including the sections added thereto and enacted therewith, so as to read as follows:

Section 1. That the town of Spencer and the suburbs thereof contained within the following boundaries, to-wit:



3 Beginning at the lower end of the concrete culvert  
4 in the Spencer and Walton public road near the resi-  
5 dence of W. W. Wright in the Spencer and Walton  
5-a public road; thence by a straight line to the upper side of  
6 the road where a drain crosses the same where the Cofer  
7 house formerly stood; thence by another straight line to  
8 a point in the Arnoldsburg pike in the western line of the Fer-  
9 rell farm; thence by a straight line to a chestnut oak tree by a  
10 wire fence, near the intersection therewith of another fence, on  
11 the ridge at the head of the left hand fork of Devil Hole run;  
12 thence by a straight line to the mouth of said run; thence up  
13 Spring creek to a sharp bend therein near the mouth of a small  
14 drain running into said creek from the west side thereof, a short  
15 distance below the lamp black factory; thence across said creek  
16 and up said drain, by a straight line, to the northern corner of  
17 a cleared field; thence to a point in the public road in Nancy's run  
18 where a small drain crosses said road immediately above the  
19 Miller house; thence by a straight line to the northwestern corner  
20 of what is known as the Bowman grove, on the Ravenswood and  
21 Spencer pike; thence by a straight line to a point in the Tanner's  
22 run road, where a lane leading to the N. B. Hoff house intersects  
23 the same, below the residence of Hiram Goff; thence by a straight  
24 line to the place of beginning, shall constitute and comprise one  
25 school district, to be known as the Spencer independent school dis-  
26 trict, in the county of Roane. And where any of said lines of said  
27 independent school district pass through farms, the whole of such  
28 farms shall be listed for taxation and taxes in said independent  
29 school district, or the district of Spencer, according to where the  
30 greater part of such farms may lie, except that where as much  
31 as fifty acres of any one farm is situated in each of said districts  
32 then the quantity of land lying in each district shall be listed for  
33 taxation and taxed in the district in which such part is situated.

34 And it shall be the duty of the board of education of said  
35 independent school district and the board of education of the dis-  
36 trict of Spencer in the county of Roane, within six months from  
37 the passage of this act, to each select a person, and the two so se-  
38 lected to select a third person, and the three persons so selected  
39 to be known as a boundary commission, and any vacancies therein  
40 to be filled as the first ones thereof were respectively selected,  
41 whose duty it shall be to proceed with all reasonable dispatch to  
42 make a survey of the boundaries of said independent school dis-

43 trict, and make, sign and furnish to the board of education of said  
44 independent school district a plat of said district, showing the  
45 courses and distances of the lines thereof. And upon the failure  
46 of either of said boards of education, after five days notice to the  
47 president thereof, by the president of the other board of educa-  
48 tion of the selection by this board of a member of said boundary  
49 commission as herein provided, to select a member of said com-  
50 mission, then the board of education which has made such selec-  
51 tion may select the remaining two members of said commission.  
52 The expense of making said survey and plat shall be borne by  
53 the board of education of said independent district, which shall  
54 not exceed the sum of twenty-five dollars..

Sec. 2. The board of education of said independent school  
2 district shall consist of a president and two commissioners, who  
3 shall be elected and whose qualifications shall be as hereinafter  
4 provided, and shall be vested with the same rights and exercise  
5 the same powers, perform the same duties and receive the same  
6 compensation, and be governed by the same laws, that boards of  
7 education other than those of independent school districts are  
8 governed by, except in so far as changed by the provisions of this  
9 act.

Sec. 3. That the board of education of said independent  
2 school district shall be a corporation by the name of "The Board  
3 of Education of Spencer Independent School District," and shall  
4 consist of three members, residents thereof, one of whom shall be  
5 elected annually on the third Monday in March of each year,  
6 and whose terms of office shall be for a period of three years,  
7 commencing on the first day of April next after their election.  
8 Said elections shall be provided for and caused to be conducted  
9 by said board of education and the result thereof declared, in  
10 such manner as it may determine, and with or without a regis-  
11 tration, and manner of registration of the voters of said inde-  
12 pendent school district as the board of education may from year  
13 to year determine. But no member of said board of education  
14 shall be an officer at said election. The members of said board of  
15 education of said independent school district who are now mem-  
16 bers thereof shall, however, continue in office until the expiration  
17 of their present respective terms.

Sec. 4. Said board of education shall annually, on the first  
2 Monday in April of each year, meet and select one of the members  
3 thereof as the president thereof for the ensuing year, and there-

4 after fill any vacancy in the presidency thereof occurring during  
5 said year; and shall also on the first Monday in July of each year  
6 select a secretary thereof for the year, whose term of office shall  
7 end on the thirtieth day of June next thereafter.

Sec. 5. Said board of education shall be the owner of, in its  
2 corporate name, and have full power and authority to provide for,  
3 such buildings, furniture, supplies and apparatus for the schools  
4 maintained in said district, as said board of education may think  
5 suitable, proper, necessary or convenient for said schools.

Sec. 6. A vacancy in said board of education shall be filled  
2 by the board, at the first regular meeting thereof after such va-  
3 cancy shall occur, by the appointment of a person qualified as  
4 hereinbefore provided, who shall hold office until the next annual  
5 election for member of board of education, at which time a mem-  
6 ber thereof shall be selected for the unexpired term caused by  
7 said vacancy. And in case said vacancy is not filled as herein  
8 provided for by appointment by said board, then it  
9 shall be the duty of the county superintendent of schools of  
10 said Roane county, and he shall have the power, to appoint a  
11 member of said board of education to fill said vacancy.

Sec. 7. Said board of education shall hold as many stated  
2 or regular meetings as they may deem necessary, and it shall not  
3 be necessary to give any notice of said meetings to any member  
4 of said board; and they may hold as many special meetings as  
5 the members thereof may find expedient or proper, which may be  
6 called by the president thereof, or by the secretary upon request  
7 by either of the two commissioners of the said board. No special  
8 meeting of said board shall be held except that all of the mem-  
9 bers thereof be present, or after each member thereof has had  
10 twelve hours' notice of such meeting given to him by the secre-  
11 tary of said board.

Sec. 8. Said board of education shall also meet at the times  
2 and perform the duties required by boards of education other  
3 than those for independent school districts, except as herein  
4 otherwise provided, for the purpose of making, and shall make, esti-  
5 mates of the money required to maintain the schools in said in-  
6 dependent school district for the ensuing year, both as to the  
7 teachers' and building funds, and to provide for a sinking fund  
8 to pay off any bonded indebtedness; and said board of education  
9 shall determine the number of months of school to be taught in  
10 said district for said year, both in the high and graded schools

11 and any department thereof, which shall not be fewer than eight  
12 months for any one year; and shall levy upon the taxable prop-  
13 erty in said independent school district a sufficient sum for said  
14 purposes, which, however, shall not exceed sixty cents on each  
15 one hundred dollars valuation of the taxable property therein for  
16 the teachers' fund and forty cents for the building fund, and such  
17 rate as may be necessary to pay off said bonded indebtedness  
18 within the time provided by the proceedings had and the orders  
19 entered in respect to said bonded indebtedness and the obligation  
20 in respect thereto given.

Sec. 9. It shall be the duty of the assessor or other person or  
2 persons who may be charged with the duty of assessing and de-  
3 termining the value of the property in said independent school  
4 district, from and after the passage of this act, to list and assess  
5 all of the property in said district as required by law and here-  
6 in provided, and designate that such property is within said dis-  
7 trict; and it shall be the duty of the sheriff of said county or any  
8 other officer whose duty it shall be to collect and receive taxes  
9 in and for said independent school district, to collect, deposit, ac-  
10 count for, and pay out the taxes received by him for school pur-  
11 poses as herein provided, in the manner provided by law in  
12 respect to all other school moneys collected or received by him for  
13 the use of any other district in his county.

Sec. 10. Said board of education shall have power to estab-  
2 lish and maintain a library, which shall be for the use of the  
3 public schools of the district, and the inhabitants thereof, under  
4 such regulations as the said board of education may prescribe;  
5 and said board may receive, hold and use any gift, bequest or  
6 devise for the benefit of such library or for any other school pur-  
7 poses. For the purpose of establishing and maintaining such  
8 library, the said board of education may also appropriate from the  
9 building fund of said district funds for such library purposes.

Sec. 11. At the meeting of said board to be held on the first  
2 Monday in April, or as soon thereafter as practicable, said board  
3 of education shall appoint a superintendent of schools for said  
4 independent school district, and fix his salary, whose term shall  
5 begin on the first day of July next succeeding his appointment,  
6 or as soon thereafter as he is appointed, and continue for a term  
7 of not more than two years as determined by the board; but he  
8 may be removed by the board at any time for incompetency, neglect  
9 of duty, intemperance, profanity, cruelty or immorality; and any

10 vacancy in the office of superintendent shall be filled by the board  
11 of education for the unexpired term. The superintendent shall  
12 exercise general supervision over the schools; prepare and revise  
13 the course of study to be used in the schools, subject to the approval  
14 of the board; make all necessary reports; and in so far as he is  
15 able to do so, he shall furnish such information relating to schools  
16 or school work as the board may desire; he shall advise with the  
17 board in the selection of teachers and in assigning them to their  
18 work in the schools; he shall be a member of the board of exam-  
19 iners which is provided for in this act; and perform such other  
20 duties as the board may prescribe.

Sec. 12. Said board of education shall appoint two competent  
2 persons to act with the superintendent as a board of examiners  
3 to examine all applicants for positions as teachers, principals and  
4 supervisors in the schools of said independent school district. Each  
5 applicant for examination shall pay a fee of one dollar. Said  
6 board of examiners may, however, with the consent of the board  
7 of education, grant a certificate without examination, or with such  
8 partial examination as they may deem necessary, to any person  
9 holding a degree from the West Virginia university or such other  
10 universities or colleges as the board of examiners may place on  
11 their accredited list; under like conditions, the board of examiners  
12 may issue a certificate to any graduate of the normal department  
13 of the West Virginia state normal school or any of its branches,  
14 or such other normal schools as the board of examiners may place  
15 on their accredited list; and under like conditions, the board of  
16 examiners may issue certificates based on other certificates, when  
17 in their judgment such other certificates are of such rank as to  
18 justify their action. Certificates of qualification, based on prep-  
19 aration, experience and proficiency, shall be issued in three grades,  
20 as follows: First grade, good for a period of three years; second  
21 grade, good for a period of two years; and third grade good for  
22 a period of one year; and such grades shall form the basis for  
23 determining the salaries by the board of education. The first  
24 grade certificates may be renewed from time to time by the board  
25 of examiners, at their option, subject to the approval of the board  
26 of education. The board of examiners shall hold meetings at  
27 such times and places as the superintendent may designate; and  
28 they shall receive for their services such compensation as the board  
29 of education may allow, to be paid out of the examination fees,

30 the excess of such fees, if any, to be paid into the building fund  
31 of the district.

Sec. 13. At a meeting of the board of education to be held  
2 not later than the tenth day of March each year, the board shall  
3 appoint a competent person or persons to make an enumeration  
4 of all the youths resident in said district, who shall be over six  
5 and under twenty-one years of age on the first day of July follow-  
6 ing, in the manner prescribed by the general school law of the  
7 state, such enumeration to be reported under oath to the secretary  
8 of the board of education. For making such enumeration, the  
9 board of education shall pay said person or persons such amount  
10 as was agreed upon before the enumeration was made, which  
11 amount shall not exceed two cents for each youth enumerated.

Sec. 14. The board of education of said independent school  
2 district shall appoint all teachers, supervisors, and principals for  
3 the public schools within said district and fix their compensation;  
4 the said teachers, supervisors, and principals shall be subject to  
5 the rules and regulations adopted by the board of education for  
6 the management of the schools; and they may be removed by  
7 said board at any time for incompetency, neglect of duty, intem-  
8 perance, profanity, cruelty or immorality. Substitutes for va-  
9 ancies occurring in the teaching force of the district shall be  
10 appointed by the superintendent of schools and shall serve until the  
11 next regular meeting of the board of education, when said super-  
12 intendent shall report such vacancies to the board, who shall  
13 appoint qualified teachers to fill the vacancies. The said board  
14 of education shall also appoint such janitors, custodians of the  
15 school buildings, and such attendance officers as the board may  
16 deem necessary, and fix the compensation to be paid to them;  
17 and the said board may remove any such janitor, custodian of  
18 said buildings and other property, or attendance officer for neg-  
19 lect of duty, incompetency, gross immorality, or whenever it  
20 shall appear to said board from any cause that such removal is  
21 for the best interests of the schools of said district.

Sec. 15. Every person having under his control a child or  
2 children between the ages of seven and fifteen years, residing with-  
3 in said independent school district, shall cause such child or chil-  
4 dren to attend the public school in the said district; such at-  
5 tendance to begin at the opening of, and continue through, the  
6 school term; and for every neglect of such duty the person of-  
7 fending shall be guilty of a misdemeanor, and shall upon con-

8 viction thereof, be fined two dollars for the first offense and five  
9 dollars for each subsequent offense, together with the costs of  
10 prosecution; and at the discretion of the court, or justice, the  
11 said person offending may be required to enter into a bond in the  
12 penal sum of fifty dollars, payable to the board of education of  
13 said district with security to be approved by the court or justice,  
14 that the person so convicted will cause such child or children to  
15 attend public school in accordance with the provisions of this  
16 act. Any and all sums that may be recovered on any and all  
17 bonds and fines under the provisions of this act shall be placed  
18 to the credit of the building fund of said district. Any failure to  
19 give such bond in the manner and within the time therefor pre-  
20 scribed by the court or justice shall be a misdemeanor and be  
21 punished by a fine of not less than one dollar nor more than five  
22 dollars, and the cost of prosecution.

23 An offense, as intended and provided by this act, shall con-  
24 sist in the failure of such person or persons to send to school  
25 such child or children for more than one day in any one week in  
26 which the schools are in session, unless the attendance of such  
27 child or children is prevented by personal sickness, or other reason-  
28 able excuse; *provided*, that if such child or children shall have  
29 been graduated from the grammar grades, or otherwise instruct-  
30 ed for a like period of time in the subjects required to be taught  
31 in the public schools of said district; or, if in the opinion of the  
32 medical inspector of the said district, the mental or physical con-  
33 dition of such child or children is such as to render such attend-  
34 ance inexpedient or impracticable, such penalty shall not be in-  
35 curred.

36 If any person against whom such proceedings shall be in-  
37 stituted shall satisfactorily prove in the course of such proceed-  
38 ings that he has made all proper efforts and used due diligence  
39 to compel any child under his control to attend school as herein-  
40 before provided, and that because of the disobedience of such  
41 child, he has been unable to do so, such facts shall constitute a  
42 defense to such proceedings. Whereupon the attendance officer  
43 shall take such steps and proceedings before the proper court to  
44 have such child adjudged incorrigible and committed to the  
45 West Virginia industrial school for boys at Pruntytown, or the  
46 girls' school at Salem.

47 The attendance officers provided for in section fourteen of  
48 this act shall be and are hereby vested with police powers, and

49 with authority to serve warrants, and shall have authority to enter  
 50 workshops, factories, stores and other places where children may  
 51 be employed, and do whatever may be necessary in the way of  
 52 investigation or otherwise to enforce this act; when so directed  
 53 by the superintendent of schools, the board of education, or when  
 54 it comes to their notice otherwise, such attendance officers shall  
 55 examine into any and all cases of truancy or unexplained absence  
 56 from school of any child within the age limits provided in this  
 57 act; and such attendance officers shall keep a record of their  
 58 transactions for the inspection and information of the superin-  
 59 tendent of schools, and the board of education, and shall make  
 60 such reports as said superintendent or board may re-  
 61 quire. The circuit court or any justice of the peace, of Roane  
 62 county shall have jurisdiction over and take cognizance of any  
 63 and all offenses provided by, and all violations of, this act.

Sec. 16. All provisions of the general law of this state which  
 2 are inconsistent or in conflict with any of the provisions of this  
 3 act shall be void within said independent school district; otherwise  
 4 to remain in full force and effect therein.

## CHAPTER 72.

(Senate Bill No. 148.)

AN ACT relating to interest on high school bonds of Triadelphia  
 and Richland districts, Ohio county.

[Passed February 24, 1917. In effect ninety days from passage. Approved by  
 the Governor February 24, 1917.]

<p>Sec.          1. Authorizing the county court of          Ohio county to refund to the          treasurer accrued interest; treas-</p>		<p>Sec.          2. Interest accruing on bond fund to          be credited.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Ohio county is hereby author-  
 2 ized and directed to refund to the treasurer of said county all the  
 3 interest accrued to the county treasury, from July first, one thou-  
 4 sand nine hundred and sixteen, until this act becomes effective,  
 5 upon the total amount which was credited by the said coun-  
 6 ty court, on the said first day of July, to the high school bond  
 7 fund of Triadelphia and Richland districts of the said  
 8 county, and the said county treasurer shall place the amount of



9 the said interest to the credit of the high school bond fund of the  
10 said districts.

Sec. 2. All interest accruing on the said high school  
2 bond fund shall, from the passage of this act, be credited by the  
3 said county treasurer to the high school bond fund of Triadelphia  
4 and Richland districts, in the amounts accruing to each district.

## CHAPTER 73.

(Senate Bill No. 158.)

AN ACT to amend and re-enact sections two, five, six, fourteen, six-  
teen and seventeen of chapter seventy-four of the acts of the  
legislature of one thousand nine hundred and eleven, relating to  
Charleston independent school district, as amended by chapter  
one hundred and ten of the acts of the legislature of one thousand  
nine hundred and fifteen.

[Passed February 19, 1917. In effect ninety days from passage. Approved by  
the Governor February 24, 1917.]

<p>SEC. 2. The board of education shall consist of eight members; time of election and term of service; how vacancies filled; compensation, etc.</p> <p>5. The power of the board as to rules, admission of pupils, books, etc.; shall publish statement.</p>	<p>SEC. 6. May levy tax. 14. Admission to the various schools. 16. May borrow money and issue bonds, etc. 16-a. Accrued interest a part of original fund. 17. Repealing acts, etc.</p>
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*Be it enacted by the Legislature of West Virginia:*

That sections two, five, six, fourteen, sixteen and seventeen of chapter seventy-four of the acts of the legislature of one thousand nine hundred and eleven, relating to Charleston independent school district, as heretofore amended by chapter one hundred and ten of the acts of the legislature of one thousand nine hundred and fifteen, be, and the same are, hereby amended and re-enacted so as to read as follows:

Section 2. The board of education for the Charleston independent school district shall, from and after the first day of July, one thousand nine hundred and seventeen, consist of eight members, not more than four of whom shall be members of the same political party, who shall control all the free schools within the said district. Three of the said eight members shall be elected on the third Tuesday of May, in the year one thousand nine hundred and seventeen, and three on the third Tuesday of May, in the year one thousand nine hundred and nineteen; and two on the third Tuesday of May, in the year one thousand nine hundred

11 and twenty-one; and the commissioners so elected shall serve  
12 for a term of six years beginning with the first day of July follow-  
13 ing their election. Three members of said board shall be elected  
14 every second and fourth year, and two members of said board  
15 shall be elected every six years after the year one thousand nine  
16 hundred and twenty-one.

17 The members of the board of education, as now constituted,  
18 shall serve out the terms for which they were severally elected  
19 or appointed.

20 Said commissioners shall biennially elect one of their mem-  
21 bers president.

22 If a vacancy occurs on the said board of education, it shall  
23 be filled by the appointment by the board of some eligible person  
24 who shall serve out the unexpired term of the member whose  
25 successor he is.

26 Each member of the board of education shall receive for his  
27 services two dollars for each regular or special meeting he attends.  
28 In addition to his per diem, the president of the board shall re-  
29 ceive twenty-five dollars per annum.

Sec. 5. Said board of education shall have power to make  
2 all necessary rules and regulations for the government of the  
3 schools in said district; for the admission of pupils therein;  
4 and for the exclusion of pupils whose attendance would be danger-  
5 ous to the health or detrimental to the morals or discipline of the  
6 schools. Said board may prescribe a uniform list of text books  
7 for use in the schools of said district. It may purchase, provide  
8 and furnish books and stationery for the use of indigent children  
9 in any schools of said district; and it may, at its discretion,  
10 furnish books and stationery for the use of all said schools. Said  
11 board may provide and maintain a suitable number of evening  
12 schools for pupils over the compulsory school age, and it may, in  
13 its discretion, admit to any school in said district as pupils  
14 therein, persons over the age of twenty-one years, or provide and  
15 maintain evening schools, summer schools, vocational schools,  
15-a or other courses or methods of instruction for such  
16 pupils, upon such terms and conditions as the board  
17 may prescribe. Said board may provide for medical  
18 and sanitary inspection of the schools in said district,  
19 and all pupils thereof; and in order to provide for the prompt  
20 detection of disease threatening the health and welfare of the  
21 pupils of said district, and for the efficient treatment of such

22 diseases or defects as tend to impair their efficiency or retard  
23 their progress, the board may provide, equip and maintain a suitable  
24 room or other quarters for the physical examination and treatment  
25 of said pupils by competent physicians, surgeons, dentists,  
26 or other authorities; it may likewise provide, equip and maintain  
27 a clinic for the examination and treatment of said pupils; and it  
28 may in its discretion provide and pay for such medical, surgical or  
29 other treatment for indigent pupils who may be otherwise unable  
30 to obtain the same, as the board may in its discretion consider  
31 necessary or proper for the protection of the health and welfare  
32 of such indigent pupils, themselves, or of other pupils attending  
33 said schools. The board may provide from time to time such  
34 additional schools, including summer schools, departments and  
35 courses as in its opinion the needs of the school district may demand.  
36 The board may, in its discretion, provide, equip and maintain  
37 suitable play grounds for the use of the school children of said  
38 district, and pay the cost and expenses thereof out of any funds or  
39 monies which it may have at any time available for such purposes;  
40 or it may provide, equip and maintain such play grounds, and pay  
41 the costs and expenses thereof out of funds to be raised for such  
42 purpose in the manner provided in section sixteen thereof. Said  
43 board shall publish annually a complete statement of the receipts  
44 and disbursements thereof for the preceding year, and may pay the  
45 cost of publishing said statement out of the building fund.

Sec. 6. Said board of education may annually levy a tax not  
2 to exceed three cents on the one hundred dollars valuation, for  
3 the establishment, support, maintenance and increase of a public  
4 library within said district, which shall be under the control of  
5 the said board.

Sec. 14. Admission to the several schools of said district  
2 shall be gratuitous to all children, wards and apprentices of  
3 actual residents within said district between the ages of six and  
4 twenty-one years; *provided*, that the admission of pupils residing  
5 in one ward of the city of Charleston to any school in any other  
6 ward shall rest in the discretion of said board of education. Non-  
7 residents of the district may be allowed to attend the schools of  
8 the district upon such terms and conditions as said board may  
9 prescribe and determine. Admission to any school, course of  
10 instruction or department in this act mentioned, of any person

11 over the age of twenty-one years of age, shall be upon such terms  
12 and conditions as such board may prescribe.

Sec. 16. The board of education of said district may bor-  
2 row money and issue bonds therefor, or raise money by the issue  
3 and sale of the bonds of said district, for the purpose of build-  
4 ing, completing, enlarging, repairing or furnishing school houses,  
5 or buying land, equipment, or property for school purposes, in  
6 said district; also for the purpose of buying land within said  
7 district for the purpose of providing a suitable site for the build-  
8 ing thereon of the public library mentioned in section six of this  
9 act; and for the purpose of providing, by purchase, lease or other-  
10 wise, the play grounds within said district mentioned in section  
11 five. Said bonds shall be payable in not more than thirty-four  
12 years from date of issue, and the rate of interest thereon shall  
13 not exceed six per centum per annum; *provided*, that no debt  
14 shall be contracted under this section, which shall, including ex-  
15 isting indebtedness, in the aggregate, exceed two and a half  
16 per centum of the taxable property in said district, to be ascer-  
17 tained by the last assessment for state and county taxes previous  
18 to the incurring of such indebtedness, nor without at the same  
19 time providing for the collection of a direct annual tax sufficient  
20 to pay annually the interest on said debt, and the principal there-  
21 of, within and not exceeding thirty-four years; and, *provided*,  
22 *further*, that no debt shall be contracted under this section unless  
23 all questions connected with the same shall have been first sub-  
24 mitted to a vote of the people of said district at a special or gen-  
25 eral election, and shall have received three-fifths of all the votes  
26 cast for and against the same.

Sec. 16-a. Any interest which has heretofore accrued or  
2 may hereafter accrue or become due or payable upon any funds  
3 derived from the sale of bonds heretofore issued by said board of  
4 education, or upon any taxes, levies or other funds which are  
5 applicable to the support of the schools, or to other educational  
6 purposes of said Charleston independent school district, including  
7 all funds which are distributable for any purpose by said board of  
8 education, which have been deposited in any depository for pub-  
9 lic monies by the said board of education, or the sheriff or county  
10 treasurer of Kanawha county, or any other official or person, is  
11 hereby declared to be part and parcel of the original fund which  
12 produced such interest; and such interest shall be applied, used  
13 or invested in all respects the same as such original fund; and

14 any interest which may hereafter accrue or become due and  
 15 payable upon any funds that may be raised by the sale of any  
 16 bonds which may be hereafter issued under the provisions of this  
 17 act, and any interest upon any taxes, levies or other funds above  
 18 mentioned, is hereby declared to be part and parcel of the fund pro-  
 19 ducing such interest; and when, and as such interest is paid or  
 20 collected, it shall be deposited with and become a part of such  
 21 fund, and shall be applied, used or invested in all respects the  
 22 same as the fund which produced such interest.

Sec. 17.. All acts and parts of acts concerning the Charles-  
 2 ton independent school district, not contained in said chapter  
 3 seventy-four of the acts of the legislature of one thousand nine  
 4 hundred and eleven, as amended by said chapter one hundred and  
 5 ten of the acts of the legislature of one thousand nine hundred  
 6 and fifteen, and by this act, are hereby repealed; and all provis-  
 7 ions of the general school laws of the state, and all other laws  
 8 which are in any manner inconsistent with the provisions of the  
 9 acts aforesaid, or of any of them, shall to such extent not be  
 10 applicable to said Charleston independent school district.

## CHAPTER 74.

(Senate Bill No. 269.)

AN ACT to amend chapter forty-five of the code relating to education,  
 by enacting as additional thereto and as a part thereof, a section  
 to be numbered section seventy-eight-a, authorizing boards of  
 education to establish and maintain night schools, where prac-  
 ticable, for the education of certain persons.

[Passed February 23, 1917. In effect ninety days after passage. Approved by  
 the Governor March 3, 1917.]

Sec. 1. Authority to establish and maintain night schools.

*Be it enacted by the Legislature of West Virginia:*

That chapter forty-five of the code, relating to education, be and the  
 same is hereby amended by enacting an additional section thereto, as  
 a part thereof, to be numbered seventy-eight-a, and reading as follows:

Section 78-a. Boards of education in districts and inde-  
 2 pendent districts, shall have the authority to establish and main-  
 3 tain night schools, where practicable, for the education of all per-  
 4 sons, including foreign-speaking people residing in the state, ex-  
 5 cepting, however, children and youth who are required by law to  
 6 attend day schools.

## CHAPTER 75.

(Senate Bill No. 275.)

AN ACT to authorize the laying of additional levies for the completion of a new public school house by the board of education of Richland district, Ohio county, which has already begun and partly completed, such new public school house, but is unable to complete the same from existing levies.

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

SEC.

1. Authorizing board of education of Richland district to lay special building fund levy; time said

SEC.

levy may run; amount; sole purpose of levy to complete new public school house.

2. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of education of Richland district, Ohio county, wherein the construction of a new public school house has been begun prior to the first day of January, one thousand nine hundred and seventeen, and to provide funds for the construction of which any bonded indebtedness has been previously created under the provisions of chapter twenty-seven of the acts of one thousand nine hundred and eight, and which board of education does not lay a levy for school purposes in excess of fifty-five cents on the one hundred dollars valuation on all taxable property therein, and for the completion of which new public school building the funds so provided, together with other available funds, have proved insufficient, may, in addition to all the levies now authorized by law, lay a special building fund levy for not more than three consecutive years, not to exceed fifteen cents on the one hundred dollars valuation of taxable property in said school district, for the sole purpose of raising sufficient funds to complete such new public school house.

Sec. 2. All acts and parts of acts coming within the purview of this act and in conflict therewith are hereby repealed.

## CHAPTER 76.

(Senate Bill No. 295.)

AN ACT to amend and re-enact chapter ninety-two of the acts of one thousand eight hundred and sixty-seven, as amended by chapter forty-seven of the acts of one thousand eight hundred and sixty-eight, as amended by chapter thirty-eight of the acts of the legislature of one thousand eight hundred and ninety-nine.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

## SEC.

1. Clarksburg school district; boundary.
2. Persons who may attend the school, in the district.
3. The levy to pay bonds, etc.
4. Board of education shall consist of three; when election shall be held.
5. Vacancies how filled.
6. A corporation as the "board of education of Clarksburg school district."
7. Shall elect a president and secretary; their duties.
8. Authority to prescribe text books; may provide hooks, etc.
9. Power to establish high school, etc.

## SEC.

10. Admission gratuitous to resident children; non-resident children to pay a tuition.
11. Title to land and property to be vested in.
12. Enumeration of children annually; compensation.
13. To ascertain amount of money necessary to continue schools; levy shall not exceed seventy-five cents, etc.; how collected; commission; duty of secretary.
14. Elect superintendent and other teachers.
15. Inconsistent acts repealed.
16. This act not to be effective unless adopted by voters; form for ballots.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That so much of the districts of Coal and Clark, 2 in the county of Harrison, as lies within the following described 3 territory shall constitute and be one school district to be known 4 as Clarksburg school district, bounded and described as follows: 5 Beginning at the junction of Murphy's run with Elk creek and 6 running thence with Elk creek up said stream to the boundary line 7 of the Clarksburg Industrial Company's addition; thence with the 8 northern and eastern lines of said addition to the line of the lands 9 of the Union Land Company; thence in a south-western direction 10 with the line between the lands of the Union Land Company and of 11 said addition to Elk creek; thence down Elk creek to a point 12 opposite the southeastern corner of the town of Broad Oaks; 13 thence crossing Elk creek to said corner of the town of Broad 14 Oaks, and with the corporation line of the town of Broad Oaks 15 to the southwestern corner of Alta Vista addition; thence in a 16 straight line to the corner of lands of L. D. Jarvis' heirs, John 17 J. Davis' heirs and R. T. Lowndes in the low gap at the head of 18 Second street extended; thence southwesterly with the eastern lines 19 of said John J. Davis' heirs and Maud Duncan land, to the 20 northern bank of Arnold's Run; thence down the north bank of 21 said run to the west side of the Clarksburg and Weston turn- 22 pike; thence with the western side of the same to the southern 23 limits of the Clarksburg water works pump station property; 24 thence with the same by the most direct line to the western bank 25 of the West Fork river; thence with the western bank of same 26 up the river to a point opposite the southwestern corner of Hart- 27 land; thence with the western line of Hartland to the West Milford 28 turnpike; thence a straight line northeasterly to the northeast

29 corner of the eastern abutment of the bridge across Limestone  
30 creek on the northwestern turnpike; thence with the northern  
31 line of said turnpike to the southwestern corner of Glenwood;  
32 thence with the western line of the same to the northwestern cor-  
33 ner thereof; thence with the northern line of said Glenwood to the  
34 northeastern corner thereof; thence a straight line to the south-  
35 eastern corner of the southern abutment of the bridge across  
36 Limestone creek on the Shinnston pike; thence a straight line to  
37 the mouth of Limestone creek; thence across the West Fork river  
38 by the most direct line to the east bank thereof; thence down the  
39 river to the northern limits of the Riverside addition; thence with  
40 the northern line of the same to the northeastern corner thereof;  
41 thence a straight line to the northwestern corner of Indiana and  
42 North Sixth street in Glen Elk addition number two; thence with  
43 the northern line of said addition to the northeastern corner of  
44 Block "A" in said Glen Elk addition number two; thence a straight  
45 line to the northeastern corner of Montpelier addition; thence  
46 with the eastern line of said addition southerly to the northern  
47 line of The Baltimore and Ohio Railway Company's right-of-  
48 way; thence easterly with the same to a point in the eastern line  
49 of the Northwestern turnpike where the same intersects with said  
50 right-of-way line, this point being at the most western of the  
51 two crossings known as the "double crossing," thence a straight  
52 line to the mouth of Murphy's Run, the beginning.

Sec. 2. Persons who are entitled, or who shall be entitled  
2 to attend what is known as "the industrial school" precinct, in  
3 Clark district of said county, and residing without the limits of  
4 the Clarksburg school district herein created, shall have the right,  
5 for a period of twenty years, from and after the date this act  
6 becomes effective to attend the schools within the Clarksburg school  
7 district, without the payment of tuition.

8 Persons who are entitled to, or who shall be entitled to attend  
9 what is known as the "Adámston" school precinct, in Clark and  
10 Coal districts in said county, and residing without the limits of  
11 Clarksburg school district herein created, shall have the right,  
12 for a period of twenty years, from and after the date this act  
13 becomes effective to attend the schools within the Clarksburg school  
14 district, without the payment of tuition.

15 Persons who are entitled to, or who shall be entitled to at-  
16 tend what is known as the "North View school," in Coal district,



17 of said county, and residing without the limits of the Clarksburg  
18 school district herein created, shall have the right, for a period of  
19 twenty years, from and after the date this act becomes effective  
20 to attend the schools within the Clarksburg school district, with-  
21 out the payment of tuition.

Sec. 3. The levy district for the collection of taxes to pay  
2 the interest on any outstanding bonds, and to discharge such  
3 bonds, heretofore issued by the Clarksburg school district shall  
4 be co-extensive with the Clarksburg school district created by this  
5 act.

Sec. 4. The board of education of said district shall consist  
2 of three members who shall be elected by the qualified voters  
3 resident therein, and no two of whom shall reside in the same  
4 ward, in the said city of Clarksburg, while serving as a member  
5 of said board; and they shall be vested with the same rights and  
6 exercise the same powers, perform the same duties and be governed  
7 by the same laws that boards of education elsewhere in the county  
8 of Harrison are or may hereafter be governed, except in so far as  
9 changed by the provisions of this act.

10 The members now constituting the board of education in said  
11 district shall continue in office until the expiration of the term  
12 for which they were elected; and the qualified voters of said dis-  
13 trict shall, at the election to be held for mayor, and other officers  
14 of the city of Clarksburg, on the Tuesday next after the first  
15 Monday in April, one thousand nine hundred and seventeen,  
16 elect one member of the board of education for a term of three  
17 years, commencing on the first day of July, one thousand nine hun-  
18 dred and seventeen, and annually thereafter one member of said  
19 board for a like term of three years, and such election shall be con-  
20 ducted by the same officers who shall conduct the said city elec-  
21 tion, and without additional compensation; and in all respects said  
22 election shall be a part of the city election, except that the resi-  
23 dents of said district outside of the corporation of said city, who  
24 are qualified voters, may vote at the mayor's office for members  
25 of said board and that a separate poll book and ballot box shall be  
26 kept and used by the commissioners at said mayor's office in the  
27 election of members of said board of education; and the com-  
28 missioners of said election for the city of Clarksburg, shall certify  
29 the result of the election of said member or members to the board  
30 of education of Clarksburg school district, and the said board

31 shall issue a certificate of election to the person securing the  
32 greatest number of votes therefor, within five days after said  
33 election; and in case of a tie vote in the election of a member, the  
34 board of education shall have the casting vote for one of the per-  
35 sons so tying; and shall settle all contests in the election of any  
36 member.

Sec. 5. Any vacancy that shall occur in the office of mem-  
2 ber of the board of education, by death, resignation, refusal to  
3 serve or otherwise, shall be filled by the board of education of  
4 the said district at the first regular meeting thereafter, or as soon  
5 as circumstances will permit by the appointment of a suitable  
6 person, who shall hold his office until the next election of member  
7 of board of education of said district, when a member shall be  
8 elected for the unexpired term.

Sec. 6. The said board of education shall be a corporation  
2 by the name of the "board of education of Clarksburg school dis-  
3 trict," and by that name may sue and be sued, plead and be im-  
4 pleaded, contract, purchase, hold and grant estate real and per-  
5 sonal, make by-laws and regulations consistent with the laws of  
6 this state for the government of all persons and things under its  
7 authority and the due and orderly execution of its affairs, and  
8 have general control or supervision of all schools of the district, but  
9 need not appoint trustees as provided by the general law.

Sec. 7. The board of education shall elect annually at the  
2 first meeting in July, or as soon thereafter as may be practicable,  
3 one of their members to act as president of said board; who  
4 shall perform all the duties which are required to be performed by  
5 such officer of any board of education which may not be incon-  
6 sistent with the provisions of this act; they shall, at the same time,  
7 elect a secretary, who shall perform the same duties for said  
8 board as are required of secretaries of other boards of education  
9 or such other duties as he may be required to perform, not in-  
10 consistent with this act, and shall receive such salary as the board  
11 may determine at the time of his election; and the members of  
12 the board of education shall receive as their compensation twenty-  
13 five dollars per annum.

Sec. 8. The said board of education shall have authority  
2 to prescribe the school books to be used in said district, in addition  
3 to those prescribed by the book board of Harrison county, and the  
4 branches of study to be pursued in the schools of said district, and

5 to make such grading of said schools as they may deem necessary;  
6 they may also provide free text books for indigent pupils, or for  
7 all pupils of said district, and furnish all necessary apparatus and  
8 books for library for the use of the school, and incur all other  
9 expenses necessary to make the system efficient for the purpose  
10 for which it was established.

Sec. 9. The board of education shall have power to establish  
2 within this district both graded and high schools, and grant  
3 diplomas to the graduates thereof; *provided, however,* that the  
4 white and colored schools shall be separate and distinct from each  
5 other.

Sec. 10. Admissions to the schools of the district shall be  
2 gratuitous to all children, wards, and apprentices, who are actual  
3 residents within the district at the time they enter said school,  
4 and who are between the ages of six and twenty-one years. Non-  
5 residents of the district may be allowed to attend the school of  
6 the district upon payment of not less than one dollar and fifty  
7 cents, tuition per month, to be paid and accounted for as directed  
8 by the general law; *provided, however,* that the board of education  
9 of such district shall have power to establish a kindergarten or  
10 kindergartens, in connection with the schools of such district, to  
11 which may be admitted children between the ages of four and six  
12 years, upon such regulations as the board may prescribe or as may  
13 be provided by law.

Sec. 11. The title to all lands or personal property within  
2 the said district, and now held and used for school purposes,  
3 shall be and the same is hereby vested in the board of education of  
4 Clarksburg school district.

Sec. 12. Annually, and within the month of March, the  
2 said board shall cause to be taken an enumeration of the youths  
3 of school age living within the district, giving the classification  
4 required by the general law; and the result thereof shall be verified  
5 by affidavit of the person or persons employed to take the same,  
6 to the effect, that they have used all means in their power to have  
7 the enumeration correct, and the result shall be recorded in the  
8 office of the secretary of the board and communicated to the county  
9 and district superintendents. The person employed to take the  
10 said enumeration shall receive such compensation as the board may  
11 direct.

Sec. 13. It shall be the duty of the board of education an-

2 nually, and in the month of July, to determine, as near as prac-  
3 tical, the amount of money necessary, in addition to all other  
4 available funds, to continue the schools of the district for a period  
5 of not less than six nor more than nine months, and for the pur-  
6 chasing of sites, building school houses, repairs and improvement  
7 of school premises, and for all other purposes relating to the  
8 schools of the district; *provided*, that not more than seventy-five  
9 cents on each one hundred dollars valuation of the property of the  
10 district, according to the last assessment made for state and county  
11 purposes, shall be assessed and levied in any one year; and the  
12 same shall be collected in the same manner as other school taxes  
13 are collected, under the provisions of the general law of the state;  
14 and the sheriff shall receive for the collection thereof, such com-  
15 mission as is allowed by law for the collecting of other school  
16 money; and a lien is hereby declared to exist on the real estate  
17 within said district for the taxes levied thereon as aforesaid. Such  
18 funds and other revenues of this board shall be paid out only upon  
19 drafts signed by the secretary and president and issued by the  
20 order of the board. And the secretary shall enter the amount of  
21 such drafts, the dates and names of persons to whom payable, in  
22 a journal to be kept by him for that purpose.

Sec. 14. Annually, on the first Monday in July, or as soon  
2 thereafter as practicable, the board of education shall elect a super-  
3 intendent and such other teachers as may be necessary for the  
4 schools of the district, and fix their salaries. Such superintendent  
5 shall have supervision of all the schools in the district, and per-  
6 form such other appropriate duties relating to the schools of the  
7 district as the board of education may prescribe.

Sec. 15. Chapter ninety-two of the acts of one thousand eight  
2 hundred and sixty-seven, as amended by chapter forty-seven of the  
3 acts of one thousand eight hundred and sixty-eight, and by chap-  
4 ter thirty-eight of the acts of one thousand eight hundred and  
5 ninety-nine, and all other acts, and parts of acts, inconsistent with  
6 this act are hereby repealed.

Sec. 16. This act shall not be effective unless the same shall  
2 first be submitted to the voters of the territory included in the  
3 boundaries as herein described, at a special election called for that  
4 purpose, and adopted by three-fifths of the votes cast for and  
5 against the same at said election. Said special election shall be  
6 held on the first Tuesday after the first Monday in December,  
7 one thousand nine hundred and seventeen, after publication of

8 the act one time not less than ten days immediately preceding  
 9 said special election, in a daily newspaper published in said city.  
 10 Said special election shall be conducted in the regular manner of  
 11 holding municipal elections in said city. The board of education  
 12 of the now existing city of Clarksburg school district shall desig-  
 13 nate the voting places for such election, appoint commissioners  
 14 and poll clerks to conduct the same and pay the expenses thereof  
 15 out of the treasury of said now existing school district.

16 The ballot to be voted at said election shall be printed upon  
 17 plain white paper and in the following form.

18 *Clarksburg.*

19 School District Election.

20 Indicate how you desire to vote by a cross in the square.

21  For Ratification of new district.

22  Against ratification of new district.

## CHAPTER 77.

(House Bill No. 118.)

AN ACT to amend and re-enact chapter seventy-five of the acts of the legislature of West Virginia of the year one thousand nine hundred and eleven, by amending and re-enacting sections two and twenty by adding an additional section twenty-three-a to said act. The amendments relate to the election of school commissioners, the payment of pensions to school teachers and attending of institutes by school teachers of Parkersburg independent school district.

[Passed February 5, 1917. In effect ninety days from passage. Approved by the Governor February 14, 1917.]

SEC.  
 2. Voters of district to elect two commissioners and president of board; when election shall be held; term of office; president and commissioners to constitute "board of education of Parkersburg district;" provision as to ballots used at general primary; candidates nominated; provision as to ballots used at general election; candidates elected.  
 20. Teachers subject to rules adopted by board; causes for removal; teachers appointed and salaries fixed by board; certificates required; board of education may

SEC.  
 retire and pension teachers; term of service; age limit for teachers pensioned; how salaries shall govern pensions; provision in case teachers become incapacitated; physical examination required; further classification for pension list; how the word "teacher" shall be construed.  
 23-a. Requirements of Parkersburg teachers as to institute attendance; superintendent of schools to arrange for institutes; no extra per diem allowed for attendance.

*Be it enacted by the Legislature of West Virginia:*

That sections two and twenty of the acts of the legislature of West Virginia for the year one thousand nine hundred and eleven be amended and that section twenty-three-a be added to said chapter to read as follows:

Section 2. There shall be elected by the voters of said 2 district at the general election to be held in the year one thousand 3 nine hundred and twelve and every four years thereafter, two 4 commissioners; and at the general election to be held in the 5 year one thousand nine hundred and fourteen, and every four 6 years thereafter, there shall be elected a president of 7 the board and two commissioners whose term of office shall 8 commence on the first day of January next succeeding their re- 9 spective elections, and shall continue for four years, respec- 10 tively, and until their successors are elected and qualified; the 11 president and commissioners shall constitute a board of educa- 12 tion for said district, named "board of education of Parkers- 13 burg district." *Provided, however,* that at the general primary 14 at which said commissioners and president are to be nominated 15 the names of the candidates for commissioners and the names 16 of candidates for president shall be placed by the ballot com- 17 missioners on a separate ballot and in one column; and the four 18 candidates for commissioner receiving the highest number of 19 votes shall be the nominees for commissioners, and the two 20 candidates receiving the highest number of votes for president 21 shall be the nominees for president. And, *provided, further,* that 22 the candidates so nominated for commissioner and for president 23 to be voted on at the general election shall be placed by the 24 ballot commissioners on separate ballots and in one column, and 25 the two candidates receiving the highest number of votes for 26 commissioner and the one candidate receiving the highest num- 27 ber of votes for president shall be declared elected as commis- 28 sioners and president.

Sec. 20. Teachers shall be subject in all respects to the rules 2 and regulations adopted by the board and they may be removed 3 by the board for incompetency, immorality or misconduct upon 4 complaint of the superintendent or any member of the board.

5 All teachers shall be appointed and their salaries fixed by 6 the board; but no person shall be appointed unless he shall have 7 first obtained a certificate from the examining committee, ex-

8 cept that the superintendent and members of the examining  
9 committee shall not be required to have a certificate.

10 The board of education may retire, pay pensions to and  
11 place on a pension list all teachers who have attained the age of  
12 sixty years and who have taught in said schools for a period of  
13 thirty years; *provided, however*, that all teachers shall be com-  
14 pelled to retire at the age of sixty-five years, whether said teach-  
15 ers have taught in said school for a period of thirty years or  
16 not. The payment of said teachers retired and placed upon  
17 the pension list shall be as follows: Teachers whose average  
18 salary for the last ten years prior to being retired and placed  
19 upon the pension list is nine hundred (\$900.00) dollars per year  
20 or less shall receive a monthly pension of thirty-five (\$35.00)  
21 dollars per month or four hundred and twenty (\$420.00) dollars  
22 a year; teachers whose average salary for the last ten years prior  
23 to being retired and placed on the pension list is more than  
24 nine hundred (\$900.00) dollars and less than fifteen hundred  
25 (\$1500.00) dollars shall receive forty-two and fifty one hundredths  
26 (\$42.50) dollars per month or five hundred and ten (\$510.00)  
27 dollars per year; teachers whose average salary for the last ten  
28 years prior to retirement and being placed on the pension list is  
29 fifteen hundred (\$1500.00) dollars or more shall receive fifty  
30 (\$50.00) dollars per month or six hundred (\$600.00) dollars per  
31 year. *Provided, further*, that any teacher who has reached the  
32 age of fifty years and has served twenty years or more as teacher  
33 in the schools of said district may be retired and placed on the  
34 pension list by the board, provided the said teacher has become  
35, incapacitated either mentally or physically, said teacher to be  
36 classified the same as teachers who have taught thirty years as  
37 herein provided, but shall receive only two-thirds of the amount  
38 of pension to which teachers serving thirty years are entitled.  
39 *Provided, further, however*, that any teacher desiring to be placed  
40 upon the pension list by reason of being incapacitated either men-  
41 tally or physically shall submit to a physical examination by three  
42 competent physicians, which said physicians shall be appointed by  
43 the board of education and said physicians shall make their re-  
44 port to said board of the physical or mental condition of said  
45 teacher desiring to be placed on said pension list. *Provided, fur-*  
46 *ther*, that any teacher who is compelled to retire at the age of  
47 sixty-five (65) years, but who has taught in said schools twenty-  
48 five (25) years or more and less than thirty (30) years may be

49 by the board placed on the pension list to be classified the same  
50 as teachers who have taught thirty (30) years or more, but to  
51 receive three-fourths of the pension that said teachers receive  
52 who have taught thirty (30) years or more.

53 The word teacher in this section shall be construed to mean  
54 any teacher, principal, supervisor, superintendent, certified libra-  
55 rian or any other person employed in any educational or admin-  
56 istrative capacity in the public schools of Parkersburg independent  
57 school district, whose salary is payable from the teachers' fund.

Sec. 23a. No teacher of Parkersburg independent school  
2 district shall be required to attend any county institute held in  
3 this state, except as hereinafter provided; *provided, however*, that  
4 the Parkersburg independent school district may provide a series  
5 of institutes or lectures to be given within the school year and  
6 the attendance at said institute or lectures by the teachers of  
7 said district shall be compulsory, except that they may be excused  
8 from attendance upon giving reasonable excuse therefor and ob-  
9 taining permission to be so absent from the superintendent of  
10 schools of said Parkersburg independent school district. Said  
11 institutes are to be arranged for by the superintendent of schools  
12 under such rules and regulations as the board of education may  
13 prescribe. No per diem in addition to their regular salary is to  
14 be paid to the teachers for attendance at said institutes or lec-  
15 tures.

## CHAPTER 78.

(House Bill No. 119.)

AN ACT to create the independent school district of Williams in the  
county of Wood.

[Passed February 23, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

Sec.	Sec.
1. Williams independent school district, Wood county; boundaries.	12. Duty of secretary.
2. Board of education; qualification.	13. Admission of various schools.
3. President and commissioners now in to serve.	14. Enumerators; board shall examine, etc.
4. Elect president and commissioner, when.	15. State superintendent shall report to auditor, etc.
5. Oath, form; secretary to administrator.	16. Board shall provide houses, furniture, fixtures, etc. contracts; bond issue, etc.
6. Salary.	17. Levy.
7. Vacancies.	18. Public library.
8. Shall be a body corporate, etc.	19. Upon failure of board to lay levy, etc.; how taxes collected; deposit; sheriff shall pay.
9. Elect secretary; term; bond.	20. Board shall prescribe rules.
10. Time to hold meetings.	
11. Duty of mayor.	



SEC.	SEC.
21. Power to abandon schools.	fallure: bonds; incorrigible children.
22. Authorized to establish, and maintain vocational training, etc.	28. Truant officers; compensation; duty.
23. How money disbursed.	29. Penalty for inducing child to absent himself from school; truant officer; penalty for fallure; prosecution; court jurisdiction.
24. District supervisor to be appointed; duty of supervisor.	30. How general school law shall apply.
25. Examining committee, how appointed; issue certificates; fee.	31. Inconsistent laws repealed.
26. Teachers subject to board; salaries.	
27. Duty of persons having control of child or children; penalty for	

*Be it enacted by the Legislature of West Virginia:*

Section 1. The magisterial district of Williams in the 2 county of Wood, as now bounded and designated in the records 3 in the office of the clerk of the county court of said county, shall 4 be and is hereby created an independent school district to be 5 known as "Williams independent school district," hereinafter 6 mentioned as Williams district.

Sec. 2. There shall be a board of education for said dis- 2 trict composed of a president and two commissioners who shall 3 constitute a board of education for said district named, "Board 4 of education of Williams district." Each member of said 5 board shall be a qualified voter and a *bona fide* resident of said 6 district and shall have been such for at least two years prior to 7 his election, and shall be the owner of real estate which shall 8 have been charged with taxes in his name on the tax records of 9 Wood county for at least two years prior to his election. One 10 of the members of said board shall reside within the corporate 11 limits of the town of Williamstown after July first, one thousand 12 nine hundred and nineteen.

Sec. 3. The president and commissioners now in office shall 2 serve to the end of the term to which they have respectively been 3 elected. Until the first day of July one thousand nine hundred 4 and nineteen, the present president and commissioners shall con- 5 stitute the board of education of Williams district.

Sec. 4. There shall be elected by the voters of said district 2 at the general election to be held in the year one thousand nine 3 hundred and eighteen, and every four years thereafter, a presi- 4 dent of the board and one commissioner, and at the general elec- 5 tion to be held in the year one thousand nine hundred and twenty, 6 and every four years thereafter, there shall be elected one com- 7 missioner, whose term of office shall commence on the first day of 8 July next succeeding his election and shall continue for four years 9 and until his successor is elected and qualified.

Sec. 5. Before entering upon their duties as officers, the said

2 president and each of said commissioners shall be required to  
3 qualify by taking and subscribing the following oath of office:—  
4 “I, ....., do solemnly swear (or affirm)  
5 that I will faithfully perform the duties of president of the board  
6 of education (or school commissioner) of Williams district dur-  
7 ing the term for which I was elected, to the best of my ability;  
8 so help me God.”

9 The secretary of the board of education is authorized to ad-  
10 minister said oath, a copy of which shall be kept and preserved by  
11 him in the files of his office.

Sec. 6. The salaries of the members of the board shall be  
2 fixed by the board; *provided*, that the salary of the president shall  
3 not exceed the sum of \$50.00 per annum and the salary of each  
4 member shall not exceed the sum of \$40.00 per annum.

Sec. 7. Vacancies in the office of president or commissioners  
2 shall be filled by the board at the first regular meeting after which  
3 said vacancy shall be declared, by the appointment of a duly quali-  
4 fied person, who shall hold office until the next election, at which  
5 time a qualified person shall be elected to fill the unexpired term  
6 caused by said vacancy.

Sec. 8. The board of education of Williams district shall be  
2 a body corporate in law by the name of “board of education of  
3 Williams district” and as such, may sue and be sued, plead and  
4 be impleaded, contract and be contracted with, purchase, hold,  
5 sell and convey real or personal property for the purpose of edu-  
6 cation within the district, receive any gift, grant, donation or de-  
7 vise for the benefit of education; employ attorneys, become par-  
8 ties to suits and contracts, and do and perform any and all other  
9 corporate acts necessary and proper to the advancement of free  
10 school education in said district. It shall succeed and be sub-  
11 stituted to all of the rights of the former board of education of the  
12 district of Williams in the county of Wood, and may prosecute  
13 any and all suits and proceedings now pending, or which may  
14 have been brought and prosecuted in the name of the former board  
15 of education for the recovery of any money or property, or damage  
16 to any property due to or vested in said board of education, and  
17 said board of education shall be liable in its corporate capac-  
18 ity for all claims legally existing against said board of education;  
19 the title to all real estate and personal property now vested in the  
20 board of education of Williams district in the county of Wood  
21 shall be and is hereby vested in the board of education of the inde-

22 pendent district hereby created, and all legal contracts of the  
23 former board now shall be and are hereby declared to be binding  
24 on the new board and on all parties to said contracts.

Sec. 9. At the first meeting in July, 1917, the board shall  
2 elect a secretary whose term of office shall begin at the time of his  
3 election and shall continue not to exceed a period of four years,  
4 as determined by the board. The board shall determine the time  
5 for which the the secretary shall serve, and shall elect a new  
6 secretary upon the expiration of his term. The secretary shall  
7 serve during the term for which he is elected and until his suc-  
8 cessor is elected and qualified, but he may be removed by the  
9 board of education of Williams independent school district at any  
10 regular meeting for immorality, misconduct, neglect of duty, or  
11 lack of proficiency. Any vacancy in the office shall be filled for  
12 the unexpired term by the board.

13 The secretary shall qualify by executing his bond with good  
14 security in such penalty as the board may prescribe, to be ap-  
15 proved by the board, which bond shall be committed to the cus-  
16 tody of the president who shall keep and preserve the same.

Sec. 10. The board shall hold meetings on the first and  
2 second Mondays in July of each year, and thereafter at least twice  
3 each month during the months which the schools are in session,  
4 at such time and place and on such dates as the board may fix;  
5 the time and place for the holding of said meeting shall be fixed  
6 and determined by resolution of the board passed at the first  
7 meeting held in July, and shall be entered on the records of the  
8 proceedings of such meetings; such meetings are designated as  
9 regular meetings. Special meetings shall be called by the presi-  
10 dent or by the secretary upon the written request of one mem-  
11 ber of the board; said meeting to be held not later than three days  
12 thereafter; no business shall be transacted at a special meeting  
13 except it be mentioned in the call, which shall be in writing, and  
14 be recorded in the proceedings of said special meeting, and no  
15 contract shall be made by the board in special meeting involving  
16 the expenditure of more than one hundred dollars, unless all mem-  
17 bers of the board shall have had at least twelve hours' notice of  
18 said meeting by personal service of the call thereof. A majority  
19 of the board shall be necessary to constitute a quorum.

Sec. 11. The president shall perform such duties as ordi-  
2 narily devolve upon the presiding officer of a deliberative body;  
3 by virtue of his election he shall be a member of the board, and

4 entitled to vote on all questions submitted. In his absence the  
5 board may choose a president *pro tempore*.

Sec. 12. The secretary shall record in a well bound book  
2 to be provided for the purpose, all official acts and proceedings of  
3 the board, which shall be a public record open to the inspection  
4 of all persons interested therein; he shall also keep and preserve  
5 books of account which shall show the resources of the board for  
6 each current year and the funds from which the same is derived;  
7 all credits to be charged against said resources by way of de-  
8 linquents, commissions and otherwise; all disbursements made  
9 by the board and on account of what fund, and the balance to the  
10 credit of each fund, together with a descriptive entry, showing for  
11 what purpose each item of disbursement is made, which books of  
12 account shall always show the financial resources of the district  
13 and shall always be open to the inspection of any tax payer of the  
14 said district; he shall also preserve in his office all papers con-  
15 taining evidences of title, contract and obligations; and in gen-  
16 eral, shall record and keep in his office all records, papers and  
17 documents as shall be required by this act, and perform such  
18 duties, not inconsistent herewith, as may be prescribed by the  
19 board; he shall make such reports as are required to be made by  
20 secretaries of the board of education by the general school laws of  
21 the state; for his services he shall receive a salary to be fixed by  
22 the board not to exceed \$75.00 per annum.

Sec. 13. Admission to the various schools in the district  
2 shall be gratuitous to all children, wards and apprentices of actual  
3 residents within the district between the ages of six and twenty-  
4 one years provided that pupils, who are non-residents of the dis-  
5 trict shall be allowed to attend the schools of the independent  
6 school district hereby created upon the payment of such tuition as  
7 the board of education may prescribe, which tuition however,  
8 shall not be less than the sum of \$2.50 per month for students  
9 in the high school of said district, and not less than \$1.50 per  
10 month for students in the grade classes of said district.

Sec. 14. Not later than the first regular meeting in March  
2 in each year, the board shall employ a competent person or per-  
3 sons, residents of the district, to make an enumeration of all the  
4 youths resident in the said district who shall be over six and  
5 under twenty-one years of age on the first day of July following,  
6 in the manner prescribed by the general school law of the state,  
7 which enumeration shall be verified in the manner and returned

8 to the secretary of the board within the time prescribed by said  
9 general school law. The board shall examine said report of enu-  
10 meration at its next regular meeting after its return, and shall  
11 take such steps as it may deem necessary to verify the same, and  
12 the secretary shall certify the said enumeration to the county  
13 superintendent of schools within the time and in the manner  
14 prescribed by law, or said board may, in its discretion, require the  
15 teachers of said district to take such enumeration in the manner  
16 and form provided for in the general school law.

Sec. 15. The state superintendent of schools, in his report  
2 to the auditor, shall specify separately the enumeration of youths  
3 in said district, and in the apportionment of the school funds,  
4 the amount due said district shall be certified to the secretary of  
5 said board separately, and requisition therefor shall be drawn in  
6 favor of the board of education of said district and shall be de-  
7 posited with the sheriff of Wood county.

Sec. 16. The board of education shall provide by condemna-  
2 tion, purchase, lease, construction or otherwise, such school houses  
3 and grounds, furniture, fixtures and appliances, as may be neces-  
4 sary for school purposes, and keep and maintain the same in good  
5 order and repair; shall supply said school buildings with fuel and  
6 other things necessary for comfort and convenience; and shall pay  
7 all charges incurred by virtue of any of the provisions of this act  
8 which are not chargeable to the teachers' fund. In order to pro-  
9 vide the funds which are necessary for the purpose of this sec-  
10 tion, the board of education shall annually, at its first regular  
11 meeting in July make an estimate of the amount of money needed  
12 in the district for the purpose of maintaining the schools for the  
13 term fixed, and the secretary shall record such estimate in his  
14 record book for public inspection. At the second regular meeting  
15 in July, or as soon thereafter as practicable, the board of educa-  
16 tion shall proceed to lay such levy on the property taxable in said  
17 district, in the manner, within the limits and not to exceed the  
18 amounts prescribed by the general school laws of the state re-  
19 lating to levy by boards of education for that purpose.

20 All contracts made by the board, to the extent that they shall  
21 involve the levy of any future year, shall be void, and no debts  
22 shall be contracted or incurred by the board in any one year which  
23 shall exceed the funds available for that purpose, unless the ob-  
24 ject, nature and extent thereof shall have been submitted to the  
25 voters of the district, at a special election to be called by the

26 board for that purpose, and shall have received a majority of all  
27 the votes cast for and against the same; *provided*, that in case a  
28 bond issue is voted upon, a three-fifths vote of all votes cast shall  
29 be necessary for such bond issue; the president of said board shall  
30 issue a proclamation of said special election, in which he shall  
31 recite the object, nature and the extent of the indebtedness pro-  
32 posed to be incurred, and for what purpose; which proclamation  
33 shall be published once in each week for four weeks, previous to  
34 the day of election in at least two newspapers published in said  
35 county of Wood. Every special election held pursuant to the  
36-38 provisions of this section, except as herein otherwise specially  
39 provided, shall be held and conducted and the results certified in the  
40 manner prescribed by the general elections. The proceeds of taxes  
41 so levied, or property sold, of all donations and devises applicable  
42 to any of the purposes mentioned in this section shall constitute a  
43 fund to be called the "building fund," to be appropriated exclu-  
44 sively to the purpose mentioned in this section.

Sec. 17. In addition to the levy named in the preceding  
2 section, the board of education shall for the support of the schools  
3 in the district annually levy such tax on the taxable property in  
4 the district, as will, with the money received from the state for  
5 the support of free schools, be sufficient to keep said schools in  
6 operation for not less than eight months in the year for the  
7 grades and not less than nine months in the high school; and the  
8 board of education may, if in its opinion the same is deemed  
9 advisable, continue any of said grade schools in said district for  
10 a period not to exceed nine months in the year. Such levy shall  
11 not exceed the limits prescribed for such purpose by the general  
12 school laws of the state. The proceeds of this levy, together with  
13 the money received from the state aforesaid, shall constitute a  
14 special fund, to be called the "teachers' fund" and no part thereof  
15 shall be used for any other purpose than the payment of teachers'  
16 salaries and the salary of the supervisor and the establishment  
17 and maintenance of the public school library provided for in the  
18 next succeeding section.

Sec. 18. The board of education shall have the power, if  
2 it deem it advisable, to establish and maintain a public library,  
3 and the library so established and maintained shall be known as  
4 the Williams district public school library, and shall be for the  
5 use of the public schools of Williams district, and the inhabitants

6 thereof, and shall be governed by such rules and regulations as  
7 the board of education shall prescribe.

Sec. 19. Upon the failure of the board of education to lay  
2 the levies required by this act, or any of them, they may, upon the  
3 petition of any taxpayer of the district, be compelled to do so by  
4 the circuit court of Wood county by writ of mandamus.

5 The taxes so levied by the board of education shall be col-  
6 lected in the same manner and at the same time as the state and  
7 county taxes by the sheriff of Wood county; and he shall deposit  
8 the same immediately, when collected, with some bank or banks  
9 in a separate account or accounts, and shall credit same to the  
10 proper fund or funds. The said sheriff shall report in writing  
11 to the board of education monthly, and as otherwise required by  
12 said board as to the condition of the several funds. The sheriff  
13 shall receive for his services the salary or emolument provided for  
14 by the statute laws of the state of West Virginia and none other.

15 The bank or banks with which such funds are deposited shall  
16 allow thereon reasonable interest at the rate of not less than two  
17 and one-half per cent per annum on the average monthly balance,  
18 and the interest so received shall be added to the fund which  
19 produced it and be expended for the same purpose for which the  
20 original fund was expended. The sheriff shall pay out such sums  
21 as may be ordered by the board upon orders signed by the president  
22 and secretary of the board. Any sums derived at any time from  
23 the sale of bonds or property of said board of education shall be  
24 credited to the proper fund and shall be deposited in some bank  
25 or banks designated by the board, to the credit of the board of  
26 education of Williams district, which bank or banks shall allow  
27 interest thereon as hereinafter provided, and the interest so re-  
28 ceived shall be added to the fund which produced it to be expended  
29 for the same purpose as the original fund, or in the discretion of  
30 the board, for the payment of interest on such bonds, if the fund  
31 is derived from the sale of bonds. The sheriff of Wood county  
32 shall not be entitled to any commission on, or on account of funds  
33 derived from the sale of such bonds or property. The bank or  
34 banks, receiving on deposit any such funds for the credit of said  
35 board, shall furnish to the board of education bonds with approved  
36 surety in such sums as the board may require, which bonds shall  
37 be conditioned to safely care for said funds and to account for the  
38 same, together with the agreed interest, and to pay same out only  
39 upon duly signed orders as herein provided. Before designating

40 any bank or bank depositories hereunder, the said board shall ask  
41 for bids from the various banks in Wood county, and shall award  
42 such deposits, to the bank or banks making the most advantage-  
43 ous bids therefor, in such amounts as to the board may seem fit.  
44 *Provided*, that the rate of interest shall not be less than two and  
45 one-half per cent on the average daily balance. The said bank  
46 or banks shall pay out such sums as may be ordered by the board  
47 upon orders signed by the president and secretary of the board.

Sec. 20. The board of education shall prescribe all necessary  
2 rules and regulations for the government of the schools of the  
3 district; for the admission of pupils therein and for the exclusion  
4 of pupils dangerous to the health or detrimental to the morals  
5 and discipline of the schools; it shall hire all teachers, establish  
6 and maintain such high schools and evening schools as may be  
7 necessary and with the approval of the district supervisor designate  
8 such branches of learning as shall be taught therein; upon the  
9 recommendation of the said district supervisor it may prescribe  
10 the text books other than those adopted by state text book com-  
11 mission to be used in the schools of the district and establish a  
12 system of grades by which admission to the high school shall be  
13 regulated.

Sec. 21. The board of education is hereby given the power  
2 to abandon any schools within the district which in its opinion are  
3 not necessary, and shall have the power to consolidate any of the  
4 schools in the district. It shall, however, be the duty of said board  
5 to provide for the transfer of pupils from any schools so abandon-  
6 ed, and if in the opinion of the board the same should be rendered  
7 necessary by the abandonment or consolidation of any of said  
8 schools, the board shall have the power and authority to provide  
9 for the transportation of any pupils to said schools to which they  
10 are so transferred.

Sec. 22. The board of education is hereby authorized to  
2 establish and maintain schools for vocational training and domestic  
3 science, which shall be conducted under the order and direction  
4 of the board, and in accordance with such rules and regulations  
5 as it may prescribe; for this purpose the board is authorized to  
6 expend each year such sums out of the building fund and out of  
7 the teachers' fund of the district as it may deem necessary;  
8 *provided, however*, that for the purpose of acquiring the neces-  
9 sary buildings and grounds, furniture, fixtures and appliances,  
10 debt may be contracted by the board, provided the same is author-



11 ized by the people of the district at a special election to be held  
12 and conducted according to provisions of this act. The secretary  
13 of the board shall keep separate accounts of the cost of establish-  
14 ing and maintaining each of the schools established pursuant to  
15 the provisions of this section and the annual statements of dis-  
16 bursements shall show by items all disbursements made on ac-  
17 count thereof.

Sec. 23. No money shall be disbursed except by order of  
2 the board, duly entered of record, and every order on the treasurer  
3 for payment of money shall be signed by the president and secre-  
4 tary, and shall specify upon its face the particular account to  
5 which the same is chargeable.

Sec. 24. At the first meeting in June after this act takes  
2 effect, the board shall appoint a district supervisor of schools and  
3 fix his salary, whose term of office shall begin on the first day of  
4 July next succeeding his appointment and continue not to exceed  
5 a period of two years as determined by the board; but he may  
6 be removed at any time for immorality, misconduct, or lack of  
7 efficiency; any vacancy in the office shall be filled by the board for  
8 the unexpired term. The supervisor shall have general supervis-  
9 ion of the conduct of the schools, make all necessary reports and  
10 perform such other duties as the board may prescribe; the said  
11 district supervisor shall not receive, directly or indirectly, any  
12 gift, emolument or reward for his influence or services in securing  
13 any contract, supplies or apparatus, or the adoption of any such  
14 book, supply or apparatus, and in case he shall do so he shall be  
15 removed from office.

Sec. 25. The board of education shall appoint two compe-  
2 tent persons to act with the district supervisor as an examining  
3 committee to examine all applicants for teachers of schools in the  
4 district; each applicant for examination shall pay a fee of one  
5 dollar. Certificates of qualification shall be issued by said com-  
6 mittee according to proficiency as follows: Number one, very  
7 good; number two, good; number three, medium; and the board  
8 may, by special regulation, provide for issuance of certificates to  
9 colored teachers; no certificate shall be issued for longer than one  
10 year, but the number one certificate may be renewed from year to  
11 year by the examining committee, at its option, under such regu-  
12 lations as the board may prescribe; and, said examining commit-  
13 tee may, if it deem the same advisable, accept in lieu of said  
14 examination, the diploma of graduates from reputable colleges

15 and universities for high school teachers, and shall be and is hereby  
16 authorized to accept the diploma of graduates from state normal  
17 schools in lieu of the examination herein provided for teachers  
18 of grade schools. The committee shall hold meetings for such  
19 examinations at such times and places as the district supervisor  
20 may appoint; the examining committee shall receive such fees  
21 for their services as the board may allow, to be paid out of the  
22 examination fees, the excess of any such fees, if any, to be paid  
23 into the building fund.

Sec. 26. Teachers shall be subject in all respects to the rules  
2 and regulations adopted by the board, and they may be removed  
3 by the board for incompetency, immorality or misconduct after  
4 due hearing upon complaint of the supervisor or any member of  
5 the board.

6 All teachers and substitute teachers shall be appointed and  
7 their salaries fixed by the board; but no person shall be appointed  
8 unless he shall have first obtained a certificate from the exam-  
9 ining committee. The supervisor and the members of the exam-  
10 ining committee shall be required to hold or have held a  
11 first grade certificate, or to be a graduate of a standard normal  
12 school or school of equal or higher grade.

Sec. 27. Every person having under his control a child or  
2 children between the ages of seven and fifteen years, residing in  
3 Williams independent school district, shall cause such child or  
4 children to attend public school in said district and such attend-  
5 ance shall begin at the beginning and shall be continued through  
6 the school year thereof, and for every neglect of such duty the  
7 person offending shall be guilty of misdemeanor and shall, upon  
8 conviction thereof, be fined two dollars for the first offense and  
9 \$5.00 for each subsequent offense, together with the cost of  
10 prosecution, and in the discretion of the court or justice, be  
11 required to enter into a bond in the penal sum of \$50.00 condi-  
12 tioned that the person so convicted will cause such child or chil-  
13 dren to attend public school in accordance with the provisions of  
14 this act. Such bonds shall be made payable to the board of educa-  
15 tion of Williams district and any amount which may be recov-  
16 ered thereon shall be placed to the credit of the building fund  
17 of said district. Any failure to give bond in the manner and  
18 and within the time prescribed shall be a misdemeanor and pun-  
19 ished by a fine of not less than one dollar nor more than five  
20 dollars, and the cost of prosecution.

21 An offense, as intended and provided by this act, shall con-  
22 sist in the failure of such persons to send to school any such  
23 child or children for more than one day in any one week in which  
24 the schools are in session unless the attendance of such child or  
25 children be prevented by personal sickness or other reasonable  
26 excuse; *provided*, that if such child or children have been other-  
27 wise instructed for a like period of time in the branches of learn-  
28 ing required by law to be taught in public schools, or have already  
29 acquired such branches, or if, in the opinion of the supervisor of  
30 said school district the mental or physical condition of such child  
31 or children is such as to render such attendance inexpedient or  
32 impracticable, such penalty shall not be incurred.

33 Any fine so collected shall be paid to the secretary of the board  
34 of education who shall pay the same to the sheriff and take his re-  
35 ceipt therefor, and the sheriff shall deposit the same in the proper  
36 account to the credit of the building fund of said district.

37 If any person against whom such proceedings shall be insti-  
38 tuted shall satisfactorily prove in the course of such proceedings  
39 that he has made all proper efforts to compel such child or chil-  
40 dren to attend a school as hereinbefore provided, and that be-  
41 cause of the disobedience of such child he has been unable to do  
42 so, such fact shall constitute a defense to such proceedings. There-  
43 upon the truant officer shall take such proper proceedings before  
44 the proper court to have such child adjudged incorrigible and  
45 committed to the boys' industrial school at Pruntytown or the  
46 girls' industrial home at Salem.

Sec. 28. To aid in the enforcement of this act the board of  
2 education shall appoint and employ one or more truant officers  
3 whose compensation shall not exceed \$3 per day and whose term  
4 of office shall be fixed by the board. The truant officer shall be  
5 vested with police powers and the authority to serve warrants, and  
6 shall have authority to enter workshops, factories, stores and all  
7 other places where children shall be employed, and do whatever  
8 may be necessary in the way of investigation or otherwise, to  
9 enforce this act. The truant officer shall have full power, with-  
10 out warrant, to apprehend any child between the ages of seven  
11 and fifteen years who shall have been reported to him in writing  
12 by the supervisor or principal, and to place such child in a public  
13 school which he should have attended or in which he should have  
14 been, or has been enrolled, or to place such child, at the expense  
15 of the parent, guardian or other person having such child under

16 his control in such private school as the parents, guardian or other  
17 person having such child under his control shall select. In case  
18 such parent, guardian or other person having such child under  
19 his control shall fail or refuse, immediately upon being notified  
20 to select such private school, then the said truant officer shall at  
21 once place such child in the public school of the district in which  
22 such child resides.

Sec. 29. Any person who induces or attempts to induce  
2 any such child unlawfully to absent himself from school, or  
3 harbors or employs such child unlawfully absent from school while  
4 the school in the district in which the child lives is in session,  
5 shall be guilty of a misdemeanor and shall be punished by a fine  
6 of twenty-five dollars, and may be imprisoned not to exceed ten  
7 days in jail.

8 The truant officer shall institute proceedings against any  
9 person or persons violating this act, and perform such other  
10 offices as the supervisor or the board of education may deem  
11 necessary to preserve the morals and secure the good conduct of  
12 any school child or children, and to enforce this act.

13 Such officer shall keep a record of his transactions for the  
14 inspection and information of the supervisor or the board of edu-  
15 cation, and shall make such reports to the supervisor or to the  
16 board, throughout the school year, as he or it may require and the  
17 supervisor shall make such report to the board of education as it  
18 may require. The principals and teachers of all schools, public,  
19 private or otherwise, in such school district, shall report to the  
20 board of education the names, ages, and residences of all pupils  
21 of compulsory age in attendance at their respective schools, to-  
22 gether with such other facts as the board of education may re-  
23 quire to facilitate the carrying out of the provisions of this act,  
24 and said board of education shall furnish blanks for such pur-  
25 poses and such reports shall be made at such time or times as the  
26 said board of education shall prescribe by rules to be adopted by  
27 it. Such principals and teachers shall also report to the proper  
28 truant officer or to the supervisor of schools of the said school  
29 district, all cases of truancy and unlawful absence in their re-  
30 spective schools as soon as practicable after such truancy or  
31 absence.

32 If any person shall fail to comply with the provisions of this  
33 section requiring reports to be made as aforesaid, he shall be  
34 guilty of a misdemeanor and punished by a fine of five dollars

35 and the costs of prosecution. Any fine so collected shall be paid  
36 the secretary of the board of education and by him paid to the  
37 sheriff, who shall receipt to him therefor, deposit the same in the  
38 proper account and place it to the credit of the building fund of  
39 the district. If to any prosecution instituted under the provisions  
40 of this act, a satisfactory defense shall be made, so that the pro-  
41 ceedings shall be dismissed or the defendant shall be judged not  
42 guilty, the costs of any such prosecution shall then be paid by  
43 the board of education of Williams district out of the funds under  
44 its control.

45 When so directed by the supervisor or the board of educa-  
46 tion or when it otherwise comes to the notice of any truant officer  
47 of said school district, such officer shall examine into any case of  
48 truancy or unexplained absence of the school children of com-  
49 pulsory age in said school district. When any child or children  
50 are not attending school without lawful excuse and in violation  
51 of the provisions of this act, the truant officer shall notify in  
52 writing the person having control of such child or children to  
53 send the same to some school. But the serving of such notice shall  
54 not be essential preliminary to prosecution under the provisions  
55 of this act. Any court or justice of the peace of Wood county  
56 shall have jurisdiction over and take cognizance of all offenses  
57 provided by this act.

Sec. 30. All provisions of the general school law of this  
2 state which are inconsistent or in conflict with any of the provis-  
3 ions of this act shall be void within said district of Williams;  
4 otherwise to have full force and effect.

Sec. 31. All other acts and parts of acts inconsistent here-  
2 with are hereby repealed.

## CHAPTER 79.

(House Bill No. 217.)

AN ACT to amend and re-enact sections one hundred six, one hun-  
dred eight, one hundred nine, one hundred eleven, and one hun-  
dred twelve of chapter forty-five of the code of one thousand  
nine hundred and thirteen and to add thereto section one hun-  
dred six-a; providing for the holding of teachers' institutes.

[Passed February 16, 1917. In effect from passage. Approved by the Governor  
February 24, 1917.]

SEC.  
106. Teachers in free schools required to attend institute five days of school year; for sufficient reason may be excused by county superintendent; reasons which shall excuse from attendance; state superintendent to determine what schools shall be recognized and amount of work accepted in carrying out provisions of act; teachers to be paid fee; how same shall be paid; provision as to teachers whose schools have been discontinued; duty of county superintendent as to teachers who do not attend institute.

SEC.  
106-a. Teachers to file with secretary of board of education certificate of institute attendance; when certificate shall be filed.  
108. Pay of instructors.  
109. Enrollment fee; part to be paid into state treasury; remainder for incidental expenses; auditor to deduct amount due state for institute fees.  
111. District institutes and teachers' round tables.  
112. Reading circle and professional work; state superintendent to issue coupons of credit; holder entitled to one dollar per month additional salary; how payable.

*Be it enacted by the Legislature of West Virginia:*

That sections one hundred six, one hundred eight, one hundred nine, one hundred eleven, and one hundred twelve relating to the holding of teachers' institutes be amended and re-enacted to read as follows, and that section one hundred and six-a be added thereto:

*Attendance.*

Section 106. Every person employed as a teacher in the free  
2 schools of the state is hereby required to attend a county institute  
3 for at least five days of the school year in which he teaches unless  
4 excused therefrom for a good and sufficient reason by the county  
5 superintendent of the county in which he teaches.  
6 Said county superintendent shall excuse from attending the  
7 teachers' institutes any teacher who has been in attendance for at  
8 least six weeks after January first of the year in which such excuse  
9 is sought, at a standard college, university, or state normal school,  
10 or other school approved for this purpose by the state superintend-  
11 ent, and who presents to said county superintendent a state-  
12 ment signed by the principal or president of the school showing  
13 what branches have been pursued and that the required work has  
14 been satisfactorily completed. The state superintendent of  
15 schools shall determine what schools shall be recognized and the  
16 nature and amount of the work which shall be accepted by the  
17 county superintendent in carrying out the provisions of this sec-  
18 tion. For such attendance the teacher shall be paid one dollar and  
19 fifty cents per day for attendance not exceeding five days in any  
20 one year, such compensation to be paid out of the teachers' fund  
21 of the district at the end of his term of school. Teachers whose  
22 schools have been discontinued for any legal cause shall receive  
23 such a portion of the total per diem as the number of pupils  
24 actually taught bears to the school term provided for the district.

25 It shall be the duty of the county superintendent to see that  
26 teachers who do not attend institute or who have not legally been  
27 excused are not allowed to teach in his county during any year in  
28 which such failure occurs.

*Filing the Certificate of Institute Attendance.*

Sec. 106-a. It shall be the duty of each teacher to file with  
2 the secretary of the board of education of the district in which  
3 he is employed, before the opening of school, a certificate of insti-  
4 tute attendance or an excuse therefrom signed by the county  
5 superintendent.

6 If the county institute is held after the opening of his school,  
7 the teacher shall file his certificate of attendance within ten days  
8 after the close of the institute.

*Pay of Instructors.*

Sec. 108. The instructors appointed by the state superin-  
2 tendent shall be paid for their services and expenses out of the  
3 general school fund on the order of the state superintendent.  
4 *Provided*, that the amount expended for teachers' institutes in the  
5 state for any year shall not exceed the amount appropriated by  
6 the legislature for that purpose.

*Enrollment Fee.*

Sec. 109. Every teacher enrolled in a county institute shall  
2 pay an institute fee of one dollar and twenty-five cents, one dollar  
3 of which shall be remitted by the county superintendent to the  
4 auditor of the state to be paid into the state treasury to the credit  
5 of the general school fund, and the remainder may be used for  
6 incidental expenses and for the betterment of the institute, under  
7 the direction of the county superintendent, and an account of said  
8 expenses shall be submitted to the institute during its session  
9 for approval or disapproval, and any amount not expended shall  
10 be disposed of as the institute may direct. The state auditor shall  
11 deduct from the next ensuing quarterly installment of salary  
12 the amount due the state from said county superintendent for  
13 institute fees.

*District Institutes and Teachers' Round Tables.*

Sec. 111. As a further means of improvement among the  
2 teachers, the county superintendent, or the district supervisor,

3 with the consent of the county superintendent, shall arrange for  
4 and conduct district or joint district institutes, one or more  
5 for each district of his county within the school year. The county  
6 superintendent may also approve the attendance of the teachers  
7 employed in his county at a teachers' round table. Attendance  
8 upon district institutes or teachers' round tables as herein pro-  
9 vided may be substituted for an equal amount of teaching at the  
10 discretion of the county superintendent who shall report to the  
11 secretary of the board of education the attendance approved by  
12 him.

*Reading Circle and Professional Work.*

Sec. 112. Teachers shall be encouraged to form reading  
2 circles for the purpose of pursuing courses of study in profes-  
3 sional subjects, and it shall be the duty of the state superin-  
4 tendent to prescribe a course of study in the said subjects, to pro-  
5 vide for examining those who complete the said course and to  
6 issue certificates of merit to such persons as pass satisfactory ex-  
7 amination thereon.

8 The state superintendent may also outline additional profes-  
9 sional work and projects for teachers and issue coupons of credit,  
10 good only for the school year in which they are issued, to such  
11 teachers as complete the work or projects satisfactorily. These  
12 coupons when signed by the state superintendent and by the  
13 county superintendent shall entitle the holder thereof to one dollar  
14 per month additional salary, payable by the board of education at  
15 the expiration of the school term out of the teachers' fund.

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## CHAPTER 80.

(House Bill No. 222.)

AN ACT relating to school levies in Ritchie district, Ohio county.

[Passed February 19, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. Board of education of Ritchie district, Ohio county authorized to lay "special debt levy."

*Be it enacted by the Legislature of West Virginia:*

For the purpose of paying any judgments rendered or debts legally contracted prior to the first day of January, nineteen hundred and seventeen, the board of education of Ritchie district, Ohio county, is



hereby authorized to continue to lay each year on the assessed valuation of all taxable property of the district, a "special debt levy" not to exceed twenty cents in any one school year until the thirtieth day of June, nineteen hundred and twenty-one. Such levy shall be assessed and collected as otherwise provided by law and the proceeds of the same shall be used for the purpose of paying such judgments and such debts and for none other.

## CHAPTER 81.

(House Bill No. 232.)

AN ACT to amend and re-enact sections three and four of chapter fifty of the acts of the legislature of one thousand eight hundred and ninety-five, relating to the independent school district of Bridgeport.

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

SEC.

3. President and commissioners shall serve; election; term; body corporate; powers; compensation.

SEC.

4. Election; board to pay eight dollars annually.

*Be it enacted by the Legislature of West Virginia:*

That sections three and four of chapter fifty of the acts of the legislature of one thousand eight hundred and ninety-five, relating to the independent school district of Bridgeport, be and the same are hereby amended and re-enacted so as to read as follows:

Sec. 3. The president and commissioners constituting the board of education of said independent school district of Bridgeport shall serve for a term of two years, except as limited herein, and until their successors are elected and qualified as provided by law. Two commissioners shall be elected at the municipal election to be held for the incorporated town of Bridgeport in January, one thousand nine hundred and nineteen, one of whom shall serve for one year and one for two years, and one commissioner shall be elected each year thereafter at such municipal election. The president shall be elected at said municipal election in January, one thousand nine hundred and nineteen, and every two years thereafter. The term of office of said president and commissioners shall begin on the first day of July next after their election. They shall be a body corporate in law, styled the "board of education of the independent school district of Bridgeport," and by that name

15-a may sue and be sued, plead and be impleaded, purchase and hold  
16 so much real estate and personal property as may be necessary  
17 under the provisions of this act, and without any transfer or con-  
18 veyance they shall be deemed the owners of all real estate and per-  
19 sonal property within the territory aforesaid, and they shall have  
20 all the powers, perform all the duties and be subject to all the lia-  
21 bilities both of boards of education and of trustees under the  
22 general school law, except as qualified or enlarged by the provis-  
23 ions of this act. The president and commissioners of said board  
24 of education shall each receive as compensation for their services  
25 the sum of two dollars per day to be paid out of the building fund  
26 of the district on the order of the county superintendent of  
27 schools; *provided*, that no commissioner shall receive pay for more  
28 than ten days, and no president for more than fifteen days, in one  
29 year.

Sec. 4. The election for the purpose of electing officers under  
2 this act shall be held on the day provided for the annual munic-  
3 ipal election for the incorporated town of Bridgeport, at the place  
4 designated by the common council of said town of Bridgeport,  
5 and by the commissioners duly appointed to conduct said munic-  
6 ipal election; and for so conducting the election, the board of edu-  
7 cation shall pay out of the building fund of said district to the  
8 said town of Bridgeport, annually, the sum of eight dollars.  
9 Separate and distinct ballots shall be used in conducting said elec-  
10 tion and all qualified voters residing in the territory described in  
11 section one of this act shall be entitled to vote thereat.

## CHAPTER 82.

(House Bill No. 327.)

AN ACT to amend and re-enact paragraph (d) of section twenty-  
three of chapter sixteen, of the acts of the legislature of West  
Virginia, passed February twenty-fourth, one thousand nine hun-  
dred and nine, which act pertains to the "school district of  
Huntington," and which paragraph (d) of section twenty-three  
relates to the issuance, by the board of examiners provided for  
by said section twenty-three, of grammar certificates, or primary  
certificates, without examination, or with such partial examina-  
tion as may be deemed advisable.

[Passed February 17, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

(d) Board of examiners may issue certificates; inconsistent act repealed.

*Be it enacted by the Legislature of West Virginia:*

That paragraph (d) of section twenty-three, of chapter sixteen, of the acts of the legislature of West Virginia, passed February twenty-fourth, one thousand nine hundred and nine, be amended and reenacted so as to read as follows:

(d) Upon receipt of an application endorsed by the chairman of the committee on teachers and by the superintendent of the city schools, the board of examiners, by their unanimous vote, may, without examination, or with such partial examination as may be deemed advisable, issue a high school certificate based on a diploma from the West Virginia university, or from any other institution of equal rank, or based on the high school certificate issued by the state.

Under like conditions, the board of examiners, by unanimous vote, may, without examination, or with such partial examination as may be deemed advisable, issue a grammar certificate, or a primary certificate, based on a first grade certificate issued by the state under the uniform system; or, based on the professional certificate issued by the state; or, based on a first grade certificate issued by any other city of West Virginia, acting under the laws of West Virginia; or, based on a diploma granted upon the completion of the regular normal course of the Marshall college state normal school, or other institution of equal rank; *provided*, that, the usual examination fee of one dollar be paid for such issue.

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

## CHAPTER 83.

(House Bill No. 333.)

AN ACT to amend and re-enact section two and section twenty-three of chapter seventeen of the acts of the legislature of West Virginia, in regular session of one thousand nine hundred and five, entitled, "An act to create and establish the independent school district of Alderson in the counties of Greenbrier and Monroe, passed February twenty-second, one thousand nine hundred and five.

[Passed February 10, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

Sec.

2. Board of education to consist of six members to be elected; rights, powers and duty; election; terms; compensation.

Sec.

23. Laws inconsistent with this act, shall be void; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section two and section twenty-three of chapter seventeen of the acts of the legislature of West Virginia of the regular session of the year one thousand, nine hundred and five, be and the same are hereby amended and re-enacted so as to read as follows:

Section 2. The board of education of said district shall consist of six members who shall be elected by the qualified voters resident therein, and shall be vested with the same rights, and exercise the same power, perform the same duties, and be governed by the same law that boards of education elsewhere in the counties of Monroe and Greenbrier are, or may hereafter be, governed, except in so far as changed by this provision of this act. A board of education shall be elected at the November election one thousand, nine hundred and eighteen, two of whom shall serve for a term of two years, two for a term of four years, and two for a term of six years, or until their successors have been elected and qualified. The term of said office for which each candidate is elected shall be designated on the ballot used at said election. The regular term of members of the said board of education shall be six years; two members of said board shall be elected at each general election after said election. The term of officers for said board shall commence on the first day of July following their election. The compensation of 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 shall receive more than twenty-five dollars in one year. Members of said board now in office shall hold their offices until their successors are elected and qualified.

Sec. 23. All provisions of the general school law of the state, and all laws and acts heretofore existing, 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. All acts and parts of acts inconsistent with this act are hereby repealed.

## CHAPTER 84.

(House Bill No. 357.)

AN ACT to amend and re-enact section one hundred eighty-nine of chapter forty-five of the code of one thousand nine hundred and thirteen relating to the Montgomery preparatory branch of the West Virginia university.

[Passed February 17, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

SEC.

189. Montgomery preparatory branch of the West Virginia university changed to West Virginia trade school; succeeds to rights and benefits of Montgomery preparatory branch of the West Vir-

SEC.

ginia university; under control of board of control; board of regents to employ teachers; students; how supported; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section one hundred and eighty-nine of chapter forty-five of the code of one thousand nine hundred thirteen be and it is hereby amended and re-enacted so as to read as follows:

Section 189. The Montgomery preparatory branch of the  
 2 West Virginia university, heretofore established at Montgomery in  
 3 Fayette county, is hereby changed to a trade school, shall remain  
 4 where now located, and shall be known as the West Virginia trades  
 5 school, by which name it shall have and hold all the property,  
 6 funds and investments granted to said Montgomery preparatory  
 7 branch by former acts of the legislature, and such as have been  
 8 received by bequests, private subscriptions, donations or otherwise,  
 9 and such as said West Virginia trades school may receive by  
 10 acts of the legislature or from any proper source; also, such  
 11 powers and privileges as have been granted by law to said Mont-  
 12 gomery preparatory branch of West Virginia university, not  
 13 inconsistent with this act, and, in addition thereto, such special  
 14 powers and privileges as may be granted by the state board of  
 15 control and state board of regents acting under the authority of  
 16 law.

17 Said West Virginia trades school shall be under the govern-  
 18 ment and control of the state board of control and state board of  
 19 regents. Said boards shall have all the powers to act and shall  
 20 act and be controlled in respect to said school according to the  
 21 provisions of chapter forty-five of the code of West Virginia. The  
 22 state board of control shall have charge of the financial affairs  
 23 of said school and the title to all grounds, buildings and improve-  
 24 ments shall be vested in said board of control. The state board

25 of regents shall employ competent teachers for said trades school  
 26 and fix their salaries, establish courses of study of secondary  
 27 grade consistent with the name of said school and do whatever  
 28 is necessary to comply with the act of congress passed January  
 29 ninth, one thousand nine hundred seventeen, granting aid to  
 30 schools offering instruction in trades and vocations.

31 All students of this state shall receive instruction in any of  
 32 the vocational courses free of tuition; and any student from this  
 33 state desiring to take any course of study or partial course of study  
 34 offered in said school other than that relating to vocations and  
 35 trades shall pay such tuition as the state board of regents shall  
 36 determine.

37 The said West Virginia trades school shall be supported in  
 38 the manner provided for the support of the Montgomery prepara-  
 39 tory branch of the West Virginia university and other state edu-  
 40 cational institutions.

41 All acts and parts of acts inconsistent herewith are hereby  
 42 repealed.

## CHAPTER 85.

(House Bill No. 379.)

AN ACT to enlarge the boundaries of Martinsburg independent school district.

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 24, 1917.]

SEC. 1. Boundaries. 1-a. To be approved by voters at special election. 1-b. Tickets for special election; if majority of votes favor.	SEC. 1-c. Duty of county court as to election; duty of commissioners of election. 1-d. Inconsistent acts repealed.
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The boundaries of the independent school district  
 2 of the city of Martinsburg shall include all the territory lying  
 3 within the present corporate limits of the city of Martinsburg  
 4 as such limits are particularly defined in section two of chapter  
 5 eighty of the acts of the legislature of West Virginia for one thou-  
 6 sand nine hundred and eleven as hereinafter provided. The terri-  
 7 tory embraced within said boundaries shall constitute but one  
 8 school district and shall be known as "the independent school dis-  
 9 trict of the city of Martinsburg."

Sec. 1-a. Before this act shall take effect, however, as to the territory taken from the present school district of Martinsburg and included within said independent school district above provided for, it shall be submitted to the voters of the present school district of Martinsburg at a special election to be held therein for the purpose on the first Tuesday of June, one thousand nine hundred and seventeen, under the direction of the county court of Berkeley county, West Virginia; and before the same shall take effect as to the territory taken from the present school district of Hedgesville and included within the said independent school district above provided for, it shall be submitted to the voters of the school district of Hedgesville at a special election to be held therein for the purpose on the first Tuesday in June, one thousand nine hundred and seventeen, under the direction of the county court of Berkeley county aforesaid; and before the same shall take effect as to the territory taken from the present school district of Opequon and included within said independent school district above provided for, it shall be submitted to the voters of the said school district of Opequon at a special election to be held therein for the purpose on the first Tuesday of June, one thousand nine hundred and seventeen, under the direction of the county court of Berkeley county aforesaid; and before the same shall take effect as to the territory taken from the present school district of Arden and included within said independent school district above provided for, it shall be submitted to the voters of said school district of Arden at a special election to be held therein for the purpose on the first Tuesday in June, one thousand nine hundred and seventeen, under the direction of the county court of Berkeley county aforesaid.

Sec. 1-b. The tickets for said special election to be held in the several districts as aforesaid, shall have written or printed thereon "for independent school district," "against independent school district." The election herein provided for shall be held at such voting places as the county court may designate and the result thereof ascertained in each of said school districts by officers to be appointed by said court, and if a majority of the votes cast at such election be in favor of such independent school district then so much and such parts of the territory now forming a part of such school districts, respectively, as voted in favor of such independent school district, and are now included within the present corporate limits of said city of Martinsburg, shall

13 thereafter be included in and form a part of the independent  
14 school district of Martinsburg.

Sec. 1-c. It shall be the duty of the county court to hold the  
2 election herein provided for the same to be conducted and the re-  
3-4 sults canvassed and ascertained as in other elections, as provided  
5 by law, except that no registration of voters shall be required,  
6 and the registration made and used at the last preceding general  
7 election shall be used in this election, *provided, however*, that the  
8 county court shall appoint such officer or officers and shall make  
9 such rules and regulations as they may deem necessary in order  
10 to give a true and correct registration of the voters living in such  
11 part or parts of each school district, and the commissioners of  
12 election at their respective precincts shall inquire of each voter  
13 their residence and not permit any vote to be cast unless the voter  
14 shall show to the satisfaction of the said commissioners of elec-  
15 tion that he is a voter in the respective school district in which  
16 he offers to vote, so that a true and correct expression of the will  
17 of the voters living within the said school districts, respectively,  
18 may be had.

Sec. 1-d. All acts and parts of acts inconsistent herewith  
2 are hereby repealed.

## CHAPTER 86.

(House Bill No. 432.)

AN ACT to authorize the board of education of Town district, Raleigh  
county, to make a contract for the construction of a high school  
building at Beckley.

[Passed February 23, 1917. In effect from its passage. Became a law without the  
Governor's approval.]

<p>Sec. 1. Board of education of Town dis- trict, Raleigh county, authorized</p>	}	<p>Sec. to contract for high school build- ing. 2. This act to take effect from passage.</p>
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WHEREAS, it is represented to the legislature on behalf of the board  
of education of Town district, Raleigh county, that heretofore said  
board of education has approved and adopted plans and specifications  
drawn by W. H. St. Clair, architect, for the construction of a high  
school building at Beckley, and upon competitive bidding for the con-  
struction of said building has accepted the bid of sixty-eight thousand,  
eight hundred and sixty-five dollars (\$68,865.00), made by the Domin-



ion Construction Company, for the complete construction of said building; and

WHEREAS, it is further represented that said board desires to enter into a contract with said Dominion Construction Company for the building of said building, according to said plans and proposal, but has on hand and available for such building only the sum of about forty thousand dollars, and the further sum required will need to be paid out of the levies for the ensuing fiscal year, but existing emergencies require the immediate construction of said building and the entering into a contract therefor by the said board of education; therefore

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of education of Town district, Raleigh county, be, and it is hereby, authorized and empowered to make a contract with said Dominion Construction Company for the construction and erection of a high school building at Beckley, in conformity with the plans and specifications prepared and adopted as aforesaid, and in accordance with the bid and proposal of said Dominion Construction Company, accepted by said board of education as aforesaid, said contract to provide for the payment for said building out of the funds now on hand and available to said board for said purpose, and sums to be raised by further levies to be made for such purpose by said board of education for and during the ensuing year.

Sec. 2. This act shall take effect and be enforced from and after its passage.

## CHAPTER 87.

(House Bill No. 16.)

AN ACT fixing the time for holding court in the nineteenth judicial circuit.

(Passed January 24, 1917. In effect ninety days from passage. Approved by the Governor January 30, 1917.)

SEC. 1. Terms of circuit court in nineteenth judicial circuit; provisions as to special terms; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the regular terms of the circuit court, for the counties of Barbour and Randolph, composing the nineteenth judicial circuit, shall be held as follows:

4 For the county of Barbour, on the second Monday in January,  
5 the second Monday in April, and the second Monday in September.

6 For the county of Randolph, on the third Tuesday in Febru-  
7 ary, the third Tuesday in May, and the third Tuesday in October,  
8 of each year.

9 Special terms of the said courts may be called and held as  
10 provided by general law.

11 All acts and parts of acts, inconsistent with this act, are here-  
12 by repealed.

## CHAPTER 88.

(House Bill No. 28.)

AN ACT to amend and re-enact section two of chapter one hundred and nine of the acts of the West Virginia legislature at the regular session of one thousand, nine hundred and fifteen, relating to the jurisdiction of the court of common pleas of Kanawha county:

[Passed February 9, 1917. In effect from passage. Approved by the Governor February 15, 1917.]

Sec. 2. Jurisdiction of court concurrent with circuit court; exception; subject to right of appeal to circuit court.

*Be it enacted by the Legislature of West Virginia:*

That section two of chapter one hundred and nine of the acts of the West Virginia legislature at the regular session of one thousand, nine hundred and fifteen, relating to the jurisdiction of the court of common pleas of Kanawha county, be amended and re-enacted so as to read as follows:

Section 2. The said court shall have original jurisdiction  
2 within the county of Kanawha, concurrent with the circuit court of  
3 said county, in all suits and proceedings in equity, in all actions  
4 of ejectment, and in all other civil actions or proceedings at law,  
5 except where it shall appear from the pleadings that the matter  
6 or thing in controversy in any such other civil action or proceed-  
7 ing at law exceeds in value the sum of five hundred thousand  
8 dollars; subject to the right of appeal to the circuit court of  
9 Kanawha county, as hereinafter provided.

## CHAPTER 89.

(House Bill No. 35.)

AN ACT to abolish the criminal court of Fayette county from and after the thirty-first day of December, in the year one thousand nine hundred and eighteen.

[Passed February 7, 1917. In effect ninety days from passage. Approved by the Governor February 15, 1917.]

**SEC.**

1. Abolishing criminal court of Fayette county; when same shall be abolished.
2. Suits pending, and all records and bonds to be transmitted to clerk of circuit court; where and

**SEC.**

- when subpoenas, notices and writs shall be returned; powers of clerk of circuit court; procedure in actions pending.
3. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the criminal court of Fayette county, created by chapter eighty-six of the acts of the legislature of West Virginia of one thousand eight hundred and ninety-one, entitled "An act to establish a court of limited jurisdiction in the county of Fayette, to be called the criminal court of the county of Fayette," as amended by chapter forty-five of the acts of the legislature of one thousand eight hundred and ninety-three, as amended by chapter eighty-two of the acts of the legislature of one thousand nine hundred and five, be, and the same is hereby abolished from and after the thirty-first day of December, in the year one thousand nine hundred and eighteen.

Sec. 2. All indictments, suits, actions and proceedings of every kind pending in said criminal court on the day last aforesaid, together with all records, process and papers pertaining thereto, as well as all records, process and papers pertaining to all trials, indictments, actions, suits and proceedings theretofore had or pending in said court, and all bonds and recognizances taken in said court, shall on and after the day last aforesaid be certified and transmitted by the clerk of said court to, and filed and deposited in the office of the clerk of the circuit court of said county of Fayette; and all subpoenas, summonses, and notices, executions, writs and process of every kind, and recognizances outstanding on the day last aforesaid, shall be returned to the office of the clerk of said criminal court, if returnable to the clerk of said criminal court, or to the first day of the next ensuing regular term of said circuit court if returnable to said criminal court in term time, the same as if originally made returnable to said circuit clerk's office or the first day of the said term of said

17 circuit court; and said clerk of said circuit court shall, after the  
 18 day last aforesaid, have the same powers and perform the same  
 19 duties in relation to such records, suits, actions, notices, writs,  
 20 process, papers, and proceedings, including the issuing of exe-  
 21 cutions and other writs upon judgments, decrees or orders of  
 22 said criminal court, and the certifying of copies from the records  
 23 of said criminal court, as were vested in and required of the clerk  
 24 of said criminal court. All indictments, actions, suits and pro-  
 25 ceedings pending in said criminal court on the last day aforesaid,  
 26 and in all cases, indictments, actions, suits and proceedings which  
 27 theretofore had been in said criminal court and shall  
 27-a on the day last aforesaid be pending in the circuit court  
 27-b of said county or in the supreme court of West Virginia upon  
 27-c appeal or writ of error, shall be docketed and proceeded in and  
 28 tried and determined, and such further proceedings as may be  
 29 proper, had therein by said circuit court in all respects as if the  
 30 same had been found or originated in said circuit court and had  
 31 been taken thence on such appeal or writ of error.

Sec. 3. All acts and parts of acts in conflict herewith shall  
 2 from and after the day last aforesaid be deemed repealed.

## CHAPTER 90.

(House Bill No. 47.)

AN ACT to amend and re-enact sections one and eight of chapter  
 twenty-eight of the acts of one thousand eight hundred and  
 ninety-three, creating a criminal court for Cabell county, as  
 heretofore amended by chapter fifty-five of the acts of one thou-  
 sand nine hundred and three and chapters seventy-eight and  
 seventy-nine of the acts of one thousand nine hundred and five,  
 by changing the name designating said court in said county to  
 that of common pleas court, and adding to said act additional sec-  
 tions to be known as sections twenty-four, twenty-five, twenty-six  
 and twenty-seven, giving said court jurisdiction in certain civil  
 matters.

[Passed February 17, 1917. In effect from passage. Became a law without the  
 Governor's approval.]

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|---|--|
| <p>Sec.</p> <p>1. Common pleas court of Cabell county, for the trial of crimes, etc., shall not impair proceedings in cases.</p> <p>2. Number of, and times of holding terms.</p> <p>24. Shall have common and concurrent jurisdiction with circuit court; salary of judge.</p> <p>25. Circuit court to transmit to court of common pleas; by consent any</p> | <p>Sec.</p> <p>case may be transmitted to the circuit court; appeals from justices.</p> <p>26. Appeals may be awarded by the circuit court of Cabell county, when; what to be done in case of an appeal.</p> <p>27. Circuit court may provide for time of hearing, etc.; inconsistent acts repealed.</p> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

That sections one and eight of chapter twenty-eight of the acts of one thousand eight hundred and ninety-three, creating a criminal court for Cabell county, as heretofore amended by chapter fifty-five of the acts of one thousand nine hundred and three and chapters seventy-eight and seventy-nine of the acts of one thousand nine hundred and five, be amended and re-enacted, and that additional sections twenty-four, twenty-five, twenty-six and twenty-seven be added to said chapter, to read as follows:

Section 1. That the name "Criminal court of Cabell county", as designated in chapter twenty-eight of the acts of one thousand eight hundred and ninety-three of the legislature of West Virginia, which created and established such court, be and the same is hereby changed, and said court shall hereafter be known and designated as the "common pleas court of Cabell county" for the trial of crimes and misdemeanors and certain civil actions for the county of Cabell; and that in all proceedings hereafter the name of said court shall be "the common pleas court"; but this provision shall not affect or in any way impair any suit, process, writ, indictment or proceeding of any kind now pending in said court, but the same shall be proceeded in, tried and determined by said court the same as if the same as now changed had remained unchanged.

Sec. 8. There shall be held three terms of said court each year, commencing the first Monday in February, first Monday in June and the first Monday in October. The terms of said court shall be held at the county seat of said county at the court house thereof, and the court shall prescribe proper rules for the conduct of the business of said court, giving precedence to the criminal business over civil business, jurisdiction for which is herein after conferred upon such court.

Sec. 24. The said court shall have jurisdiction, common and concurrent with the circuit court of said county, to try and determine all civil cases, appealed from justices of the peace, and all of the powers and duties conferred by law on the circuit court of said Cabell county or the judge thereof in vacation, insofar as the same relate to civil actions before such justices and appeals therefrom, are hereby vested in said common pleas court, or its judge in vacation. The judge of the common pleas court shall receive seven hundred dollars annually, beginning with the first day of June, one thousand nine hundred and seventeen, in addition to

11 the one thousand eight hundred dollars annual salary which he  
12 now receives as judge of the criminal court of Cabell county, said  
13 salary to be paid out of the common treasury of Cabell county.

Sec. 25. The circuit court of said county, or the judge there-  
2 of in vacation, may by order entered of record, transmit to the  
3 said common pleas court all cases appealed from justices to the  
4 said circuit court, to be placed on the docket of said common  
5 pleas court and there tried and determined as if originally ap-  
6 pealed to said common pleas court; and said common pleas  
7 court may, with the consent of the circuit court of said Cabell  
8 county, transmit any case on its docket to the said circuit court  
9 for trial, and an appeal from all decisions and final orders and  
10 judgments of a justice shall lie direct to the common pleas court  
11 of said county, in the same manner and under the same regula-  
12 tions as provided in the general law for appeals from justices.

Sec. 26. An appeal, writ of error or supersedeas to any  
2 final judgment of said common pleas court may be awarded by  
3 the circuit court of Cabell county where the amount in contro-  
4 versy, exclusive of interest and costs, is of greater value than  
5 one hundred dollars; but such appeal, writ of error or superse-  
6 deas shall be granted only on a petition with the original papers  
7 in the case, or certified copies thereof, and a certified transcript  
8 of the evidence filed with the circuit court or judge thereof in  
9 vacation, within sixty days after final judgment or order entered  
10 or had in the case, and the law and rules governing the supreme  
11 court of appeals of this state in the matter of appeals from the  
12 circuit courts, so far as applicable, shall govern the proceedings  
13 on appeal, writs of error or supersedeas to the circuit court from  
14 said common pleas court, except that all such matters shall be  
15 heard and disposed of without requiring the record to be printed.

Sec. 27. The circuit court of said county may by general  
2 rules provide for the time of notices and hearing thereon, and  
3 all matters of detail necessarily connected with such appellate  
4 procedure, and not specifically provided for in this act.

5 All acts or parts of acts inconsistent with this act are here-  
6 by repealed.

**CHAPTER 91.**

(House Bill No. 212.)

AN ACT to empower the judge of the circuit court of the fourteenth judicial circuit to employ a competent stenographer, defining his duties, the uses to which the records made by him may be put, and providing for the manner of his payment; and to appoint a page for said court, and providing for his payment.

(Passed February 17, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.)

SEC. 1. Circuit court fourteenth circuit authorized to appoint stenographer.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The circuit court of the fourteenth judicial circuit, or the judge thereof in vacation, is hereby empowered and authorized to employ and appoint a competent stenographer to take and report the proceedings had and the testimony given in any case, either civil or criminal, or in any other proceedings had in said court, including the taking of testimony before the grand jury of said court for the use of the prosecuting attorney of said court and in proceedings before the judge of said court in vacation, and otherwise to aid said judge in the performance of all his official duties. Said stenographer shall be authorized to attend the sessions of said grand jury but shall retire from said sessions when directed by the foreman or a majority of the grand jury or ordered to do so by the court, and when the grand jury desire to consult or vote upon any matters before them. Said appointment and employment of such stenographer may be made by the judge of said court by an order entered of record in said court, and the stenographer so appointed shall be designated as "the official reporter of the fourteenth judicial circuit." He shall be duly qualified under oath.

Sec. 2. It shall be the duty of such reporter to take full shorthand notes of the testimony and proceedings in which his services may be required, and such notes shall be deemed and held to be official, and the best authority in any matter in dispute, and a copy of the same written out in longhand or in typewriting, made as herein provided, shall be used by the parties to the cause in any further proceedings wherein the use of the same may be required. It shall be the duty of said official reporter to furnish a copy of his notes written out in longhand or typewritten, of the

10 testimony and proceedings, upon the request of the judge, without  
11 extra charge in criminal cases, the copy to be filed in the clerk's  
12 office.

Sec. 3. Said official reporter shall furnish, upon request,  
2 to any party to a case, a copy of the testimony or other pro-  
3 ceedings written out in longhand or typewriting, and shall certify  
4 the same as being correct to the best of his skill and ability and  
5 shall be paid therefor at the rate of twenty cents for each one  
6 hundred words so transcribed. A copy of such testimony or  
7 proceedings, when certified by the official reporter and by the  
8 judge of said court, shall be authentic for all purposes, and  
9 may be used in making up the record on appeal.

Sec. 4. Said official reporter shall receive such compensa-  
2 tion and expenses for his services as the judge of said court  
3 shall in his discretion determine and allow. Such compensation  
4 and expenses in all misdemeanor cases shall be certified by said  
5 circuit court to the county court of the county in which such  
6 services are rendered, and the same shall be paid by said county  
7 court out of the county treasury; and in all felony cases such  
8 compensation and expenses shall be certified to the auditor of  
9 the state, and be paid out of the state treasury. All such criminal  
10 charges shall be taxed as costs in the case by the clerk, to be  
11 collected by the sheriff and by him accounted for to the county  
12 treasurer in misdemeanor cases and to the state treasurer in  
13 felony cases. The expense of reporting and transcribing any civil  
14 case shall be paid by the party requesting the services of said  
15 stenographer and shall be taxed as a part of the costs of the  
16 suit.

Sec. 5. Said official reporter is hereby authorized to take  
2 affidavits, administer oaths, take acknowledgments of deeds and  
3 other writings, within the county embraced in the fourteenth  
4 judicial circuit, and to take and certify depositions in the same  
5 manner and with the same force and effect within said county,  
6 and shall be entitled to the same fees, as a notary public within  
7 the said county except when taking depositions to be used in  
8 any case or matter pending in said court, he shall be allowed com-  
9 pensation in full as herein provided in lieu of all other fees.

Sec. 6. The judge of said court may appoint a page who  
2 shall attend and serve said court, to be paid not exceeding two  
3 dollars and fifty cents per day while so employed, out of the



4 county treasury of the county in which said court is held, upon  
5 the certificate of the judge therefor.

Sec. 7. So far as any act or part of any act of the legis-  
2 lature of West Virginia is inconsistent with this act or any of  
3 its provisions, they shall not apply to the judge of the circuit  
4 court of the fourteenth judicial circuit, nor to said official reporter.

## CHAPTER 92.

(House Bill No. 295.)

AN ACT amending and re-enacting section two of chapter fifty-one  
of the acts of the regular session of one thousand nine hundred  
and thirteen and section twenty-four chapter one hundred and  
twelve, serial section four thousand five hundred and eighty-  
six of the code of West Virginia, (one thousand nine hundred  
and thirteen) fixing the number of terms and time for holding  
the circuit court in each of the counties composing the twenty-  
first judicial circuit of the state.

[Passed February 20, 1917. In effect from passage. Approved by the Governor  
February 24, 1917.]

SEC. 4586 (24) Fixing the terms and time of holding circuit court in Braxton  
and Nicholas counties; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section two of chapter fifty-one of the acts of the regular  
session of one thousand nine hundred and thirteen and section twenty-  
four of chapter one hundred and twelve-a serial section four thousand  
five hundred and eighty-six of the code of West Virginia one thousand  
nine hundred and thirteen, be amended and re-enacted so as to read as  
follows:

Section 4586 (24). That there shall be held in each year at  
2 least three terms of the circuit court in and for each of the  
3 counties in the said judicial circuit so created, and the terms of  
4 the circuit court of the counties of Braxton and Nicholas in said  
5-6 judicial circuit shall commence and be held as follows:

7 For the county of Braxton on the third Monday in March,  
8 the second Monday in July, and the third Monday in November.

9 For the county of Nicholas on the third Monday in January,  
10 on the third Monday in May, and the third Monday in October.

11 All acts and parts of acts inconsistent herewith are hereby  
12 repealed.

## CHAPTER 93.

(House Bill No. 316.)

AN ACT to amend and re-enact section thirteen of chapter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen, relating to the salary of county officers.

[Passed February 20, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC.

13. County court to allow sheriff compensation for feeding prisoners, and expenses in arresting per-

SEC.

sons accused of crime; transportation for prisoners; premium on bond; sheriff shall file account.

*Be it enacted by the Legislature of West Virginia:*

That section thirteen of chapter eighty-three of the acts of the legislature of one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 13. The county court, or tribunal in lieu thereof, of every county shall, in addition to the compensation and salary herein provided, allow to the sheriff for keeping and feeding prisoners, as provided by law, only the exact, actual and necessary expenses thereof but, in no event, shall such expense exceed fifty cents per day for each prisoner; *provided, however,* that in any county where the prisoners do not exceed five in number the county court may allow a sum not to exceed seventy-five cents per day; and an additional ten cents per day shall be allowed to the sheriff for each day a person is actually worked on the public road under sentence of any court having jurisdiction; and said court shall allow the actual and necessary expense incurred or expended in sitting for collection of taxes, in arresting, pursuing or transporting persons accused or convicted of crime and offenses, and in conveying or transferring to or from any state institution to which any person may be committed from his county where, by law, the sheriff is authorized to convey or transfer such persons, and may allow the actual and necessary expenses incurred or expended in serving summonses, notices and other official papers in connection with the sheriff's office, *provided, however,* that the amount of such expenses so allowed shall not, in the aggregate, exceed the total fees earned by the sheriff for any year for serving such papers.

Whenever a sheriff gives bond with a fidelity and indemnity company as surety, the county court shall pay the premium thereon; *provided,* said premium shall not exceed three dollars per thousand dollars per annum. Every sheriff shall file, under oath,

28 monthly, a full, accurate and itemized account of all his actual  
29 and necessary expenses mentioned in this section before the same  
30 shall be allowed by the county court; *provided, however*, such  
31 account as herein required need not be itemized to show purchases  
32 of food supplies used for the feeding of prisoners.

## CHAPTER 94.

(House Bill No. 321.)

AN ACT to amend and re-enact section twelve of chapter sixteen of  
the acts of the extra session of the legislature of West Virginia  
of one thousand nine hundred and eight, fixing the terms and  
time for holding circuit court in the county of Fayette.

[Passed February 22, 1917. In effect ninety days from passage. Approved by  
the Governor February 24, 1917.]

SEC. 12. Terms and time of holding circuit court in Fayette county.

*Be it enacted by the Legislature of West Virginia:*

That section twelve of chapter sixteen of the acts of the extra session  
of the legislature of West Virginia of one thousand nine hundred  
and eight be amended and re-enacted to read as follows:

Section 12. That from and after the thirty-first day of De-  
2 cember in the year one thousand nine hundred and eighteen, there  
3 shall be held in each year in the county of Fayette at least four  
4 terms of the circuit court, which shall commence and be held as  
5 follows: On the first Tuesday in January, April and July, and  
6 the third Tuesday in September of each year.

7 Special terms of said court may be called and held as provided  
8 by the general law.

9 All acts and parts of acts inconsistent with this act are hereby  
10 repealed.

## CHAPTER 95.

(House Bill No. 388.)

AN ACT to authorize the county courts of the counties comprising the  
eighteenth and twenty-third judicial circuits to pay to the respec-  
tive judges thereof, in addition to the amount paid out of the  
state treasury, such sum of money as may be just and proper,  
not to exceed seventeen hundred dollars per year.

[Passed February 21, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

<p>SEC. 1. Counties of Berkeley, Jefferson and Morgan comprising eighteenth, and Monongalia county constituting the twenty-third judicial</p>	<p>SEC. circuit, authorized to pay judges additional salary; apportion in eighteenth circuit.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That the county courts of Berkeley, Jefferson and 2 Morgan counties, constituting the eighteenth judicial circuit, and 3 the county court of Monongalia county, constituting the twenty- 4 third judicial circuit, are hereby authorized to pay to each of the 5 respective judges of the said judicial circuits, in addition to the 6 amount allowed to each of said judges out of the state treasury, 7 such sum of money as may be just and proper, not to exceed the 8 sum of seventeen hundred dollars per annum, which allowance may 9 commence on the first day of January, one thousand nine hundred 10 and seventeen; *provided*, that the presidents of the county courts 11 of Berkeley, Jefferson and Morgan counties shall meet at the court 12 house in Berkeley county on the last Tuesday in June, one thou- 13 sand nine hundred and seventeen, and on the last Tuesday in 14 June of each year succeeding the taking of the census of the United 15 States, and shall apportion the additional amount to be paid to 16 the judge of the circuit court, composed of said Berkeley, Jeffer- 17 son and Morgan counties, in accordance with the population of 18 said counties as shown by the last United States census.

## CHAPTER 96.

(Senate Bill No. 117.)

AN ACT to amend and re-enact section five of chapter sixteen of the acts of the legislature of West Virginia, passed March second, one thousand nine hundred and eight, entitled, "An act fixing the number of terms and the time for holding the circuit courts in each county of the several judicial circuits of the state," as amended by an act passed February eighteenth, one thousand nine hundred and thirteen.

[Passed February 1, 1917. In effect ninety days from passage. Approved by the Governor February 14, 1917.]

SEC. 5. Terms and time of circuit court in Wood county; terms and time of circuit court in Wirt county.

*Be it enacted by the Legislature of West Virginia:*

That section five of chapter sixteen of the acts of the legislature of the year one thousand nine hundred and eight, entitled, "An act fixing the number of terms and time for holding the circuit courts in each county for the several judicial circuits of the state," as amended by an act passed February eighteenth, one thousand nine hundred and thirteen, be amended and re-enacted so as to read as follows:

*Fourth Circuit.*

Section 5. For the county of Wood, on the fourth Monday in 2 January, the fourth Monday in April, and the second Monday in 3 October.

4 For the county of Wirt, on the first Monday in January, 5 on the first Monday in June, and the second Monday in Sep- 6 tember.

## CHAPTER 97.

(Senate Bill No. 121.)

AN ACT to amend and re-enact sections twenty-two and twenty-three of chapter one hundred and twelve-a of the code of West Virginia one thousand nine hundred and thirteen (being serial sections four thousand five hundred and eighty-four and four thousand five hundred and eighty-five of said code), fixing the time of holding the regular terms of the circuit court in the twentieth judicial circuit.

[Passed February 7, 1917. In effect from passage. Approved by the Governor February 16, 1917.]

<p>SEC. 1. Terms of circuit court in twentieth judicial circuit.</p>		<p>SEC. 2. Time in county of Greenbrier; time in county of Pocahontas; inconsistent acts repealed.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. There shall be held in each year at least three 2 terms of the circuit court of the two counties of the twentieth 3 judicial circuit, and the terms of each of the said counties shall 4 commence and be held as provided in section two of this act.

Sec. 2. For the county of Greenbrier, on the third Tuesday 2 in January, on the second Tuesday in May, and on the second 3 Tuesday in September, in each year.

4 For the county of Pocahontas, on the first Tuesday in April,  
5 on the first Tuesday in August and on the first Tuesday in De-  
6 cember, of each year.

Sec. 3. All acts and parts of acts inconsistent with this act  
2 are hereby repealed.

## CHAPTER 98.

(Senate Bill No. 199.)

AN ACT to amend and re-enact section twenty-five-a of chapter thirty-  
nine of the code, relating to rewards for the arrest of criminals  
and to the employment of persons to apprehend, arrest and prose-  
cute criminals.

[Passed February 19, 1917. In effect ninety days from passage. Became a law  
without the Governor's approval.]

SEC. 25-a. Reward may be offered for the apprehension of persons charged with  
crime.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-five-a of chapter thirty-nine of the code, be  
amended and re-enacted to read as follows:

Section 25-a. The county court, or other tribunal acting in  
2 lieu thereof, of any county, together with the circuit court, or judge  
3 thereof, in vacation, may within their discretion, offer rewards  
4 for the apprehension of persons charged with crime. And in case  
5 of the assassination or attempted assassination of, or felonious  
6 assault upon a judge of the circuit court, of a criminal court, of an  
7 intermediate court, or other court of record in this state, the  
8 county court or other tribunal acting in lieu thereof, of any county  
9 within the jurisdiction of such judge, may, in its discretion offer  
10 a reward, not exceeding five thousand dollars, for the detection and  
11 arrest of such assassin or criminal, and may employ any person  
12 to detect, arrest and prosecute such assassin or criminal, and  
13 agree to pay, and pay to such person or persons so employed,  
14 such sum or sums, not exceeding five thousand dollars, as said  
15 county court, or other tribunal in lieu thereof, may deem reason-  
16 able. Such reward so offered, and such sum so agreed to be paid,  
17 to be paid out of the county fund in the same manner as other  
18 county expenses are paid.

## CHAPTER 99.

(Senate Bill No. 216.)

**AN ACT** to amend and re-enact section three of chapter one hundred and sixteen of the code of West Virginia, as amended and re-enacted by section three of chapter seventy-seven of the acts of the legislature for the year one thousand nine hundred and fifteen.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

<p><b>SEC.</b> 3. Two jury commissioners; how appointed; term; how removed; proceedings and compensation;</p>	<p><b>SEC.</b> duties; oath; for court of limited jurisdiction.</p>
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*Be it enacted by the Legislature of West Virginia:*

That section three of chapter one hundred and sixteen of the code of West Virginia, as amended and re-enacted by section three of chapter seventy-seven of the acts of the legislature for the year one thousand nine hundred and fifteen, be amended and re-enacted so as to read as follows:

Section 3. There shall be two jury commissioners of the circuit court of each county. They shall be of opposite politics, citizens of good standing, residents in the county for which they are appointed and well known members of the principal political parties thereof. They shall be appointed by the circuit court, or the judge thereof in vacation, of their respective counties. Their term of office shall be for four years, and shall commence on the first day of June next after their appointment, but the two shall be appointed, one for two years and the other for four years, but no jury commissioner who shall have served four years shall be eligible to reappointment unless there has been an intervening period of four years between his former service and the time of his appointment. They may be removed from office by the court or judge having the power of appointment, for official misconduct, incompetency, habitual drunkenness, neglect of duty or gross immorality. Vacancies caused by death, resignation or otherwise, shall be filled for the unexpired term in the same manner as the original appointments. The jury commissioners shall keep in a well bound book a record of the proceedings to be preserved by the clerk of the circuit court in his office. They shall receive two dollars per day for each day necessarily employed as such jury commissioners, payable out of the county treasury, upon the order of the circuit court. The first appointment of said

24 commissioners shall be made within thirty days after this act  
 25 takes effect. The jury commissioners of each county shall, at the  
 26 levy term of the county court thereof, annually, and at any other  
 27 time when required by the circuit court of such county, without  
 28 reference to party affiliations, prepare a list of such inhabitants  
 29 of the county, not exempted as aforesaid, as they shall think well  
 30 qualified to serve as jurors, being persons of sound judgment and  
 31 free from legal exception, which list shall include not less than  
 32 two hundred nor more than six hundred persons. But the name  
 33 of no person shall be put on such list who shall have been drawn  
 34 and actually served as a juror within a period of four years, or  
 35 who may have requested the jury commissioners, or either of  
 36 them, by himself or another person, to have his name placed on  
 37 such list. Before entering upon the discharge of their duties,  
 38 the jury commissioners shall take and subscribe an oath to the  
 38-a following effect:

39 "State of West Virginia,

40 County of..... ss:

41 I, A.....B....., do solemnly swear  
 42 that I will support the constitution of the United States and the  
 43 constitution of this state and will faithfully discharge the duties  
 44 of jury commissioner to the best of my skill and judgment, and  
 45 that I will not place any person upon the jury list in violation of  
 46 law, or out of fear, favor or affection."

47 The said oath shall be taken before the clerk of the circuit  
 48 court who is hereby authorized to administer the same, and filed  
 49 and preserved by him in his office. There shall be two jury com-  
 50 missioners for every court of limited jurisdiction, who shall be  
 51 appointed by said courts, or the judges thereof in vacation, re-  
 52 spectively, and whose terms of office and compensation shall be  
 53 the same as jury commissioners for the circuit courts. The same  
 54 powers conferred and duties imposed by this chapter upon the  
 55 circuit courts, or the judges thereof in vacation, and upon the  
 56 clerks and jury commissioners of the circuit courts, are hereby  
 57 conferred and imposed upon every court of limited jurisdiction  
 58 and the judges thereof respectively, and upon the clerks and jury  
 59 commissioners of said courts of limited jurisdiction.



**CHAPTER 100.**

(Senate Bill No. 226.)

AN ACT to authorize the judge of the ninth judicial circuit to appoint an official shorthand reporter at his discretion, and prescribing his duties and compensation.

[Passed February 19, 1917. In effect from passage. Approved by the Governor February 23, 1917.]

SEC. 1. Judge of the nineteenth judicial circuit authorized to employ shorthand reporter; compensation; county court to pay.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the judge of the circuit court of the ninth  
2 judicial circuit of West Virginia, comprising the counties of Sum-  
3 mers and Raleigh, is hereby authorized and empowered to, at his  
4 discretion, employ a competent shorthand reporter to report the  
4-a proceedings had or testimony taken in any civil or misdemeanor  
5 proceeding, or in any other proceeding had in the courts of said  
6 circuit, or before the aforesaid judge. Said appointment and em-  
7 ployment may be made by the said judge by order entered in the  
8 circuit court of any county of said circuit, and the shorthand re-  
9 porter so appointed shall be known as the official reporter of said  
10 court, and may be a resident of any county in the state.

11 Said official court reporter, when so employed, shall receive such  
12 compensation as the judge of said circuit court shall in his discre-  
13 tion determine, which shall be certified by said circuit court to the  
14 county court of the county in which such services are rendered, and  
15 the same shall be by the county court of such county paid out of  
16 the county treasury.

**CHAPTER 101.**

(Senate Bill No. 235.)

AN ACT to amend and re-enact section four of chapter one hundred and twelve-a, being serial section four thousand five hundred and sixty-six of Hogg's code of one thousand nine hundred and thirteen, fixing the number of terms and the time for holding the circuit courts in each county of the several judicial circuits of the state.

[Passed February 17, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC. 4. Time for holding circuit court in Ritchie, Pleasants and Gilmer counties.

*Be it enacted by the Legislature of West Virginia:*

That section four of chapter one hundred and twelve-a, serial section four thousand five hundred and sixty-six, of Hogg's code of West Virginia of one thousand nine hundred and thirteen, fixing the number of terms and the time for holding the circuit courts in the third judicial circuit of this state, be amended and re-enacted so as to read as follows:

Section 4. For the county of Ritchie, on the second Tuesday  
2 in February, the second Tuesday in June, and the second Tuesday  
3 in October.

4 For the county of Pleasants, on the second Tuesday in January,  
5 the fourth Tuesday in April, and the second Tuesday in September.

6 For the county of Gilmer, on the first Tuesday in April, the  
7 first Tuesday in August, and the first Tuesday in December.

## CHAPTER 102.

(Senate Bill No. 279.)

AN ACT changing the time for holding the circuit courts of the twenty-second judicial circuit of this state, and for that purpose, amending and re-enacting chapter one hundred and thirty-two of the acts of one thousand nine hundred and fifteen, amending and re-enacting section two of chapter ten of the acts of the legislature of one thousand nine hundred and eleven.

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC. 2. Number of terms and time for holding circuit court in Mingo and Wyoming counties; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section two of chapter one hundred and thirty-two of the acts of one thousand nine hundred and fifteen, amending and re-enacting section two of chapter ten of the acts of the legislature of one thousand nine hundred and eleven, be amended and re-enacted to read as follows:

Section 2. There shall be held in each year in the county of  
2 Mingo at least four terms of the circuit court, and in the county  
3 of Wyoming at least four terms of the circuit court, and the terms  
4 of the several courts for the counties aforesaid shall commence  
5 and be held as follows:

- 6 For the county of Mingo, on the second Monday in January,  
 7 April and July, and the first Monday in September of each year.  
 8 For the county of Wyoming, on the second Monday in Feb-  
 9 ruary, May, August and November of each year.  
 10 Special terms of said court may be called and held as pro-  
 11 vided by the general law.  
 12 All acts and parts of acts inconsistent with this act are hereby  
 13 repealed.

## CHAPTER 103.

(House Bill No. 132.)

AN ACT to correct a mistake in section twelve of chapter eighty-three of the acts of one thousand nine hundred and fifteen fixing the salary of the prosecuting attorney of Wood county.

[Passed February 19, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

### SEC. 1. Salary of prosecuting attorney of Wood county.

WHEREAS, by an act of the legislature of West Virginia of the year nineteen hundred and fifteen, chapter eighty-three, section twelve, the salary of the prosecuting attorney of Wood county, West Virginia, was inadvertently fixed at the sum of two thousand (\$2,000.00) dollars a year instead of the sum of three thousand (\$3,000.00) dollars a year, as intended; and

WHEREAS, it is desired to correct the said mistake and fix the said salary at the said sum of three thousand (\$3,000.00) dollars per year as originally intended; therefore

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of Wood county, West Virginia, 2 is hereby authorized and empowered and shall pay to the prose-  
 3 cuting attorney of said county an annual salary of three thousand  
 4 (\$3,000.00) dollars from the first day of January, one thousand  
 5 nine hundred and seventeen in lieu of the sum of two thousand  
 6 (\$2,000.00) dollars so inadvertently fixed as the said salary in  
 7 said section twelve of chapter eighty-three of the acts of one  
 8 thousand nine hundred and fifteen.

## CHAPTER 104.

(Senate Bill No. 33.)

AN ACT to amend and re-enact section one of chapter fifty-three of the acts of the legislature of West Virginia of one thousand nine hundred and eleven, authorizing the county court of any county having a population of thirty-eight thousand people or more, to pay to the judge of the circuit court of said county, additional compensation.

[Passed February 13, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

## SEC.

1. County court of county having a population of thirty-eight thousand authorized to pay additional compensation to judge of circuit court; provision as to criminal courts which may be abolished; if business of criminal courts be transferred to circuit court of county, judge to re-

## SEC.

ceive sum in addition to salary; how paid; allowance not to be increased or diminished during term of office of judge; when allowance shall commence; where judge is now receiving allowance from county court, such allowance not to be diminished during term of office.

*Be it enacted by the Legislature of West Virginia:*

That section one of chapter fifty-three of the acts of the legislature of West Virginia, of one thousand nine hundred and eleven, be and the same is hereby amended and re-enacted so as to read as follows:

Section 1. That the county court of any county which had, at the last preceding census taken under the authority of the United States of America, a population of thirty-eight thousand or more, is hereby authorized to pay the judge of the circuit court of the said county, in addition to the amount allowed to such judge out of the state treasury, such sum of money as the county court of said county shall deem just and proper, not to exceed the sum of seventeen hundred dollars per annum; *provided*, that when any criminal court in any of said counties, which has been or shall hereafter be established by the legislature, has been since the year one thousand nine hundred and eight, or shall hereafter be abolished by the legislature of this state, and the business of such criminal court has been or shall hereafter be transferred to the circuit court of such county, the county court thereof shall pay to the judge of the circuit court of such county, in addition to the salary paid to him out of the state treasury the sum of seventeen hundred dollars, in equal monthly installments; but such allowance shall not be increased or diminished during the term of office of the judge to whom it may be made, except that it may be made to the judge of the circuit court of such county now in office, and the allowance herein authorized may

22 commence as to the judge now in office, from the first day of  
 23 January, one thousand nine hundred and seventeen, *provided, how-*  
 24 *ever,* that in counties where such judge is now receiving an al-  
 25 lowance from the county court, such allowance shall in no case  
 26 be diminished during the term of office of said judge.

## CHAPTER 105.

(Senate Bill No. 222.)

AN ACT providing for the appropriation of one hundred and twenty-five thousand dollars by the board of commissioners of Ohio county, West Virginia, for the improvement of certain streets in the city of Wheeling.

[Passed February 17, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

Sec.

1. Board of commissioners of Ohio county to pay to city of Wheeling.
2. Wheeling shall use the fund, where.

Sec.

3. When to be used.
4. To be used for street improvement.
5. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the board of commissioners of Ohio county 2 is hereby authorized and instructed to appropriate out of funds 3 now in its possession the sum of one hundred and twenty-five 4 thousand dollars, which sum shall be, on the first day of July, 5 one thousand nine hundred and seventeen, paid over to the city 6 of Wheeling.

Sec. 2. The said city of Wheeling shall, upon receipt of 2 this fund, use the same or so much thereof as may be imme- 3 diately necessary, for repairing, improving and maintaining the 4 following named streets or such parts thereof as may be in need 5 of improvement:

6 First. Beginning at a point on what is known as the Top 7 Mill road at the northern corporation line of the said city of 8 Wheeling, thence running south with said road to Main street, 9 thence down Main street to the south side curb line of Seventh 10 street; then beginning on Main street at south side of Tenth 11 street to the south curb line of Sixteenth street.

12 Second. Beginning on Market street at the southern curb 13 line of Seventh street, thence south with said Market street to 14 Twentieth street, thence on Twentieth street east to Chapline

15 street, thence south on Chapline street to Thirty-third street,  
16 thence east on Thirty-third street to Eoff street, thence south on  
17 Eoff street to Thirty-ninth street, thence east on Thirty-ninth  
18 street to Jacob street, thence south on Jacob street to the southern  
19 corporation line of said city of Wheeling at Forty-eighth street.

20 Third. Beginning at the east end of the bridge connecting  
21 the town of Fulton with the Peninsula road, thence across said  
22 bridge on said Peninsula road to the bridge at the west end of  
23 said Peninsula road, thence across said bridge to Baker street  
24 to McCulloch street, thence in a generally southern direction on  
25 McCulloch street to Sixteenth street, thence west on Sixteenth  
26 street to Chapline street.

27 Fourth. Beginning at the east corporation line of the said  
28 city of Wheeling, where the said corporation line intersects  
29 Twenty-ninth street, thence west on Twenty-ninth street to Chap-  
30 line street.

31 Fifth. Beginning at the west end of the steel bridge, thence  
32 on Ohio street to Huron street, thence north on Huron street to  
33 the bridge connecting Wheeling Island with Aetnaville.

Sec. 3. Where work is necessary the same shall be done as  
2 expeditiously as possible after the payment of the money provided  
3 in section one; and the said work shall be done in accordance with  
4 the provisions of the charter of the city of Wheeling.

Sec. 4. No part of the money provided for in this act shall  
2 be used by the said city of Wheeling for any other purpose than  
3 street improvement, maintenance and repair, and any balance re-  
4 maining of said fund after such repair and improvement as may  
5 be immediately necessary shall have been completed, shall be  
6 kept on deposit with interest as a maintenance fund for said  
7 streets, and the whole or any part thereof may at any time be  
8 applied when its use shall seem proper to the council of the said  
9 city.

Sec. 5. All acts and parts of acts inconsistent with this act  
2 are hereby repealed.

## CHAPTER 106.

(House Bill No. 126.)

AN ACT to amend and re-enact section forty-two of chapter forty-  
seven of the code of West Virginia, serial section one thousand

eight hundred and eighty-eight, edition one thousand nine hundred and thirteen, relating to the salaries of officers of municipal corporations governed by said chapter.

[Passed February 20, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 42. Salary of Officers.

*Be it enacted by the Legislature of West Virginia:*

That section forty-two of chapter forty-seven of the code of West Virginia, serial section one thousand eight hundred and eighty-eight, edition one thousand nine hundred and thirteen, be amended and re-enacted so as to read as follows:

Section 42. The mayor, recorder, assessor, and superintendent of roads, streets and alleys, of such corporation, shall each receive a compensation for his services, to be fixed by the council, which shall not be increased or diminished during the term for which he shall have been elected, but no compensation shall be paid to any other member of the council of said town.

## CHAPTER 107.

(Senate Bill No. 124.)

AN ACT to amend and re-enact section seven of chapter one hundred and twenty of the code of West Virginia, as amended and re-enacted by chapter thirty-four of the acts of one thousand nine hundred and nine, and by chapter twenty-two of the acts of one thousand nine hundred and thirteen, relating to the appointment, removal and compensation of assistants of prosecuting attorneys.

[Passed February 14, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC.

7. Prosecuting attorney, with assent of county court, may appoint assistant; oath and duties of assistant similar to principal; principal has power to remove assistant from office; circuit court also has power to remove; how compensation shall be paid; exception as to certain counties, and how same shall be paid; amount provision as to employment of stenographer; salary,

SEC.

and how paid; powers and duties of prosecuting attorney and assistant; if deemed proper, court may appoint competent attorney to prosecute certain cases; court to certify such fact; allowance for services of attorney; how paid; section not to be construed to prohibit employment of competent attorneys in prosecution of person charged with crime. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 7. Any prosecuting attorney may, with the assent of the county court of his county, entered of record, appoint one

3 practicing attorney to assist him in the discharge of his official  
4 duties for and during his term of office, and such assistant shall  
5 take the same oath of office and may perform the same duties as  
6 his principal; and he may be removed from office as such assistant  
7 at any time by his principal; and, further, he may be removed  
8 from office as such assistant by the circuit court of the county in  
9 which he is appointed, for any cause for which his principal might  
10 be so removed. The compensation of such assistant shall be paid  
11 by the principal from the income of the office; except in the  
12 counties of Cabell, Fayette, Kanawha, Marion, McDowell, Mercer,  
13 Mingo, Raleigh, Wood, Ohio, Logan, Wayne and Harrison; and in  
14 said counties the county court thereof shall allow annually to such  
15 assistant such compensation, to be paid out of the county treasury,  
16 as is deemed reasonable by the court in the counties of Fayette,  
17 Kanawha, Marion, Cabell, McDowell, Mercer, Mingo, Wood, Logan,  
18 Ohio and Harrison, not less than one thousand nor more than two  
19 thousand dollars annually; and in the counties of Raleigh and  
20 Wayne not to exceed the sum of one thousand dollars annually.  
21 *Provided, however,* that in each of the counties expressly named  
22 herein in lieu of such assistant to be paid out of the county treas-  
23 ury, the prosecuting attorney may employ a stenographer for his  
24 office at a salary not to exceed nine hundred dollars per annum,  
25 to be paid out of the county treasury. The prosecuting attorney  
26 and his assistant (if he has one) shall manage and control all  
27 prosecutions for crimes and misdemeanors tried in the circuit  
28 court, or in any other court, having concurrent jurisdiction with  
29 the circuit court, for the trial of crimes and misdemeanors, of any  
30 county, for which such prosecuting attorney was elected or ap-  
31 pointed.

32 *Provided,* that in any case in which it would; in the opinion  
33 of the court, be improper for the prosecuting attorney and his  
34 said assistant (if he has one) to act; or if the prosecuting attor-  
35 ney and his assistant be unable to act, such court shall appoint  
36 some competent practicing attorney to prosecute such case, and  
37 upon the performance of the service for which he was appointed,  
38 said court shall certify that fact, with its opinion of what would  
39 be a reasonable allowance not to exceed seven dollars and fifty  
40 cents per day, actually worked, to such attorney, for the service  
41 rendered to the county court of the county, and such sum, or a  
42 different sum, when allowed by the county court, shall be paid out  
43 of the county treasury; *provided, further,* that nothing in this



44 section shall be construed to prohibit the employment by any per-  
45 son, of competent attorneys to assist in the prosecution of any  
46 person or corporation charged with crime.

47 All acts or parts of acts inconsistent herewith are hereby  
48 repealed.

## CHAPTER 108.

(Senate Bill No. 140.)

AN ACT to enact and add section fifty-nine to chapter forty-seven of the code, providing that no member of a town or city council, or board of commissioners or other officer or officers thereof shall be interested in the furnishing of any supplies to any town or city, or to any contractor whatever, doing contract work for said town or city, and providing a penalty for such violations.

[Passed February 14, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC. 59. Unlawful for officer of a town to contract to furnish town supplies, etc.

*Be it enacted by the Legislature of West Virginia:*

Section 59. It shall be unlawful for any council or board  
2 of commissioners of any town or city, or any member thereof, or  
3 other officer or officers thereof, to be interested personally, either  
4 directly or indirectly, or as a manager, officer or stockholder of  
5 any partnership, business, firm or corporation, in any contract,  
6 furnishing material, and supplies to any town or city, or to any  
7 contractor, or workmen for any town or city, or in any manner  
8 whatsoever, whereby the tax payers of any such town or city,  
9 shall become the paymaster, either directly or indirectly. *Pro-*  
10 *vided*, that this act shall not apply to any town or city where there  
11 is no competition in furnishing any material for the use and bene-  
12 fit of such town or city. Any violation of the provision of this  
13 section, by any member of a city or town council or other officer  
14 or officers thereof, shall be a misdemeanor and upon conviction  
15 thereof, shall be fined not less than fifty nor more than five hun-  
16 dred dollars, and shall be removed from office.

## CHAPTER 109.

(Senate Bill No. 151.)

AN ACT authorizing the county courts, or tribunals created in lieu thereof, to pay to cities, towns and villages in which no county jail or other place of imprisonment is located, compensation for the use of jails or lock-ups owned by such municipalities, when necessary for the temporary detention therein of prisoners charged with criminal offenses.

[Passed February 17, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC.

1. Provides for county court to pay city, town or village for keeping prisoners, where no place of imprisonment is owned by county; amount to be paid; provisions of act not to apply to persons imprisoned for violation of ordinance of city, town or village;

SEC.

- payment not to exceed period of five days for one person.
2. Amount of charge must be certified by justice before payment is made.
3. Payments provided for to be made in manner and from proper fund, according to offense charged.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The county court of each county, or tribunal  
 2 created in lieu thereof, shall have authority to provide for and  
 3 pay to any city, town or village in this state, in which no county  
 4 jail or other place of imprisonment is owned by the county, not  
 5 more than one dollar for the first day and not more than fifty  
 6 cents for each subsequent day that any person charged with a  
 7 criminal offense may be temporarily held in the jail or lock-up  
 8 belonging to such city, town or village; *provided*, that the pro-  
 9 visions of this act shall not apply to any person imprisoned for a  
 10 violation of the ordinances of any city, town or village; and,  
 11 *provided, further*, that in no case shall such payment be made for  
 12 a period of more than five days for the detention of any one per-  
 13 son held under any charge or charges at any one time.

Sec. 2. No such payment shall be made unless the amount  
 2 of such charge is certified by the justice or other authority under  
 3 whose jurisdiction such person is detained in the same manner as  
 4 other costs in criminal cases are now required by law to be certi-  
 5 fied.

Sec. 3. The payment provided for in the first section shall  
 2 be made, in cases of persons charged with felonies or misdemeanors,  
 3 in the manner and from the proper fund, according to the char-  
 4 acter of the offense charged, as now provided by law for the pay-  
 5 ment of other costs payable by the county courts in criminal cases.

## CHAPTER 110.

(Senate Bill No. 221.)

AN ACT to establish the route of the National or Cumberland road through the city of Wheeling, and to declare the duties of the board of commissioners of Ohio county in regard thereto.

[Passed February 17, 1917. In effect from passage. Approved by the Governor February 23, 1917.]

### SEC.

1. Establishing the route of the National or Cumberland road through city of Wheeling in Ohio county.
2. Board of commissioners of Ohio county to pay for making, improving and maintaining said road; duty of board by this act to repair and improve road as described in section one; method prescribed for permanently improving said road; work to be

### SEC.

- paid for out of county treasury or by bond issue; provisions as to issuance of bonds.
3. For purpose of repair and improvement, board to have necessary control over streets; act not to be construed as to limit power of city over streets; no additional authority given to board over streets.
  4. Inconsistent acts repealed.

WHEREAS, the exact line of what is known as the National or Cumberland road where the said road runs through the city of Wheeling has for some time been uncertain and a matter of dispute; and

WHEREAS, by reason of said uncertainty and dispute, the board of county commissioners of Ohio county has been unable properly to perform its duties in regard to said National or Cumberland road; and

WHEREAS, the said uncertainty and dispute concerns only the original line of said road, and there is no doubt as to the road actually used as said National or Cumberland road; and,

WHEREAS, it will be of great benefit to have the said road so actually used, established as the real line of said National or Cumberland road; now therefore

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the route of what is known as the National or Cumberland road through the city of Wheeling, county of Ohio, and state of West Virginia, is hereby fixed as follows:

Beginning at the east corporation line of said city of Wheeling at the point on said National or Cumberland road where the said corporation line divides the city of Wheeling from the town of Fulton; thence in a westerly direction up and down grade to Market street in the said city of Wheeling, on the said Market street to Seventh street, on said Seventh street west to Main street, on said Main street south to Tenth street, on said Tenth street west to the suspension bridge; beginning again at the west end of said suspension bridge following Virginia street to Front street, northwest on Front street to Zane street, west on

14 Zane street to the bridge connecting Wheeling island with the  
15 town of Bridgeport.

Sec. 2. The board of commissioners of Ohio county  
2 may contract and pay for making, improving, maintaining  
3 or keeping in order the whole or any part of said National  
4 or Cumberland road as herein fixed; and it is by this act made the  
5 duty of said board of commissioners of Ohio county to repair,  
6 improve and keep in order all of the said National or Cumberland  
7 road as described in section one of this act; and said board of  
8 commissioners of Ohio county may permanently improve said road  
9 by the use of asphaltum, brick, stone, granite block, or other  
10 process of equal merit, and may contract therefor with any con-  
11 tractor for the use of any of the foregoing systems, and shall take  
12 bond and security from any such contractor for the faithful per-  
13 formance of his contract; said board may pay for the work done  
14 under such contract in whole or in part out of the county treasury,  
15 or by issuing bonds or other evidence of indebtedness of and for  
16 the same. In case the payment is to be made by bonds, the issu-  
17 ance of such bonds shall be made in accordance with section  
18 twenty-six of chapter forty-three of the code of West Virginia.

Sec. 3. The board of commissioners of Ohio county shall,  
2 for the purpose of repair, maintenance and improvement, have  
3 such control over the streets set forth in section one of this act  
4 as may be necessary for the purposes in the preceding section set  
5 forth; but such control shall extend to these purposes only, and  
6 nothing in this act contained shall be construed as in any way  
7 limiting the power of the city of Wheeling over the streets afore-  
8 said, nor as giving to the board of commissioners of Ohio county  
9 any authority over said streets other than is now possessed by said  
10 board, or is given to said board by this act for the purposes of  
11 maintenance, improvement and repair.

Sec. 4. All acts and parts of acts inconsistent with this  
2 act are hereby repealed.

## CHAPTER 111.

(Senate Bill No. 234.)

AN ACT to amend chapter forty-seven of the code relative to cities,  
towns and villages, by adding thereto and as part thereof, a sec-  
tion to be numbered section fifty-nine, providing for the sale,  
lease and renting of any waterworks, electric light plant, or other

public utility owned by any city, town or village, incorporated and organized under and by virtue of the provisions of said chapter forty-seven.

[Passed February 15, 1917. In effect from passage. Approved by the Governor February 23, 1917.]

SEC.  
59. When council of city, town or village owning a public utility deems best to sell, lease or rent same, question may be submitted to voters; ordinance to set forth the term of such sale, lease or renting; ordinance to be published; provisions for holding election; if majority favor proposed sale, council has power to execute sale; if more advantageous offer be received after said election, council may con-

SEC.  
sider same and accept without re-submitting question; further provisions as to election if subsequent proposition be for lease or sale; if second proposition be submitted to vote, bond approved by council, required; proceeds of sale not to be used in payment of current expenses; same to be applied to bonded indebtedness; other provisions as to application of proceeds of sale.

*Be it enacted by the Legislature of West Virginia:*

That chapter forty-seven of the code relating to cities, towns and villages, be and the same is hereby amended by an additional section thereto, as a part thereof, to be numbered section fifty-nine, providing for the sale, lease and renting of any waterworks, electric light plant or other public utility owned by any city, town or village, incorporated and organized under and by virtue of the provisions of said chapter forty-seven, said section to read as follows:

Section 59. In any case where a city, town or village created  
2 under the provisions of this chapter shall own a water-works sys-  
3 tem, electric light plant or other public utility, and the common  
4 council thereof shall deem it for the best interest of such city,  
5 town or village that such utility be sold, leased or rented, it shall  
6 be lawful for the common council, by ordinance legally passed, to  
7 submit to the legal voters of such municipality the question of  
8 making such sale, lease or renting. In such case the common  
9 council shall in the ordinance submitting such question to a vote  
10 set forth in full the terms of such proposed sale, lease or renting,  
11 the name of the proposed purchaser or lessee, the date of such  
12 election, and said ordinance shall be published at least once a  
13 week for four successive weeks prior to the date of such election  
14 in two newspapers of opposite politics, published in such  
14-a city, town or village, or if none be published there-  
15 in, in some paper published in the county and of gen-  
16 eral circulation in such city, town or village. Said election  
17 shall be held in all respects in compliance with the pro-  
18 visions of section seven of chapter twenty-eight-a of the code, so  
19 far as the same are applicable, and not inconsistent herewith.

20 If a majority of the votes cast at such election upon said question  
21 be in favor of the proposed sale, lease or renting of such utility,  
22 the common council, upon the ascertainment of the result of said  
23 election, shall have full power and authority to proceed to exe-  
24 cute such sale, lease or renting in accordance with the terms and  
25 conditions prescribed in the ordinance aforesaid, and shall have  
26 power to do any and all things necessary or incident thereto;  
27 *provided, however,* that if at any time after such election and  
28 before the execution of the authority under the ordinance, any  
29 person, firm or corporation should present to the council an offer  
30 to buy such public utility or plant at a greater price than the  
31 sale price which shall have been so voted upon and authorized,  
32 or to lease the same upon terms which the council, in its discre-  
33 tion, shall consider more advantageous to the municipality than  
34 the terms of the lease which shall have been authorized by vote  
35 as aforesaid, the council shall have the power to accept such sub-  
36 sequent offer, and to make such sale or such lease to the person  
37 making the offer, without re-submitting the question to a vote.  
38 But if a sale shall have been authorized by a vote as aforesaid, and  
39 such subsequent proposition be for a lease, or if a lease shall  
40 have been so authorized, and the subsequent proposition shall be  
41 for a sale, the council shall have no power to accept the same  
42 without submitting the question thereof to a vote of the people  
43 as first above provided. And before any such second or subse-  
44 quent proposition shall be submitted to vote, after a sale or lease  
45 shall have been authorized at an election held hereunder, the  
46 person making such proposition shall execute bond with security  
47 to be approved by the council, in a penalty of not less than twenty-  
48 five per cent. of such proposed bid, conditioned to carry such  
49 proposition into execution if the same shall be approved at the  
50 election to be called thereon. In any case where such public  
51 utility as is mentioned in this section shall be sold, leased or  
52 rented by the common council as hereinabove provided, no part  
53 of the moneys derived from such sale, lease or renting shall be  
54 applied to the payment of current expenses of the municipality;  
55 but the proceeds of such sale or lease shall be applied in payment  
56 and discharge of any bonded indebtedness created in respect to  
57 such public utility; and in case there be no such bonded indebt-  
58 edness, the council, in its discretion, shall have power to expend  
59 all such moneys when received, in the purchase or construction  
60 of fire fighting equipment and buildings, a town hall, and the

61 necessary land upon which to locate the same, or in the construction  
 62 of paved streets, sidewalks, sewers and other like permanent im-  
 63 provements, and for no other purposes. Or in case there be a  
 64 surplus after the payment of such bonded indebtedness, such  
 65 surplus may be used as aforesaid.

## CHAPTER 112.

(Senate Bill No. 293.)

AN ACT to validate certain proceedings authorizing the issuance of bonds of the city of Fairmont, for the purpose of improving the streets, bridges and sewers of such city, including the construction of a bridge across the Monongahela river, for the funding and refunding of its indebtedness and for other improvements, and to validate the sale of such bonds and authorize a re-sale thereof, and to provide a tax to pay the same and to authorize the conversion of such bonds, when issued, from coupon to registered.

[Passed February 23, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

- |   |  |
|---|--|
| <p>Sec. 1. Proceeding authorizing the issuing of bonds validated and confirmed; also the sale of the bonds.</p> | <p>Sec. 2. Authorities may provide for conversion of coupons into registered bonds, provided, etc.</p> |
|---|--|

*Be it enacted by the Legislature of West Virginia:*

Section 1. All proceedings authorizing the issuance of the  
 2 general improvement and refunding bonds of the city of Fairmont,  
 3 in the amount of seven hundred and sixty thousand dollars,  
 4 for the purpose of improving the streets, bridges and sewers of  
 5 such city, including the construction of a bridge across the Monon-  
 6 gahela river, for the funding and refunding of the indebtedness  
 7 thereof, and for other improvements, which bonds mature from  
 8 one thousand nine hundred and eighteen to one thousand nine  
 9 hundred and forty-seven inclusive and bear interest at the rate  
 10 of four and one-half per centum per annum, and were authorized  
 11 by ordinance number twenty-four of such city and received the vote  
 12 of more than three-fifths of all the votes cast for and against the  
 13 same at an election held for that purpose, are hereby in all respects  
 14 validated and confirmed and a tax sufficient to pay the interest and  
 15 maturing principal of such bonds shall be levied each year as re-  
 16 quired by the constitution, anything herein or in any other statute  
 17 to the contrary notwithstanding. The sale of such bonds is like-

18 wise validated and confirmed, and the constituted and acting au-  
 19 thorities of such city are hereby authorized to execute and deliver  
 20 such bonds pursuant to such proceedings and such sale or pursuant  
 21 to any further sale thereof at not less than par, should the sale  
 22 heretofore made not in fact be consummated.

Sec. 2. The constituted and acting authorities of such city  
 2 may provide for the conversion of such bonds, or any of them,  
 3 from coupon into registered bonds, or for the registration of the  
 4 principal thereof, provided that none of such bonds shall be con-  
 5 verted into a fully registered bond, unless there shall be endorsed  
 6 thereon a statement executed by the chief executive and a financial  
 7 officer of such city, stating that all the unmatured coupons at-  
 8 tached to said bond have been cut off and destroyed.

## CHAPTER 113.

(House Bill No. 90.)

AN ACT creating the municipal corporation of the city of Morgan-  
 town, in the county of Monongalia, and annulling the charter  
 granted to said city of Morgantown by act of the legislature of  
 West Virginia, chapter one hundred and forty-four of the acts  
 of one thousand nine hundred and one, passed on the thirtieth  
 day of January, one thousand nine hundred and one, and the  
 acts amendatory thereof.

[Passed February 20, 1917. In effect from passage. Became a law without the  
 Governor's approval.]

Sec. 1.	Corporate powers.	Sec. 21.	Board to appoint officials.
2.	Boundaries and jurisdiction.	22.	Appoint a city manager.
3.	Construct, maintain and control streets, etc.	23.	Officers and employees to be appointed.
4.	City governing body.	24.	Duties of mayor.
5.	Governing body.	25.	Duties of civil service board.
6.	Board of commissioners.	26.	Duties of municipal judge.
7.	Who eligible to office of commissioner.	27.	Duties of city solicitor.
8.	Commissioners elected.	28.	Duties of treasurer.
9.	Election.	29.	Duties of city planning board.
10.	First election: when.	30.	Duties of city manager.
11.	Municipal elections: how conducted.	31.	Duties of city clerk.
12.	Commissioner elected by popular vote.	32.	Duties of other officials.
13.	Two registrars to be selected; other regulations.	33.	Ordinances.
14.	Duties and responsibilities of board of commissioners.	34.	Ordinances shall be published.
15.	Place and time of meetings; elect mayor, etc.	35.	Ordinance shall not be passed on day introduced.
16.	Quorum.	36.	Contracts and purchases.
17.	Compensation of appointed officials.	37.	
18.	Grant franchises, etc.	38.	
19.	No official shall be personally interested in contract.	39.	
20.	No official to be surety on bond.	40.	Franchises.
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		42.	
		43.	
		44.	
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Sec.	
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50.	Taxation and finance.
51.	
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Sec.	
56.	Ordinances and resolutions.
57.	Persons holding office at.
58.	Vested rights shall continue.
59.	Invalid section shall not.
60.	In effect when.
61.	To be ratified by voters.
62.	Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

*Corporate Powers.*

Section 1. That the inhabitants of that portion of Monongalia county in the state of West Virginia, included within the boundary described in section two of this act, now a municipal corporation existing and known as the city of Morgantown, shall continue to be a body politic and corporate under the same name, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; plead and be impleaded; contract and be contracted with; acquire property for municipal purposes in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase, either within or without the city limits, subject to the rights of other affected municipal corporations; may sell, lease, hold, manage and control such property, and make any and all rules and regulations, by ordinance or resolution which may be required to carry out fully all provisions of any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may grant public franchises to be exercised within the city; may acquire, construct, own, lease and operate light, heat and power plants and regulate all other public utilities; may assess, levy and collect taxes for general and special purposes on all the subjects or objects within its boundaries which the city may lawfully tax; may borrow money for permanent improvements and public works on the faith and credit of the city by the issue or sale of bonds or notes of the city, and in the issuance and sale of said bonds the said city shall be governed by the restrictions and limitations of the constitution and laws of the state relating to the issuance and sale of bonds, so far as said state laws are not in conflict with the provisions of this act; may pave, repave, curb, recurb, grade, regrade, sewer, re sewer, or otherwise permanently improve any street, alley, or roadway within the city limits and assess the entire cost thereof,

32 including the cost at intersections, with interest, or any part  
33 thereof, against the owners of the abutting or benefitted prop-  
34 erties in accordance with an ordinance that shall permit the pay-  
35 ment of said assessments in annual installments, and may in  
36 anticipation of the levying of said assessments, issue and sell its  
37 bonds, as hereinbefore provided, to the estimated amount of  
38 the cost of said improvements, and apply said assessments as  
39 same are paid to the liquidation of said bonds and interest  
40 thereon; may appropriate the money of the city for all lawful  
41 purposes; may create, provide for, construct, regulate and main-  
42 tain all things of the nature of public works and improvements;  
43 may direct the laying out of lots and the opening of streets and  
44 roadways; may license and regulate persons, corporations and  
45 associations engaged in any business, occupation, profession or  
46 trade; may define, prohibit, abate, suppress and prevent all  
47 things detrimental to the health, morals, comfort, safety, conveni-  
48 ence and welfare of the inhabitants of the city, and all nuisances  
49 and causes thereof; may regulate the construction, height, and  
50 materials used in all buildings and structures of every kind, and  
51 the maintenance, occupancy and use thereof; may regulate and  
52 control the use, for whatever purposes, of the streets and other  
53 public places; may create, establish, organize and abolish offices  
54 not specifically provided for by this act, and fix the salaries  
55 and compensations of officers and employees when not fixed herein;  
56 may make and enforce local police, sanitary and other regulations,  
57 and prescribe, impose and enforce reasonable fines and penalties  
58 including imprisonment, and with the consent of the county  
59 court of Monongalia county shall have the right to use the jail  
60 of said county when necessary; and may pass such ordinances  
61 and resolutions as may be expedient or necessary for maintaining  
62 and promoting the peace, good government and welfare of the  
63 city, and for the performance of the functions thereof. The city  
64 of Morgantown, as constituted by this act, shall retain, keep and  
65 succeed to all rights, privileges, property, interest, claims and  
66 demands heretofore acquired by, vested in or transferred to the  
67 said city as heretofore constituted and shall have all powers  
68 that now are or hereafter may be granted to municipalities by  
69 the constitution or laws of West Virginia, or that are herein by  
70 implication conferred, or are necessary to or consistent with the  
71 purposes of this act; and all such powers, whether expressed or  
72 implied, shall be exercised and enforced in the manner prescribed

73 by this act, or when not prescribed herein, in such manner as  
74 shall be provided by ordinances or resolutions of the governing  
75 body herein provided for.

*Boundaries and Jurisdiction.*

Sec. 2. The corporate boundaries of the said city shall be  
2 as follows, that is to say:

3 Beginning at Target Rock, a large rock in the Monongahela  
4 river below Morgantown, said Target Rock being nearest the  
5 right bank of said river, thence north fifty-six degrees east, two  
6 hundred and three and eight-tenths poles to a locust on the north-  
7 east side of the Collins ferry road, opposite to the entrance to  
8 a lane leading to Oliver H. Dille's farm house; thence south  
9 sixty-one degrees and fifteen minutes east, two hundred, fifty-  
10 three and seven-tenth poles to a post on the southeast side of the  
11 Stewartstown road, opposite the intersection of a lane leading to  
12 the Hoffman farm house, and the intersection of the old and  
13 new Stewartstown roads; thence south fifty-eight degrees and  
14 two minutes east, two hundred, one, and five-tenth poles to a  
15 stone on the southeast side of the Ice's ferry pike, at its inter-  
16 section with the old Robinson road; thence south eleven degrees  
17 and nine minutes east, two hundred, nineteen and five-tenths  
18 poles to a stone on the southwest side of the Decker's creek  
19 road, opposite its intersection with the Sturgiss road; thence  
20 south thirty-four degrees and fifteen minutes west, two hundred  
21 thirty-one, and five-tenth poles to a large stone on the top of  
22 the hill on land of George Harner; thence south fifty-eight de-  
23 grees and twenty-five minutes west, two hundred, twenty-seven,  
24 and five-tenth poles to a stone on the northeast side of the  
25 Kingwood pike, at its intersection with a lane leading to the  
26 William Well's farm house; thence south sixty-seven degrees and  
27 fifty-three minutes west, three hundred and forty-four poles to  
28 a stone at the intersection of the Evansville pike, with the Mor-  
29 gantown and Fairmont road; thence north eighty-eight degrees  
30 and twenty-five minutes west, seventeen and eighty-eight one  
31 hundredths poles to a sycamore on the right bank of the Mo-  
32 nongahela river, thence with the shore line of said river and  
33 down the same to Target Rock, the place of beginning.

Sec. 3. The city of Morgantown shall construct, maintain  
2 and control its streets and roadways and be exempt from the  
3 payment of taxes for the construction and maintenance of roads

4 outside of the city limits; but the said county shall be chargeable  
5 with the construction and maintenance of bridges within the city.

Sec. 4. For all purposes, except taxation, herein enumer-  
2 ated or implied, the city governing body shall have jurisdiction  
3 when necessary, for one mile beyond the city limits, excepting  
4 another municipal corporation within said one mile, and no plan  
5 of lots, street or roadway shall be laid off for sale or public use,  
6 within said one mile, and included within the limits of no other  
7 municipal corporation, except under the supervision and control  
8 of the governing body of the city of Morgantown or the city  
9 planning board herein provided for.

#### *Governing Body.*

Sec. 5. The municipal authorities of the city shall be three  
2 commissioners who shall constitute and be known as "the board  
3 of commissioners of the city of Morgantown."

Sec. 6. All corporate powers of said city shall be vested  
2 in and be exercised by the board of commissioners or under its  
3 direction except as otherwise provided in this act.

Sec. 7. No person shall be eligible to the office of com-  
2 missioner who is not at the time of his election entitled to vote  
3 in the city election and who was not for the preceding year  
4 assessed with taxes upon personal or real property, or both, within  
5 the city, of an assessed value of five hundred dollars and did  
6 not actually pay the taxes so assessed.

Sec. 8. Commissioners shall be elected from the city at  
2 large for a term of three years, except that at the first election  
3 the one ascertained to have been elected by the largest number  
4 of votes shall serve for three years, the one ascertained to have  
5 been elected by the next largest number of votes shall serve for  
6 two years and the third one ascertained to have been elected by the  
7 next largest number of votes shall serve for one year. Thereafter  
8 one commissioner shall be elected each year for a term of three  
9 years. The commissioners shall each receive a salary of one hun-  
10 dred dollars per annum.

#### *Elections.*

Sec. 9. The board of commissioners may by ordinance ap-  
2 proved at a referendum election called for the purpose, and held  
3 not less than sixty days before any regular municipal election,

4 change the boundaries of the city, the number of the commission-  
5 ers, the length of their term and the manner of their election,  
6 except that municipal elections shall always be without political  
7 party designation and non-partisan. When an election is held  
8 for the purpose of annexing additional territory to the city, the  
9 qualified voters of the territory that it is sought to annex, shall  
10 also vote upon the proposition and it shall be necessary that  
11 a majority of the total vote cast within or without the city, be  
12 cast for the proposition. In the absence of other municipal au-  
13 thority to act for the residents outside of the city of Morgantown,  
14 the county court shall appoint the necessary election officers and  
15 cause all necessary arrangements to be made for the holding  
16 of said election and the return of the results of same to the board  
17 of commissioners of the city of Morgantown, who shall act as  
18 a canvassing board to ascertain the aggregate results of the said  
19 election both within and without the city. The cost of the  
20 election shall be borne by the city of Morgantown, except that  
21 where another municipal corporation participates in the election,  
22 it shall bear such part of the total cost as shall have been in-  
23 curred within its boundaries.

Sec. 10. The first election under this act shall be held on  
2 the second Tuesday of April, one thousand nine hundred and  
3 seventeen, at the regular voting places within the city, under  
4 the supervision of the council and officials of the city as at present  
5 constituted, and be conducted, certified, returned and finally  
6 determined, in accordance with the provisions of this act and the  
7 laws and ordinances, or such parts thereof, as are now in effect  
8 and not inconsistent with the provisions of this act.

Sec. 11. Municipal elections under this act shall be con-  
2 ducted as follows:

3 (a) Every person who has been a bona fide resident of the  
4 city for six months next preceding a city election therein, and  
5 who is a qualified voter under the constitution and laws of this  
6 state, shall be entitled to vote at said city election in the election  
7 precinct in which he actually resides; but no person shall be  
8 deemed a bona fide resident who is residing within the city  
9 limits for any temporary purpose and expects to remove from  
10 the city after said purpose shall have been accomplished. The  
11 board of commissioners shall by ordinance provide for such reg-  
12 ulations for the registration of voters as may be rendered neces-  
13 sary by state laws.

14 (b) Any person eligible to the office of commissioner may  
 15 be a candidate and have his name placed upon the ballot by  
 16 filing with the city clerk a declaration of his candidacy and a  
 17 certificate of his eligibility signed, within sixty days next pre-  
 18 ceding the day of the election, by one hundred qualified voters  
 19 of the city, not less than one-third of whom shall reside in the  
 20 same voting precinct as the candidate. Said declaration and  
 21 certificate shall be accompanied by a fee of ten dollars to be paid  
 22 into the treasury of the city, and shall be filed with the city  
 23 clerk not less than fifteen days prior to the day of election.  
 24 The names of all candidates for the office of commissioner shall  
 25 appear on one ballot and said ballot shall be without party emblem  
 26 or designation. The whole number of ballots to be printed for  
 27 the election of commissioners shall be divided by the number of  
 28 candidates and the quotient so obtained shall be the number of  
 29 ballots in each series of ballots to be printed.

30 (c) The names of the candidates shall be arranged in  
 31 alphabetical order and the first series of ballots printed. The  
 32 first name shall then be placed last and the next series of ballots  
 33 printed, and this process shall be repeated until each name shall  
 34 have been first. These ballots shall then be combined into tablets  
 35 in the order of the series with no two of the same series together.

36 (d) The ballots to be used for the election of commission-  
 37 ers shall be in form as follows:

38 CANDIDATES FOR ELECTION TO THE OFFICE OF COMMISSIONER.

39 City of Morgantown, W. Va.

40 Tuesday .....19...

41 Directions to Voter: Put a figure one in the blank space  
 42 opposite the name of the candidate whom you most desire elected.  
 43 Then put a figure two in the space opposite the name of the  
 44 candidate who is your second choice. Then put a figure three  
 45 in the space opposite the name of the candidate who is your third  
 46 choice. Do not mark after more than three names. If you spoil  
 47 this ballot, tear it across once and hand to the election officer in  
 48 charge and he will give you another.

49 Name of Candidates.	Choice.
50 .....	.....
51 .....	.....
52 .....	.....
53 .....	.....
54 .....	.....

55 (e) A valid ballot shall be one on which the voter has  
56 clearly expressed his choice of one or more candidates. If a  
57 voter express the same choice for more than one candidate, his  
58 vote shall be void as for that choice. If he express more than  
59 one choice for one candidate the highest properly expressed  
60 choice only shall be counted for said candidate.

61 (f) A vote equal to or greater than a majority of the total  
62 valid ballots cast within the city, shall be necessary to an election.  
63 During the counting of the votes, all ballots or votes not counted  
64 shall be marked by the election commissioners of each precinct  
65 with the words "not counted" written upon the ballot or opposite  
66 the vote not counted, together with a statement of the reasons  
67 for not counting, and the total number of invalid ballots marked  
68 thus and not counted, shall be ascertained by them at the con-  
69 clusion of the counting and be shown upon the precinct return  
70 certificate and subtracted from the total number of ballots taken  
71 from the ballot box.

72 (g) In ascertaining the result of the election, the can-  
73 vassing board shall first count the first choice votes received by  
74 each candidate. If a candidate be found to have received a total  
75 of first choice votes equal to or greater than a majority of the  
76 total valid ballots cast, he shall be declared elected.

77 But if more than one commissioner is to be elected or no  
78 candidate shall have received the number of first choice votes  
79 necessary for an election, then the second choice votes received  
80 by each of the candidates who were not elected by the first choice  
81 votes shall be added to his first choice votes, and if one or more  
82 of said candidates shall be found to have received a total of first  
83 and second choice votes equal to or greater than a majority of the  
84 valid ballots cast, that candidate who shall have received the  
85 highest number of first and second choice votes shall be declared  
86 elected. But if the required number of commissioners shall not  
87 be found to have been elected by the first and second choice  
88 votes, then the third choice votes received by each of the candi-  
89 dates who were not elected by the first or first and second choice  
90 votes, shall be added to his first and second choice votes, and those  
91 candidates to the number of the commissioners yet remaining to  
92 be elected, who shall be found to have received the highest vote,  
93 shall be declared elected in the order of the vote received, begin-  
94 ning with the highest; and if an election of one or more be pre-  
95 vented by a tie, then of those tied the one or ones who received

96 the highest total of first and second choice votes shall be declared  
97 elected; and if there be yet a tie, then of those tied the one or ones  
98 who received the highest number of first choice votes shall be de-  
99 clared elected; and if there be yet a tie then selection shall be made  
100 by lot by placing within a hat the names of those candidates who  
101 are tied and drawing therefrom one name at a time to the  
102 number of commissioners yet to be elected. The candidates  
103 whose names are thus drawn shall be declared elected as drawn.

Sec. 12. Commissioners only shall be elected by popular  
2 vote. All other officials and employees shall be appointed by the  
3 commissioners in such manner as is provided by this act or as they  
4 may by ordinance properly prescribe. The annual election of  
5 commissioners shall be held on the second Tuesday of April.  
6 Each person elected or appointed to an office in the city shall  
7 within thirty days after his election or appointment and before  
8 entering upon the duties of his office, take and subscribe the oath  
9 of office prescribed by law for county officers, which shall be  
10 done before a notary public, and the certificate of the officer  
11 administering the oath shall be filed with the city clerk.

12 The term of office of a commissioner elected and qualified  
13 shall begin with the first day of July next following the day of  
14 his election. A vacancy in the office of commissioner shall be  
15 filled by appointment by the remaining commissioners until the  
16 said vacancy shall be filled at the next municipal election for the  
17 part of the term then unexpired. If the remaining commission-  
18 ers fail to make appointment to fill a vacancy in the office of  
19 commissioner within ten days after the vacancy occurs, then said  
20 vacancy shall be filled until the next municipal election by ap-  
21 pointment by the civil service board hereinafter provided for.

Sec. 13. At least four weeks before the day of an election  
2 the board of commissioners shall appoint from among the qualified  
3 voters for their respective voting precincts two registrars of elec-  
4 tors and three commissioners of election. The said commis-  
5 sioners of election and registrars of electors shall be selected  
6 from the two political parties which at the last preceding state  
7 election cast the highest number of votes in the precinct in which  
8 they reside, and not more than two of said commissioners of  
9 election nor more than one registrar of electors shall belong to  
10 the same political party. The commissioners of election of each  
11 precinct shall appoint from the voters of their precinct one poll  
12 clerk from each of the two leading political parties as above



13 mentioned and may also appoint one challenger from among the  
14 voters of each of said parties in said precinct. At least four  
15 weeks before the date of a municipal election the city clerk shall  
16 appoint one ballot commissioner from among the voters of the  
17 two aforesaid political parties, within the city, who with himself  
18 as chairman, shall constitute the board of ballot commissioners.

19 Elections under this act shall be conducted, returned and  
20 the results thereof ascertained and declared in the manner pre-  
21 scribed by the constitution and laws of the state in so far as  
22 said laws are not inconsistent with this act, and all penalties  
23 prescribed by said laws of the state in so far as consistent shall  
24 be applicable under this act.

25 The board of commissioners shall by ordinance provide such  
26 additional regulations in conformity with the provisions of this  
27 act as are necessary for the proper conduct of elections.

28 The duties required of the clerks of the circuit and county  
29 courts under the election laws of West Virginia, shall be per-  
30 formed by the city clerk of said city. The duties required of the  
31 commissioners of the county court under the provisions of said  
32 laws shall be performed by the board of commissioners of said  
33 city. The duties required of the sheriff under the provisions of  
34 said laws shall be performed by the chief of police of said city.  
35 And the duties required of any constable under the provisions  
36 of said laws shall be performed by any member of the police  
37 force of the said city. Wherever the word "county" appears in  
38 said laws, the same shall be taken to refer to the city of Morgan-  
39 town, and wherever the words "election precinct" or "precincts"  
40 appear in said laws they shall be taken to refer to the election  
41 precinct or precincts for the municipal election, and wherever  
42 the words "court house" shall appear in said laws as designating  
43 the place of meeting of the election officers and boards, the same  
44 shall be taken to refer to the municipal building.

45 If at any time a commissioner shall be a candidate for re-  
46 election to said office, the civil service board shall appoint some  
47 person to act in his stead as a member of the canvassing board  
48 for the purpose of canvassing the returns and ascertaining the  
49 result of the election at which he is a candidate.

#### *Duties and Responsibilities of Board of Commissioners.*

Sec. 14. The board of commissioners shall be vested with  
2 all legislative authority of the city and shall exercise the same by

3 ordinance; other action by them may be by order upon motion.  
4 They shall, by ordinance, prescribe the manner in which the  
5 powers conferred upon the city shall be exercised in conformity  
6 with the provisions of this act.

Sec. 15. They shall meet in the municipal building of the  
2 city and shall provide by ordinance for the manner and times  
3 of holding said meetings. They shall cause to be kept in a well  
4 bound book, called the "city journal", an accurate record of  
5 all their proceedings, by-laws, ordinances, orders and resolutions,  
6 and same shall be open for public inspection during usual office  
7 hours. A meeting shall be held on the first Monday of July of  
8 each year for the purpose of electing one of their number to the  
9 office of mayor. If they shall fail to agree upon a mayor within  
10 ten days, then the civil service board hereinafter provided for  
11 shall designate one of the commissioners as mayor. Until a  
12 mayor shall have been elected or designated, or during the  
13 mayor's absence, the oldest commissioner in point of continuous  
14 service, shall act as mayor.

Sec. 16. A majority of the commissioners shall constitute  
2 a quorum for the transaction of business, and no act shall be  
3 done unless a majority of the commissioners shall vote in favor  
4 thereof.

Sec. 17. They shall fix the compensation of all appointive  
2 officials and employees of the city.

Sec. 18. They shall grant franchises, levy and collect taxes  
2 and assessments, order payment of approved accounts, hear and  
3 determine charges against all officials of the city other than  
4 members of their own body, require that the laws and ordinances  
5 be obeyed and enforced, cause the affairs of the city to be effi-  
6 ciently and economically administered, and perform such other  
7 duties as properly devolve upon the chief executive body of the  
8 city.

Sec. 19. No commissioner or official of the city shall be  
2 financially interested, directly or indirectly in any contract, sale  
3 or transaction to which the city is party, nor shall he vote on the  
4 same or participate in any manner in said contract, sale or trans-  
5 action, under penalty, upon conviction, of forfeiture of his office  
6 and a fine of not less than five nor more than five hundred dollars.

Sec. 20. No commissioner or official of the city shall be  
2 surety on any bond given to or for the benefit of the city.

Sec. 21. The board of commissioners shall appoint a civil

2 service board, a municipal judge, a solicitor, a treasurer, and  
 3 members of a city planning board, all of whom shall be free  
 4 from civil service regulation, and shall hold office for an indefi-  
 5 nite term and be subject to removal for cause at any time by  
 6 the appointing body.

Sec. 22. They shall also appoint from the three applicants,  
 2 if there be three or more, who are most highly recommended by  
 3 the civil service board, a city manager, who shall hold office  
 4 during the pleasure of the board of commissioners, subject to  
 5 civil service regulations.

Sec. 23. They shall also, upon the recommendation of the  
 2 city manager, appoint the following officers and employees:

- 3 (a) A city clerk.
- 4 (b) A chief of police and members of the police force.
- 5 (c) A superintendent of streets.
- 6 (d) A chief of the fire department and firemen.
- 7 (e) A superintendent of the incinerating plant.
- 8 (f) Such other employees subject to civil service regula-  
 9 tion as may be provided for by ordinance.

10 Each of these shall be recommended from the three, if there  
 11 be three or more, who are listed as best qualified for the office  
 12 or employment by the civil service board, and shall be subject  
 13 to dismissal by the city manager, in conformity with such civil  
 14 service regulations as shall have been provided by ordinance.

#### DUTIES OF APPOINTIVE OFFICIALS AND BOARDS.

##### *The Mayor.*

Sec. 24. The mayor shall preside at meetings of the board of  
 2 commissioners; shall exercise such authority and perform such  
 3 duties as are conferred upon him or imposed upon him by this  
 4 act, the ordinances of the city and the laws and constitution of  
 5 the state. He shall be the official head of the city for all cere-  
 6 monial purposes and upon whom service may be had in civil  
 7 process and by the governor for military purposes.

##### *The Civil Service Board.*

Sec. 25. The civil service board shall be composed of three  
 2 members. They shall be appointed for a term of three years,  
 3 except that at the beginning one shall be appointed for one  
 4 year, one for two years and one for three years. Their appoint-

5 ment shall be made at the meeting of the board of commissioners  
6 held on the first Monday of July and their terms shall begin  
7 from the date of appointment. When a vacancy occurs through  
8 death, resignation or otherwise, the same shall be filled for the un-  
9 expired portion of the term only. No more than two members  
10 of the civil service board shall belong to the same political party.  
11 They shall be citizens of the city of Morgantown. They shall  
12 serve without compensation. It shall be the duty of the civil  
13 service board to formulate rules and regulations for enactment  
14 by the board of commissioners, governing the appointment,  
15 promotion, discipline and dismissal of officials and employees not  
16 herein exempted from civil service jurisdiction. Said rules and  
17 regulations shall provide:

18 (a) Minimum technical qualifications for all positions re-  
19 quiring skill.

20 (b) That appointment be made from the three applicants  
21 most highly recommended—if there be three or more—as shown  
22 upon the list of eligibles provided by the civil service board.

23 (c) That every appointee shall be subject to dismissal for  
24 a period of six months after appointment, without the right of  
25 appeal under the civil service rules.

26 (d) Examinations and efficiency tests.

27 (e) Authority to appointing officials to dismiss appointees  
28 subject to said appointee's right, after six months of service, of  
29 appeal to the civil service board.

30 (f) For a hearing by the civil service board of grievances  
31 of employees and charges against officials and reporting of their  
32 findings to the board of commissioners.

33 The civil service board shall also have authority to hear  
34 charges against commissioners, and, when said charges are sup-  
35 ported by the signatures of qualified voters of the city to the  
36 number of fifteen per centum of the total number of votes cast  
37 at the last preceding city election, may, if they consider the  
38 charges to have been proven and of sufficient gravity to warrant  
39 retirement of the commissioner from office, thereupon declare  
40 his office vacant; *provided, however*, that when charges shall have  
41 been preferred against a commissioner as aforesaid, a copy of  
42 such charges shall be served on said commissioner at least ten days  
43 before the hearing thereof and at such hearing said commis-  
44 sioner may appear in person and by counsel and make defense  
45 thereto. A vacancy upon the civil service board shall be filled

46 by the board of commissioners for the unexpired part of the term  
47 for which the former occupant had been appointed. If the board  
48 of commissioners shall fail to fill the vacancy within ten days,  
49 then the remaining members of the civil service board shall fill  
50 the vacancy by appointment for the remainder of said term.

*Municipal Judge.*

Sec. 26. The judicial power of the city shall be vested in  
2 a municipal court. Said court shall have exclusive jurisdiction  
3 of all criminal proceedings for the violation of any city ordinance,  
4 and of all civil actions and proceedings arising out of a violation  
5 of said ordinance, and for the collection of any license, assessment  
6 or tax imposed by ordinance; and of the following offenses com-  
7 mitted within the city, (except when prosecuted by indictment or  
8 information):—

9 1.—Petty larceny.

10 2.—Assault and battery.

11 3.—Breaches of the peace, rioting, committing wilful injury  
12 to property, and all misdemeanors punishable by fine or  
13 by imprisonment in the county jail, or both; proceedings  
14 respecting vagrants, lewd or disorderly persons; and of  
15 all offenses not properly falling under the jurisdiction of  
16 other courts.

17 The municipal court shall be presided over by a municipal judge  
18 who shall be a citizen of the city of Morgantown. Until a muni-  
19 cipal judge shall have been appointed, the mayor shall act in that  
20 capacity. The municipal judge shall within the city have, possess  
21 and exercise all the powers and perform all the duties vested by  
22 law in a justice of the peace, except that he shall have no jurisdic-  
23 tion in civil cases or causes of action arising outside of the cor-  
24 porate limits of the city. He shall have the same power to issue  
25 attachments in civil suits as a justice of the county has, though  
26 the cause of action arose outside of the city, but if the cause of  
27 action arose outside of the city, said attachment shall be return-  
28 able to and be heard before some justice of the county. Any war-  
29 rant or other process issued by him may be executed at any place  
30 in the county. He shall have the power to issue executions for all  
31 fines, penalties and costs imposed by him, or he may require the  
32 immediate payment thereof, and in default of such payment he  
33 may commit the party in default to the jail of the county or  
34 municipality until the fine or penalty and costs shall be paid, but

35 the term of imprisonment in such cases shall not exceed thirty  
36 days. The expense of maintaining any person committed to the  
37 county jail by him, shall be borne by the city except it be to an-  
38 swer an indictment or be under the provisions of sections two  
39 hundred and twenty-seven and two hundred and twenty-eight of  
40 chapter fifty of the amended code of this state.

41 He shall not receive any money belonging to the state or  
42 individuals unless he give such bond and security as is required  
43 of a justice of the peace, and all provisions of the said chapter  
44 fifty of the said code relating to monies received by justices shall  
45 apply in like manner to the municipal judge.

46 He shall have authority to sentence an offender to labor,  
47 upon the streets or at other public work of the city, for a period  
48 not exceeding thirty days, and the compensation for said labor  
49 shall be paid to said offender's dependents, if any, in conformity  
50 with such regulations as the board of commissioners may by  
51 ordinance provide.

52 Appeals shall lie from the judgment of the municipal court  
53 to the circuit court of Monongalia county, in accordance with  
54 law.

55 The municipal judge may, in lieu of a salary fixed by ordin-  
56 ance, receive as compensation, such fees as are provided by law  
57 for justices of the peace in criminal cases, but the city shall as-  
58 sume no liability for the collection of said fees.

#### *City Solicitor.*

Sec. 27. The city solicitor shall be an attorney at law ad-  
2 mitted to practice in the state of West Virginia, and a citizen of  
3 the city of Morgantown. He shall be the legal adviser of and at-  
4 torney and counsel for the municipality and for all officers thereof  
5 in matters relating to their official duties. He shall prepare all  
6 contracts, bonds and other instruments in writing in which the  
7 city is concerned, and shall certify thereon to the correctness  
8 thereof; and no such contract with the city shall take effect until  
9 so certified by him. He or his assistant, if any be provided,  
10 shall be the prosecuting attorney of the municipal court and he  
11 shall perform such other duties as the board of commissioners  
12 shall require.

#### *Treasurer.*

Sec. 28. The city treasurer shall be the custodian of all  
2 monies of the municipality and shall keep and preserve the same

3 in such manner and in such place or places as shall be designated  
4 by the board of commissioners. He shall pay out money only on  
5 warrants issued by the city clerk and countersigned by the city  
6 manager.

7 If he be an employe or official of a bank having city funds  
8 on deposit, he shall receive no compensation for his services as  
9 treasurer except said bank pays interest on said deposits, and  
10 then in an amount not to exceed the amount of interest received  
11 by the city from said bank. He shall be a citizen of the city of  
12 Morgantown.

#### *City Planning Board.*

Sec. 29. The city planning board shall be composed of the  
2 city manager, the commissioners, the city engineer, and two citi-  
3 zens of the city of Morgantown, who shall be appointed by the  
4 board of commissioners. The term of office of the appointed  
5 members shall be four years, beginning with the first Monday in  
6 July, except that at the beginning one member shall be appointed  
7 for two years and one for four years and thereafter one shall be  
8 appointed every second year for a term of four years. Appointed  
9 members of the planning board who hold no other salaried office  
10 or employment under the city, shall receive such compensation as  
11 the board of commissioners may by resolution or ordinance pro-  
12 vide.

13 The city planning board shall have supervision of all plats  
14 subdividing land into streets, alleys, blocks and lots, within the  
15 city and for a distance of one mile outside of the city limits and  
16 not within another municipal corporation. No such subdivision  
17 shall be opened or any blocks or lots sold; and no plat subdividing  
18 land within the territory over which said board shall have super-  
19 vision shall be entitled to record in the office of the county clerk,  
20 except it bears the written approval of the said city planning  
21 board endorsed thereon; and no street or alley shown upon said  
22 unapproved plat shall subsequently in any way be accepted as a  
23 public street or alley by the city, nor shall any public funds be  
24 expended in the repair and improvement of said street or alley,  
25 except said street or alley be made to conform to the city plan  
26 and be approved and made a matter of record by the said city  
27 planning board.

28 It shall be the duty of the city planning board, to carefully  
29 study the city and its environments for the purpose of providing

30 a plan for its future growth and development that shall tend to  
 31 the highest possible degree of comfort, safety, convenience, at-  
 32 tractiveness and efficiency; and the board of commissioners shall  
 33 adopt such ordinances as may be required for the proper execution  
 34 of the plan provided.

*City Manager.*

Sec. 30. The city manager shall be employed because of his  
 2 experience and fitness only. Until the city shall have attained  
 3 to a population of twenty thousand his compensation shall not  
 4 exceed three thousand dollars per annum. He shall be the ad-  
 5 ministrative head of the municipal government under the direc-  
 6 tion and supervision of the board of commissioners. During the  
 7 absence or disability of the city manager, the board of commission-  
 8 ers may designate some properly qualified person to execute the  
 9 functions of the office.

10 His powers and duties shall be as follows:—

- 11 *a*—To see that the laws and ordinances be enforced within
- 12 the city.
- 13 *b*—Plan and prosecute all public work approved by the board
- 14 of commissioners.
- 15 *c*—Direct the keeping of public records and accounts.
- 16 *d*—Direct the preparation and submission of the annual bud-
- 17 get and to keep the board of commissioners informed as
- 18 to the financial condition and needs of the city.
- 19 *e*—Direct the purchasing of supplies in accordance with such
- 20 regulations as may by ordinance be provided.
- 21 *f*—Approve all bills for payment.
- 22 *g*—Direct the collection and disposal of refuse and garbage.
- 23 *h*—Direct the guarding of public health.
- 24 *i*—Direct the inspection of buildings, plumbing and electric
- 25 wiring, engineering and surveying work.
- 26 *j*—Direct the collection of taxes, licenses and assessments.
- 27 *k*—Supervise the supplying of drinking water.
- 28 *l*—Recommend to the board of commissioners such action as
- 29 he may from time to time deem necessary or expedient.
- 30 *m*—Attend all meetings of the board of commissioners with
- 31 the right to take part, but having no vote.
- 32 *n*—Direct the police and fire departments.
- 33 *o*—Recommend for appointment from the eligible list of the
- 34 civil service board, the following officials and employees:



- 35 1—City clerk.  
 36 2—Chief of police and members of police force.  
 37 3—Chief of fire department and members of fire force.  
 38 4—Superintendent of streets.  
 39 5—Superintendent of incinerating plant.  
 40 6—Such others as the board of commissioners may by  
 41 ordinance provide for and he deem necessary.  
 42 *p*—He shall also employ such unskilled labor as may be  
 43 necessary, fix their wages and have authority to terminate  
 44 their employment at any time without civil service re-  
 45 striction.  
 46 *q*—He may suspend from office any official or employee who  
 47 was appointed by the board of commissioners upon his  
 48 recommendation, subject to the right of the suspended  
 49 person, after six months' service, to appeal to the civil  
 50 service board. If said appeal be not taken within  
 51 twenty-four hours after notice of suspension, said sus-  
 52 pension shall thereupon become permanent and the of-  
 53 fice or position shall be vacant.  
 54 *r*—He shall perform such other duties as may properly de-  
 55 velop upon him under this charter or be required of him  
 56 by ordinance or resolution of the board of commissioners.

• *City Clerk.*

Sec. 31. The city clerk shall act as clerk of the board of  
 2 commissioners, clerk of the civil service board, clerk of the city  
 3 planning board, and clerk of the municipal court. He shall make  
 4 and keep all records, transcribe all ordinances and resolutions and  
 5 may act as city assessor, city tax collector, registration officer,  
 6 auditor and accountant, and perform such other duties as the  
 7 board of commissioners may by ordinance or resolution require of  
 8 him, and he shall have such assistance as may be necessary and  
 9 the board of commissioners approve. He shall be a citizen of  
 10 the city of Morgantown.

*Other Officials.*

Sec. 32. The chief of police, chief of fire department, super-  
 2 intendent of streets, superintendent of incinerating plant, and  
 3 other officials shall perform such duties as the board of commis-  
 4 sioners shall by ordinance or resolution require. They shall be  
 5 citizens of the city of Morgantown.

*Ordinances.*

Sec. 33. Every ordinance which shall have been passed by  
2 the board of commissioners shall, before it becomes effective, be  
3 signed by the mayor, or in his absence by the acting mayor, and  
4 attested by the city clerk.

Sec. 34. All ordinances finally adopted under the provisions  
2 of this act shall, within two days after passage, Sundays and holi-  
3 days excepted, be published in the English language by at least  
4 one insertion in some daily newspaper published in the city of  
5 Morgantown, and by posting for at least ten days, at the munici-  
6 pal building, and the county court house, and no ordinance shall  
7 be valid or go into effect until after said publication and posting  
8 except an ordinance for the immediate preservation of the public  
9 peace, health or safety, which shall contain a statement of its  
10 urgency.

Sec. 35. No ordinance shall be passed finally on the day on  
2 which it is introduced unless approved by unanimous vote of all  
3 commissioners and then only if it be an emergency measure re-  
4 quiring haste; nor shall an ordinance become operative for a  
5 period of thirty days after passage, except it be an emergency  
6 measure. It shall also be subject to popular action as provided  
7 in section forty-four of this act.

*Contracts and Purchases.*

Sec. 36. No resolution shall be passed directing that any  
2 public work be done at a probable cost exceeding five hundred  
3 dollars until complete plans, specifications, profiles, estimates and  
4 other necessary information shall have been submitted to the  
5 board of commissioners and been approved by them and a copy  
6 thereof placed on file in the office of the city engineer available  
7 for public inspection.

Sec. 37. When the amount to be paid by the city exceeds  
2 five hundred dollars, a contract shall be awarded only after notice  
3 at least once in a daily newspaper published in the city, and  
4 competitive bidding to the lowest responsible bidder.

Sec. 38. All purchases of supplies shall be made by the city  
2 manager or a purchasing agent or agents to be designated by him  
3 and approved by the board of commissioners.

4 No contract shall be valid in which any official of the city is  
5 directly or indirectly financially interested.

*Franchises.*

Sec. 39. Public utility franchises shall be granted for a period not exceeding twenty-five years, with the right to the city to purchase the properties of the owner of the franchise and there- by terminate the franchise at the expiration of ten years and at the expiration of each five year period thereafter.

The purchase price shall be determined by a board of valuation to be composed of five members, two to be chosen by the owner of the utility, two by the board of commissioners, and the fifth (who shall be a non-resident of the city, and himself not financially interested in any public utility), shall be selected by these four.

In computing the price to be paid, the fair and actual value of the properties shall be ascertained, without taking into consideration the legal right or naked franchise granted by the city.

Sec. 40. It shall be provided in every public utility franchise that upon the annexation of territory to the city, said franchise shall apply also upon such portion of said public utility as shall be located within the said annexed territory.

Sec. 41. No exclusive monopoly shall be granted, and all franchises or privileges for the occupation of the streets, alleys and roadways of the city, shall be strictly construed in favor of the city.

Sec. 43. No grant of extension of an existing franchise shall be for a greater period than ten years for any one renewal, but any such extension or renewal may be succeeded by similar renewals. Subsequent grants made to the holder of a prior grant, if of the same nature and purpose as the original, shall be made to expire at the same time with the original grant.

Sec. 44. No public utility franchise nor ordinance nor amendment, except it be for the immediate preservation of the public peace, health or safety, and shall contain a statement of its urgency, shall become operative for a period of thirty days after passage, without first being published and posted in the manner provided in section thirty-four hereof. If within said thirty days a petition signed by qualified voters of the city, to the number of twenty per centum of the total votes cast at the last preceding regular city election, asking that said franchise, ordinance or amendment, be submitted for decision to the voters of the city, then the board of commissioners shall call an election for the said purpose not later than thirty days after the date of filing of said petition,

13 and if at said election sixty per centum of the votes cast shall be  
14 against the enactment of the said franchise, ordinance or amend-  
15 ment it shall not become effective.

16 Upon petition of a like number of voters an ordinance, fran-  
17 chise or amendment, which has failed of passage by the board of  
18 commissioners, shall in like manner be voted upon at a special  
19 referendum election called for the purpose, as above required and  
20 provided, and if sixty per centum or more of the total votes cast  
21 at said election shall be for the adoption of said ordinance, fran-  
22 chise or amendment, it shall thereupon be declared adopted, be  
23 transcribed upon the city journal and have the same force and  
24 effect as if regularly enacted by the board of commissioners.

Sec. 45. All public franchises shall be granted subject to  
2 the right of the board of commissioners by resolution or ordinance,  
3 whether so expressed in the said franchise or not, to restrict and  
4 control the operation of the grant in the interest of the public  
5 welfare; and subject further to the right of the board  
6 of commissioners by ordinance to revoke said franchise  
7 for violation by the grantee of any of the terms thereof.

#### *Taxation and Finance.*

Sec. 46. An annual budget, in such detail as the board of  
2 commissioners shall require, shall be prepared under the direction  
3 of the city manager showing the estimated amount of money re-  
4 quired for all purposes during the then current fiscal year and be  
5 submitted, together with his recommendations, to the board of  
6 commissioners not later than the fifth day of July.

Sec. 47. Upon receipt of said budget the board of commis-  
2 sioners shall cause a copy of the same to be placed on file in the of-  
3 fice of the city clerk for public inspection and shall give public  
4 notice of a meeting to be held not less than ten days thereafter,  
5 at which meeting objections to the budget may be stated. The  
6 board of commissioners shall then make such changes in the said  
7 budget as they may deem advisable, but shall not increase the  
8 amount thereof, and shall order a levy of so much on the real  
9 estate and personal property in the city as in their opinion shall  
10 be necessary to pay the same; but the taxes so levied shall not  
11 exceed the rate now permitted to be laid under the laws of the  
12 state relating to the levying and collecting of taxes within munici-  
13 palities.

14 Property shall be valued for the purpose of taxation in the  
15 manner required by the laws of the state.

Sec. 48. After the annual budget shall have been adopted  
2 and the annual tax levy shall have been ordered, the board of  
3 commissioners shall apportion and appropriate the estimated in-  
4 come of the ensuing year to the various purposes for which required  
5 as set forth in said budget.

6 Upon request of the city manager, the board of commissioners  
7 may transfer any part of an unencumbered balance of an appro-  
8 priation made for any purpose and appropriate said balance to  
9 any other proper purpose for which said balance may be required.

10 No officer or board shall make contracts during any one  
11 month involving the expenditure of more than one-twelfth of  
12 the fund apportioned to any said purpose, unless specially author-  
13 ized so to do by the board of commissioners; provided that if dur-  
14 ing any month, less than one-twelfth of the fund so apportioned  
15 shall be expended, the amount so unexpended may be expended  
16 in any subsequent month of the fiscal year without special author-  
17 ization; and provided further, that no obligation involving the ex-  
18 penditure of money shall be assumed except the city auditor or  
19 person acting as such shall certify to the board of commissioners  
20 or proper official that the money required for such expenditure is  
21 in the treasury or is anticipated to come into the treasury during  
22 the then current fiscal year and that it has been properly appor-  
23 tioned and set aside for the purpose for which it is to be expended.

Sec. 49. The board of commissioners may also impose a  
2 tax of two dollars annually upon each and every male inhabitant  
3 of said city over twenty-one years of age and under fifty years of  
4 age, for the purpose of providing a special fund for the making of  
5 permanent improvements to streets, alleys, roadways and sewers  
6 of the city,— said fund to be known as the "special street improve-  
7 ment fund."

Sec. 50. The board of commissioners may by ordinance im-  
2 pose special license taxes in all cases where the state of West Vir-  
3 ginia imposes a similar license tax except that no license tax shall  
4 be levied by said city under clauses "r" and "s," of section two,  
5 chapter thirty-two, of the code of West Virginia.

Sec. 51. The board of commissioners may order the owner of  
2 any real property abutting on any street, roadway or alley to con-  
3 struct or cause to be constructed a curb, sidewalk or gutter along  
4 said property in accordance with such regulations as they may

5 by ordinance provide, and upon failure of said owner so to do, the  
6 board of commissioners may cause the same to be done and shall  
7 assess the cost thereof, with interest, upon the said property or  
8 the owner, agent or occupant thereof.

Sec. 52. The board of commissioners may order and cause  
2 any avenue, street, road or alley or part thereof, within the city  
3 to be graded or regraded, curbed or recurbed, paved or repaved,  
4 sewerred or resewered, or otherwise permanently improved and may  
5 defray the cost thereof out of the special street improvement fund  
6 provided for under section forty-nine of this act; and they may  
7 assess two-thirds of the cost thereof, including the cost at intersec-  
8 tions, with interest at six per centum per annum, interest payable  
9 annually, or any part thereof, against the abutting or benefitted  
10 properties, according to their respective frontage; *provided, how-*  
11 *ever,* that any part of the cost, which may be borne or paid by any  
12 person or company under any provision or requirement of a fran-  
13 chise heretofore or hereafter granted by the said city shall be de-  
14 ducted from the one-third of the cost of such improvement to be  
15 paid by the said city, and no abutting properties shall be entitled  
16 to credit or deduction by reason of any payments so made under  
17 such franchise, and shall collect said assessments and interest  
18 annually on each unpaid installment, and convert the same back in-  
19 to the said special street improvement fund; *provided, however,* that  
20 the amount assessed against any property owner with interest  
21 to date of payment, as aforesaid, may be paid at his or her option  
22 in ten annual payments: That is to say,—

23 One-tenth of the said amount, together with interest on said  
24 one-tenth, at six per centum per annum until date of payment, shall  
25 be paid into the treasury of the city within thirty days from the  
26 date of notice of assessment; one-tenth of said whole amount,  
27 together with interest at the rate of six percentum on nine-tenths  
28 of the said whole amount for one year, shall be paid at the expi-  
29 ration of one year from date of notice of assessment; and a like  
30 one-tenth part, together with interest at six per centum for one  
31 year on the unpaid portion of the whole amount, shall be paid at  
32 the expiration of each succeeding year until the said whole amount  
33 shall have been fully paid.

Sec. 53. Said city shall not become indebted in any manner  
2 nor for any purpose to an amount, in the aggregate exceeding two  
3 and one half per centum on the value of all taxable property  
4 therein, as provided by the laws of said state, except that in esti-

5 mating said indebtedness all special assessments against abutting  
6 or benefitted properties levied by the city for the purpose of de-  
7 fraying the cost of permanent improvements to streets, alleys,  
8 roadways or sewers or of land or easements required therefor,  
9 and yet remaining unpaid, together with any amount in any sink-  
10 ing fund created and maintained for the payment of indebtedness  
11 incurred for permanent improvements to streets, alleys, road-  
12 ways or sewers, or for land or easements therefor, to an aggregate  
13 amount not exceeding two and one half per centum of the value of  
14 all taxable property therein, shall be subtracted from the total in-  
15 debtedness of the city incurred for permanent improvements to  
16 streets, alleys, roadways and sewers and for land and easements  
17 therefor, before said indebtedness for permanent improvements  
18 to streets, alleys, roadways and sewers and for land and easements  
19 therefor, shall be included in the total indebtedness.

Sec. 54. All taxes and assessments levied upon real estate  
2 within the said city shall remain a lien thereon from the time the  
3 same are so assessed or levied until paid, and shall have priority  
4 over all other liens except for taxes due the state, county, or dis-  
5 trict; and all taxes and assessments, whether levied or assessed  
6 upon realty or personalty, or otherwise, may be enforced and col-  
7 lected in the same manner and by the same remedies as are now  
8 or may hereafter be provided by law for the enforcement of liens  
9 and levies for state and county taxes, or in such manner as the  
10 board of commissioners may by ordinance prescribe. And the  
11 board of commissioners shall through such officers as they may ap-  
12 point under such regulations and ordinances as they may enact  
13 (not contrary to the laws of this state), have such authority  
14 and power as may be necessary for the levying and collection of  
15 taxes, fines, licenses and assessments due the city, with power and  
16 authority to enforce the collection of such fines by imprisonment in  
17 the city or county jail.

Sec. 55. It is expressly provided that no bonds shall be is-  
2 sued under the provisions of this act, unless and until the ques-  
3 tion of issuing said bonds shall have first been submitted to a  
4 vote of the people of said city and shall have received three-fifths  
5 of all votes cast at said election for and against the same.

6 The board of commissioners may provide by ordinance for  
7 submitting to the people at any regular election, or special elec-  
8 tion called for that purpose, the question whether or not said city  
9 shall be authorized to issue bonds for any improvement or public

10 work, but the said ordinance need not require that the location  
11 of said contemplated improvement or public work be specified in  
12 detail, and if at said election the people shall by their vote author-  
13 ize the issuance of said bonds, said board of commissioners may  
14 order the sale of said bonds from time to time as needed for said  
15 improvement or public work; and notwithstanding the provisions  
16 of sections two, three and six of chapter forty-seven "a" of the  
17 code of West Virginia, it shall be a sufficient description for the  
18 purpose of submitting said question to a vote at said election and  
19 for all purposes of said proposed bond issue if the call for said  
20 election shall recite that said bonds are to be authorized for the  
21 purpose of grading, paving, curbing, sewerage, regrading, re-  
22 paving, recurbing or re-sewering or otherwise permanently im-  
23 proving the streets, roads, alleys or sewers of said city, or of ac-  
24 quiring land or easements for such purpose, or of leasing, pur-  
25 chasing, erecting or equipping any public utility or public works  
26 for which authority is conferred by this act, at such times as the  
27 board of commissioners shall deem fit or expedient.

28 The provisions of the laws of said state concerning bond elec-  
29 tions shall, so far as they are not in conflict with the provisions  
30 of this act, apply to bond elections held under this act.

Sec. 56. All ordinances and resolutions in force at the time  
2 of the taking effect of this act, not inconsistent with its provis-  
3 ions, shall continue in full force and effect until amended or re-  
4 pealed.

Sec. 57. Persons holding office under the municipal govern-  
2 ment as at present constituted, shall continue in office and in the  
3 performance of their respective duties until the day on which this  
4 act shall become effective, and thereafter so long as their services  
5 shall be required, pending a reorganization of the said municipal  
6 government to conform to the requirements of this act.

Sec. 58. All vested rights of the city shall continue to be  
2 vested and shall not in any manner be affected by the passage of  
3 this act, nor shall any right or liability or pending suit or prose-  
4 cution, either in behalf of or against the city, be in any manner  
5 affected by the passage of this act. All contracts entered into by  
6 the city or for its benefit prior to the taking effect of this act,  
7 shall continue in full force and effect. All public work begun  
8 prior to the taking effect of this act shall be continued and per-  
9 fected hereunder.

Sec. 59. If any section or part of a section of this act shall



2 be found to be invalid, the same shall not be held to invalidate or  
 3 impair the validity, force or effect of any other section or part  
 4 of a section unless such other section or part is clearly dependent  
 5 for its operation upon the section or part so held invalid.

Sec. 60. This act shall for the purpose of nominating and  
 2 electing officers and for all purposes connected therewith take ef-  
 3 fect from the time of adoption as hereinafter provided, and for all  
 4 other purposes shall take effect on the first day of the following  
 5 July.

*To be Ratified by Voters.*

Sec. 61. This act shall not be effective unless the same shall  
 2 first be submitted to the voters of said city, at a special election  
 3 called for that purpose, and adopted by a majority of the votes  
 4 cast at said election. Said special election shall be held on the  
 5 first Tuesday in March, one thousand nine hundred and seventeen,  
 6 after publication of the act one time not less than ten days im-  
 7 mediately preceding said special election, in two daily papers pub-  
 8 lished in said city. Said special election shall be conducted in  
 9 the regular manner of holding municipal elections in said city.  
 10 If this act is adopted at said election it shall go into effect  
 11 at the time and in the manner provided in section sixty hereof.

12 The ballot to be voted at said election shall be printed upon  
 13 plain white paper and in the following form:

CITY OF MORGANTOWN.

Charter Election.

16 Indicate how you desire to vote by a cross in the square.

17  For adoption of new charter.

18  Against adoption of new charter.

19 *Provided, however,* that if this act shall fail of adoption at  
 20 such election, the same may be voted upon at a subsequent elec-  
 21 tion, called by the council of said city, and held in the same man-  
 22 ner; but no such subsequent election shall be held until a period  
 23 of six months shall have elapsed after any former election held for  
 24 that purpose; and provided further, that if the council of said  
 25 city shall fail or refuse to call a subsequent election for that pur-  
 26 pose, then upon petition signed by the qualified voters of said city,  
 27 equal in number to at least thirty per centum of the entire vote  
 28 cast for the candidate for mayor, who received the highest number

29 of votes at the last preceding municipal election, said council shall,  
 30 by a proper order, call a special election for that purpose. And  
 31 if this act shall fail of adoption, at the first election held for that  
 32 purpose as herein provided, then it shall take effect from the date  
 33 of its adoption, at such subsequent election, for the purpose of  
 34 nominating and electing officers and all purposes in connection  
 35 therewith, and for all other purposes shall take effect on the first  
 36 day of July following its ratification and adoption in the manner  
 37 herein provided.

Sec. 62. Chapter one hundred and forty-four of the acts of  
 2 the legislature of one thousand nine hundred and one entitled "An  
 3 act to create the municipal corporation of the city of Morgan-  
 4 town," and all acts amendatory thereof, and all other acts and  
 5 parts of acts coming within the purview of this act and inconsistent  
 6 herewith, are hereby repealed.

## CHAPTER 114.

(House Bill No. 130.)

AN ACT to amend and re-enact the act of the legislature of West Vir-  
 ginia, passed on the twenty-third day of February, one thousand  
 nine hundred and fifteen, relating to the amendment of the char-  
 ter of the city of Princeton, in the county of Mercer.

[Passed February 6, 1917. In effect ninety days from passage. Approved by the  
 Governor February 19, 1917.]

### SEC.

1. Creating "the city of Princeton," a municipal corporation.
2. Corporate limits of said city.
3. Wards and their boundaries.
4. Municipal authorities.
5. Corporate powers.
6. Subordinate officers.
7. Eligibility of officers.
8. Election of officers.
9. Who are voters.
10. Registration of voters.
11. Manner of conducting general elections.
12. Tie vote; how decided.
13. Contested elections.
14. Vacancy in office.
15. Appointment of additional officers. their duties and compensation.
16. Requirements as to bonds.
17. Oaths of office.
18. Tenure of office.
19. Ineligibility or failure to qualify.
20. Powers, duties and salary of mayor.
21. Powers, duties and salary of recorder.
22. Quorum at meetings of council.
23. Record of minutes and ordinances.
24. Reading of minutes.
25. Who shall vote in council.

### SEC.

26. Meetings of council.
27. Disposition of moneys belonging to city.
28. Duties and powers of council.
29. Police docket.
30. Annual levy.
31. Annual assessment.
32. Liens and taxes.
33. Collection of taxes.
34. Additional duties of assessor and treasurer.
35. License.
36. Condemnation of land for public use.
37. Provisions for bonding city.
38. No indebtedness to be created for current expenses.
39. Streets, roads and bridges.
40. Existing ordinances.
41. Power to make and maintain sidewalks, etc.
42. Duty of council to appoint officers to hold elections hereunder.
43. Duties of city attorney.
44. Where money is to be deposited.
45. salaries of councilmen.
46. Inconsistent acts and ordinances repealed.

*Be it enacted by the Legislature of West Virginia:*

That the charter of the city of Princeton, in the county of Mercer, as amended and re-enacted by an act of the legislature of West Virginia, passed on the twenty-third day of February, one thousand nine hundred and fifteen, be and the same is hereby amended and re-enacted so as to read as follows:

Section 1. That the inhabitants of so much of the county of Mercer, in the state of West Virginia, included in the boundaries described in section two of this act, be and they are hereby created and to remain and continue a municipal corporation by parts of acts coming within the purview of this act and inconsistent 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 functions of government conferred by this charter.

*Corporate Limits.*

Sec. 2. The corporate limits of the city of Princeton shall be as follows, that is to say: Beginning at the bridge where the Raleigh and Kanawha turnpike crosses Glady fork, and running thence down Glady fork to Brush creek; thence down Brush creek to the mouth of Board Camp branch; thence due east, crossing the center line of the Deepwater railroad, as shown by the map and profile of the location of said road filed in the office of the county clerk of Mercer county, West Virginia, on the twenty-third day of March, one thousand nine hundred and four, to a point fifty feet beyond the said center line at right angles thereto; thence parallel to the center line of the location of said railroad as shown upon said map, and fifty feet distant therefrom to Christian's fork, which is a point eastward from the residence of William Oliver; thence eastwardly to the Carr and Bratton cattle scales on the old Pisgah road and including the said scales; thence northwesterly, in a straight line, to two large old willow trees by an abandoned spring by the side of an old house-seat in an old apple orchard, which point is up a hollow in an eastern direction from the northern end of the present Virginian railway shops; thence, a straight line, in a southwestern direction, to the residence formerly owned by Elliott Blankenship on the Low Gap road, including the said residence within

23 the corporate limits; thence a straight line, including the said  
24 former residence of said Blankenship within the corporate limits  
25 as aforesaid, touching the residence of the late Saunders Lewis,  
26 and including the same within the corporation, to a point in the  
27 center line of the Raleigh and Kanawha turnpike road; thence  
28 a straight line touching the residence of I. W. Walker, now owned  
29 by W. B. Honaker, and including the same within the corporate  
30 limits to Gladly fork; thence down Gladly fork to the point of be-  
31 ginning.

*Wards and Their Boundaries.*

Sec. 3. The said city of Princeton shall consist of three (3)  
2 wards, which shall be bounded as follows:

*First Ward.*

3 All the following described boundary shall constitute the  
4 first ward of the said city, that is to say: Beginning at a point on  
5 the corporate limits of said city in the center of the bridge over  
6 Brush creek, on the road leading from Princeton to Ingleside;  
7 thence in a northern direction and with said Ingleside road to  
8 the center of Princeton avenue; thence with the center of said  
9 Princeton avenue, in a western direction, to the intersection of  
10 the center line of said avenue, with the center line of Fellers street;  
11 thence with the center of Fellers street, in a northern direction,  
12 to its intersection with the center line of Main street; thence  
13 with the center line of Main street, in a western direction, to its  
14 intersection with the center line of Mercer street; thence with  
15 the center line of Mercer street, in a northeast direction, to the  
16 intersection with the center line of Center street; thence with  
17 the center line of Center street, in a western direction to its inter-  
18 section with the center line of Hale avenue; thence with the cen-  
19 ter line of Hale avenue, in a northern direction, to the corporate  
20 line; thence with the corporate line, in a western direction and  
21 southwestern direction, to Gladly fork; thence down Gladly fork  
22 to Brush creek; thence down Brush creek to the point of be-  
23 ginning.

*Second Ward.*

24 All the following described boundary shall constitute the  
25 second ward of said city; that is to say: Beginning at the

26 beginning corner of the first ward, at a point in the center of  
27 the bridge across Bush creek, on the Ingleside road; thence down  
28 Bush creek, in a northwest direction, to the railroad bridge  
29 across Brush creek south of the Virginian railway freight station;  
30 thence with the center of the survey for the Mercer Electric  
31 Railway Company's line in a western and northwestern direction,  
32 to First street; thence with the center of First street, in a north-  
33 ern direction, to its intersection with the east end of the center  
34 line of Harrison street; thence with the center line of Harrison  
35 street in a western direction to its intersection with the center  
36 line of Third street; thence with the center line of Third street,  
37 in a northern direction to the northern end of Third street;  
38 thence continuing in the same direction, and on the same degree  
39 as the last named line, to the corporate line; thence with the  
40 corporate line, in a southwest direction, to the center of Hale  
41 avenue, at the northeast corner of the first ward; thence with the  
42 center of Hale avenue, in a southeast direction, to Center street;  
43 thence with Center street, in an eastern direction, and with the  
44 line of the first ward, reversing its course to the intersection of  
45 the center line of Center street with the center line of Mercer  
46 street; thence with the center line of Mercer street, in a southwest  
47 direction to its intersection with the center line of Main street;  
48 thence with the center line of Main street to its intersection with  
49 the center line of Fellers street; thence with the center line of  
50 Fellers street, in a southern direction, to its intersection with the  
51 center line of Princeton avenue; thence with the center line of  
52 Princeton avenue, in an eastern direction, to its intersection with  
53 the center of the Ingleside road; thence with the center of the  
54 Ingleside road, in a southeast direction, to the point of beginning.

#### *Third Ward.*

55 All the following described boundary shall constitute the  
56 third ward of the said city, that is to say: All that territory  
57 lying within the corporate limits of said city east, northeast and  
58 southeast of the second ward, and not included in the boundaries  
59 of either the first or second wards.

#### *Municipal Authorities.*

Sec. 4. The municipal authorities of the said city of Prince-  
2 ton shall consist of a mayor, recorder and three councilmen, who  
3 shall constitute the council of said city.

*Exercise of Corporate Powers.*

Sec. 5. All the corporate powers and functions pertaining to said city shall be exercised by its council, or under its authority, in the corporate name of said city, unless otherwise provided by state law or municipal ordinance.

*Subordinate Officers.*

Sec. 6. The council shall appoint a superintendent of streets, city engineer, chief of police, and any additional police officers that they may deem necessary, city attorney, chief of fire department, building inspector, and all other officers whose offices may be established by ordinance of the city council or by this act, and such officers shall hold the respective offices to which they are appointed during the pleasure of the council and until their successors are appointed and qualified. The several offices, or any two or more may be held by the same person, *provided*, a councilman shall not be eligible to any of the appointive offices, and such officers shall receive such compensation as the council may prescribe, by ordinance or order, unless said compensation be fixed by this act, and the same shall not be increased or diminished during the term for which the appointment was made. The mayor or recorder shall also be eligible to hold any said appointive office to which the council may deem it advisable to appoint them.

*Eligibility of Officers.*

Sec. 7. 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 he was for the preceding year assessed with taxes upon real or personal property within the said city, of the assessed aggregate value of at least three hundred dollars, and shall actually have paid the taxes so assessed.

*Election of Officers.*

Sec. 8. On the first Tuesday in June, one thousand nine hundred and seventeen, and every two years thereafter, on the first Tuesday in June, there shall be elected by the qualified voters of said city a mayor and recorder and by the qualified voters of each ward one councilman. The term of office of said mayor, recorder and councilman shall be for the period of two

7 years, commencing on the first day of July, next after their election, and until their successors shall be elected and qualified.

*Who Are Voters.*

Sec. 9. Every male person residing in said city shall be entitled to vote for all officers elected under this act; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, or bribery in an election, or who has not been a resident of this state for one year and of said city for six months next preceding the election at which he desires to vote, shall be permitted to vote therein.

*Registration of Voters.*

Sec. 10. All qualified voters within the city of Princeton entitled to vote in the municipal election held therein shall be registered in like manner as are the qualified voters in state and county elections, and the state laws of the state of West Virginia in effect at the time of such registration shall in all things apply thereto; except the fee for such registration shall be five cents for each qualified voter so registered, and the powers conferred upon the county court by the state laws in reference to the registration of voters are hereby conferred upon the council of said city of Princeton.

*General Election.*

Sec. 11. In all elections by the people the mode of voting shall be by ballot, but the voters shall be left free to vote an open, sealed or secret ballot, as they may elect. The election in said city shall be held and conducted and the result thereof certified, returned and finally determined under the laws in force in this state relating to general elections, except that the persons conducting said elections shall, on the day after the election is held deliver the ballots, tally sheets and poll books to the recorder, and thereafter the council of said city shall meet within five days (Sundays excepted) after said election and canvass the returns of said election, and declare the result thereof, and in all respects comply with the requirements of the statute of the state relating to elections. The corporate authorities of said city shall perform all duties in relation to such elections required by general law of the county court and officers in effect on the day of said election

16 and each succeeding election under this charter. And the provis-  
17 ions of the code in effect on the date of said election, concerning  
18 elections by the people, shall govern such elections and be ap-  
19 plicable thereto, and the penalties therein prescribed for offenses  
20 relating to elections shall be enforced against the offenders of  
21 such corporate elections; and the said act shall have the same  
22 force and effect as if it were specially applicable in such cor-  
23 porate elections and was by this act re-enacted *in extenso*; except  
24 as above modified as to the time in which the returns of the elec-  
25 tion and canvass thereto shall be made.

*Tie Vote; How Decided.*

Sec. 12. Whenever two or more persons receive an equal  
2 number of votes for mayor, recorder or councilman, such tie shall  
3 be decided by the council in existence at the time the election is  
4 held; *provided*, that the council in office at the time of the insti-  
5 tution of such contest proceeding shall hold over and remain in  
6 office for the purpose of passing upon and deciding such contest,  
7 and for such purposes only; and nothing herein provided shall be  
8 construed to interfere with the duties, power and authority of  
9 the new or incoming council.

*Contested Elections.*

Sec. 13. All contested elections shall be heard and deter-  
2 mined by the council in existence at the time the election is held,  
3 and the contest shall be made and conducted in the manner as  
4 provided for in contests for county and district officers, and the  
5 council by their proceedings in such cases shall, as nearly as prac-  
6 ticable, conform with like proceedings of the county court in such  
7 cases.

*Vacancy in Office.*

Sec. 14. Whenever a vacancy from any cause shall occur in  
2 any office, the council shall by a majority vote of those present fill  
3 such vacancy; and, in case of a vacancy in the office of councilman  
4 or mayor, or recorder, the remaining members of the council shall  
5 fill said vacancy.

*Appointment of Additional Officers, Defining their Duties and Fixing  
Compensation for such Officers.*

Sec. 15. The council shall also have authority to provide by  
2 ordinance for the appointment of such other officers as shall be



3 necessary and proper, to carry into full force and authority the  
4 power, capacity, jurisdiction and duties of said city, which are or  
5 shall be vested therein or in the council, or in the mayor, or any  
6 other officer or body of officers, thereof, and to grant to the officers  
7 so appointed the power necessary or proper for the purpose above  
8 mentioned. The council, by ordinance, shall define the duties of  
9 all officers so appointed, and may provide them a reasonable sal-  
10 ary, which shall be payable out of the city treasury which salary  
10-a shall not be increased or diminished during their term of  
11 office, and shall require and take from all of them whose duty  
12 it shall be to receive its funds, assets or property, or have charge  
13 of the same, such bonds, obligations, or other writing as they shall  
14 deem necessary or proper to insure the faithful performance of  
15 their several duties. All officers elected may be removed by the  
16 council from office for intemperance, gross immorality, gambling,  
17 malfeasance or misfeasance in office, or inability or neglect to per-  
18 form the duties of their respective offices. Any appointed officer who  
19 holds his office at the pleasure of the council, may be removed  
20 from his office for cause, after due notice. The chief of police  
21 shall have all power, rights and privileges within the corporate  
22 limits of said city in regard to the arrest of persons, the collec-  
23 tions of claims and the execution and return of process that can  
24 be legally exercised by a constable of a district within this state;  
25 and may without having any warrant or other process therefor,  
26 arrest any person who commits any offense against the laws of  
27 this state or infraction of the ordinances of said city, in his pres-  
28 ence. He shall be *ex-officio* the keeper of the city jail, and have  
29 charge of the city prisoners confined therein, and may confine any  
30 person arrested by him in the city jail until such time as the  
31 charge against such person can be inquired into by the mayor.  
32 Any person fined by the mayor, for infraction of any of the or-  
33 dinances of the city, may pay such fine to either the mayor, the  
34 recorder or the chief of police; and the said chief of police and  
35 his sureties shall be liable for all fines, penalties and forfeitures  
36 that a constable of a district is liable for in the same court that  
37 the said fine, penalties and forfeitures are now recovered against  
38 a district constable. The chief of police shall also be *ex-officio*  
39 treasurer of the said city, and as such shall perform all the duties  
40 herein in this act imposed upon the treasurer of the said city and  
41 be vested with all the powers herein vested in and imposed upon  
42 the treasurer of the said city. But the same person shall not be

43 eligible to the office of chief of police of said city for two succes-  
44 sive terms. For his services as chief of police and treasurer, the  
45 said chief of police shall receive a sum of one hundred dollars per  
46 month, payable out of the city treasury, and no other fees, com-  
47 missions, emoluments, salaries or compensations whatsoever shall  
48 be allowed him for such services. All fees, which but for this act,  
49 he would be entitled to recover and retain shall nevertheless be  
50 charged and collected by him and paid into the city treasury at  
51 the end of each month for the use and benefit of the city. The  
52 chief of police shall be appointed to his office by the council. It  
53 shall be the duty of the treasurer to collect the city taxes, licenses,  
54 levies, assessments, and other such city claims as are placed in his  
55 hands for collection by the council, and he may distrain and sell  
56 therefor in like manner as a sheriff may distrain and sell for  
57 state taxes; and he shall, in all other respects, have the same  
58 powers, as a sheriff to enforce the payment and collection thereof.

#### *Bonds.*

Sec. 16. All bonds, obligations or other writings taken in pur-  
2 suance of any provision of this act or under the provisions of any  
3 order of said city, shall be made payable to "The City of Prince-  
4 ton," and the obligors therein and their heirs, executors, adminis-  
5 trators and assigns bound thereby shall be subject to the same  
6 proceedings on such bonds, obligations or writings for enforcing  
7 the conditions of the terms thereof, by motion or otherwise, before  
8 any court of record or justice of the peace having jurisdiction there-  
9 of, held or acting in or for said Mercer county, or any district  
10 thereof or elsewhere, that the sheriff or collector of said county  
11 and his sureties are or shall be subject to on his bond taken for  
12 the enforcement of the duties in the payment of the county levy.

#### *Oaths of Office.*

Sec. 17. The mayor, recorder and councilmen, and all other  
2 officers provided for in this act, shall each, before entering upon  
3 the duties of their offices, and within fifteen days after receiving  
4 their certificates of election or appointment, take the oath or af-  
5 firmation prescribed by law for all officers in this state, and make  
6 oath or affirmation that they will truly, faithfully and impartially  
7 to the best of their ability, discharge the duties of their respective  
8 offices so long as they continue therein. Said oath or affirmation

9 may be taken before any person authorized to administer oaths  
10 under the laws in force at the time the same is taken, or before the  
11 mayor or recorder of said city; but in any event a copy of said  
12 oath of said officer shall be filed with the recorder.

#### *Tenure of Office.*

Sec. 18. The mayor, recorder and councilmen, shall enter  
2 upon the duties of their offices upon the first day of July next after  
3 their election and continue for the period of two years and all  
4 appointed officers, shall enter upon the duties of their offices, as  
5 soon as they have qualified; and all officers, both elected and ap-  
6 pointed, shall remain in office until their successors are elected  
7 or appointed and qualified, or until removed therefrom in the  
8 manner prescribed by law.

#### *Ineligibility or Failure to Qualify.*

Sec. 19. If any person elected to any office shall not be  
2 eligible thereto under the provisions of this act, or shall fail to  
3 qualify as herein required, the council shall declare his said office  
4 vacant and proceed to fill the vacancy as required by this act.

#### *Powers, Duties and Salary of the Mayor.*

Sec. 20. The mayor of the said city shall be chairman of  
2 its council, shall preside at the meeting of the council and shall  
3 also be a conservator of the peace within the said city. He shall  
4 especially see that the orders, by-laws, ordinances, acts and  
5 resolutions of the council are faithfully executed. He shall be  
6 *ex-officio* justice of the peace within the said city and shall, within  
7 the same, have, possess and exercise all the powers and perform  
8 all the duties vested by law in a justice of the peace, except he  
9 shall have no jurisdiction in civil causes of action arising out of  
10 the corporate limits of the city, unless the defendant resides or  
11 is found therein and process therein served upon him. He shall  
12 have the same power to issue attachments in civil suits as a justice  
13 of the peace of his county has; but, in such case, he shall have no  
14 power to try the same, but such attachments shall be made return-  
15 able and heard before a justice of the peace of his county. Any  
16 warrant issued by him, or other process, may be executed at any  
17 place in said county. He shall have control of the police of said  
18 city and may appoint special police officers, whenever he may

19 deem it necessary, and may suspend any police officer of the city  
20 until the next regular meeting of the council. And it shall be  
21 his duty especially to see that the peace and good order of the  
22 city are preserved, and that persons and property therein are  
23 protected, and to this end he may arrest or cause the arrest and  
24 detention of all violators of the laws of this state and ordinances  
25 of the city, before issuing his warrant therefor, if the offense is  
26 committed in his presence. He shall have power to issue his  
27 warrant for the arrest and apprehension of all persons violating  
28 the ordinances of the city, and shall have power to try the same  
29 and impose upon such violators of the ordinances of said city  
30 such fines and penalties as are prescribed by the ordinances  
31 thereof. He shall have the power to issue executions for all  
32 fines, penalties and costs imposed by him, or he may require the  
33 immediate payment thereof, and in default of such payment, he  
34 may commit the party in default to the jail of said county, or  
35 other place of imprisonment used by such corporation, if there  
36 be one, until the fine or penalty and the costs be paid; but the  
37 imprisonment in such cases shall not exceed thirty days. And  
38 in all cases where a person is sentenced to imprisonment or to the  
39 payment of a fine of ten dollars or more, (and in no case shall  
40 a judgment for a fine be for less than ten dollars if the defendant,  
41 his agent or attorney object to a less fine being imposed) such  
42 person shall be allowed an appeal from such decision to the crim-  
43 inal court of the county of Mercer, upon the execution of an ap-  
44 peal bond with security deemed sufficient by said mayor to cover  
45 the fine and costs, and the cost in the criminal court in case said  
46 judgment be affirmed, with condition that the person proposing  
47 to appeal will perform and satisfy any judgment which may be  
48 rendered against him by the criminal court on such appeal. If  
49 such appeal be taken, the warrant of arrest, if any, a transcript  
50 of the judgment, the appeal bond and other papers in the case  
51 shall be forthwith delivered by the said mayor to the clerk of said  
52 court, and the said court shall proceed to try the case as upon an  
53 indictment or presentment and render such judgment, including  
54 costs, as the law and evidence may require. The expense of  
55 maintaining any person committed to jail as hereinbefore set  
56 forth by the mayor, except it be to answer an indictment, shall  
57 be paid by the said city and taxed as costs against the defendant.  
58 He shall from time to time recommend to the council such meas-  
59 ures as he may deem useful and needful for the welfare of the

60 city. For his services as mayor, he shall receive the sum of  
61 three hundred dollars per year, to be paid out of the city treasury  
62 in monthly installments and no other fees, commissions, emolu-  
63 ments, salaries or compensation whatever shall be allowed him  
64 for his services as mayor. All fees, which but for this act, he  
65 would be entitled to recover and retain in cases tried by him,  
66 shall nevertheless be charged and recovered by him and paid into  
67 the city treasury at the end of each month for the use and bene-  
68 fit of the city; and a statement thereof showing such money de-  
69 posited in the city treasury shall be exhibited by the said recorder  
70 to the council of said city at its next succeeding meeting, at which  
71 time he shall be charged on the minute book, or such other proper  
72 book as shows his account, with the amount of such fees and  
73 costs so paid into the city treasury.

*Power, Duties and Salary of Recorder.*

Sec. 21. The recorder shall keep an accurate record of all  
2 the proceedings of the council, and shall have charge of and  
3 preserve the records of the city. In case of the absence of the  
4 mayor from the city, or his inability from any cause to act, or  
5 during any vacancy in the office of mayor, the recorder shall  
6 perform such duties of the mayor as pertain to the office of mayor,  
7 and to that end, in addition to the other powers herein conferred  
8 upon him, the recorder is hereby vested with all the powers nec-  
9 essary for the performance of the duties of the mayor, while  
10 acting as such, including the authority of the mayor pertaining to  
11 civil suits. The recorder shall be *ex-officio* assessor of said city,  
12 and shall perform such duties as such as are imposed by law.  
13 He shall be paid a salary of four hundred dollars per year, pay-  
14 able in equal monthly installments, for his services as such record-  
15 er and assessor, to be paid out of the city treasury.

*Quorum.*

Sec. 22. The presence of the mayor, or *ex-officio* mayor and  
2 two members of said council shall be necessary to make a quorum  
3 for the transaction of business at all meetings of the council of  
4 said city.

*Record of Minutes and Ordinances.*

Sec. 23. The council shall cause to be kept by the recorder  
2 in a well bound book to be called the "minute book," an accurate

3 record of all its proceedings, ordinances, acts, orders and resolu-  
4 tions, and in another to be called "ordinance book," accurate  
5 copies of all general ordinances adopted by the council; both of  
6 which shall be accurately indexed and open to the inspection of  
7 any one required to pay taxes in the city, or who may be other-  
8 wise interested therein. All oaths and bonds of officers in the  
9 city, and all papers of the council shall be endorsed, filed and  
10 securely kept by the recorder. The bonds of officers shall be  
11 recorded in a well bound book to be called "record of bonds."  
12 The recorder shall perform such other duties as by ordinance of  
13 the council may be prescribed. The transcript of ordinances,  
14 acts, orders and resolutions certified by the recorder under the  
15 seal of the city shall be admissible in evidence in any court, or  
16 before any justice.

#### *Reading of Minutes.*

Sec. 24. At each meeting of the council the proceedings of  
2 the last meeting shall be read and corrected, if erroneous, and  
3 signed by the presiding officer for the time being. Upon the  
4 call of any member the ayes and noes on any question shall be  
5 taken and recorded by the recorder in the "minute book." The  
6 call of the members for such vote shall be made alphabetically.

#### *Who Shall Vote in Council.*

Sec. 25. The mayor, or in his absence the recorder, shall  
2 preside at the meetings of said council; said recorder shall vote  
3 as a member of said council, but said mayor shall have no vote  
4 except in case of a tie.

#### *Meetings of Council.*

Sec. 26. The regular meetings of the council shall be pub-  
2 licly held at such times and at such places in the city as they  
3 shall from time to time ordain and appoint; and it shall be law-  
4 ful for the council by ordinance to vest in any officer of the city,  
5 or in any member, or number of members, of its own body, the  
6 authority to call special meetings and prescribe the mode in  
7 which notice of such special meetings shall be given; if a major-  
8 ity of the members of the council do not attend any regular or  
9 special meeting, those in attendance shall have authority to com-  
10 pel the attendance of absent members under such reasonable

11 penalties as they may think proper to impose by ordinance. All  
12 questions put to vote, except such matters as hereinafter provided  
13 for, shall be decided by a majority of the members present.

*To Whom Money of City Shall be Paid.*

Sec. 27. All moneys belonging to the city shall be paid over  
2 to the city treasurer; and no money shall be paid out by him  
3 except as the same shall have been appropriated by the council,  
4 and upon an order signed by the mayor and recorder, and not  
5 otherwise, except at the expiration of his term of office upon the  
6 order of the council, signed by the mayor and recorder, he shall  
7 pay over to his successor all the money remaining in his hands.

*Duties and Powers of Council.*

Sec. 28. The council of said city shall have power to lay  
2 off, vacate, close, open, alter, grade, improve and keep in good  
3 repair the roads and streets, alleys, pavements, sidewalks, cross  
4 walks, drains, sewers and gutters therein, for the use of the  
5 citizens and the public, and to improve and light the same, and  
6 keep them free from obstructions of every kind; to regulate  
7 the width and kind of pavements and sidewalks, footways, drains  
8 and gutters, and cause the same to be built and kept in good  
9 repair and order, and free and clean by the owners and occupants  
10 of the real property next adjacent thereto; to establish public  
11 parks and play grounds, and to this end purchase and acquire  
12 necessary and appropriate grounds and improve the same and  
13 regulate the use thereof; to establish markets, prescribe the time  
14 for holding the same, provide suitable and convenient buildings  
15 therefor, and prevent the forestalling of said markets; to prevent  
16 injury or annoyance to the public or to individuals from any  
17 thing dangerous, offensive or unwholesome; to prohibit or regu-  
18 late slaughter houses, tan houses and soap factories within the  
19 city limits, or the exercise of any unhealthful or offensive business,  
20 trade or employment; to abate all nuisances within the city limits,  
21 or to compel the abatement or removal thereof, at the expense  
22 of the person causing the same, or by or at the expense of the  
23 owner or occupant of the ground on which said nuisance is  
24 placed or found; to cause to be filled up, raised or drained, by  
25 or at the expense of the owner, any city lot or tract of land  
26 covered or subject to be covered by stagnant water; to prevent

27 horses, hogs, cattle, sheep or other animals, and fowls of all  
28 kinds from going or being at large in such city, and as one  
29 means of prevention to provide for impounding or confining such  
30 animals and fowls at the expense of the owner thereof, and upon  
31 the failure of the owner to reclaim, for the sale thereof; to  
32 protect places of divine worship and to preserve order in and  
33 about the premises when and where worship is held; to regulate  
34 the keeping and sale of gunpowder, and other inflammable or  
35 dangerous substances; to regulate the manner of exhibiting for  
35-a sale and the selling of milk, meats and vegetables and to permit  
36 and regulate the building of houses, or other structures, and  
37 regulate the kind of material to be used in the construction  
38 thereof, and to provide for the making and maintaining of  
39 division fences by the owners of adjoining property, and for  
40 the proper drainage of city lots and other parcels of land by or  
41 at the expense of the owner or occupant thereof; to provide  
42 against danger or damage by fire; to punish assault and battery;  
43 to prohibit the keeping or loitering in or visiting houses of ill-  
44 fame, or loitering in saloons or upon the streets; to prevent lewd  
45 or lascivious conduct, the sale or exhibition of indecent pictures  
46 or papers or other representations; to prevent adultery and  
47 fornication; to prohibit the carrying of concealed or dangerous  
48 weapons within the corporate limits of said city; to punish  
49 drunkenness; to punish larceny where the amount stolen is less  
50 than twenty dollars; to prevent gambling, and the keeping and  
51 using of slot machines and gaming devices; to prohibit anything  
52 against good morals and common decency, and to fix punishment  
53 therefor; to prevent the desecration of the Sabbath day, profane  
54 swearing, the illegal sale of intoxicating drinks, mixtures or prep-  
55 arations; to protect the person of those residing or being in  
56 said city; to appoint, when necessary or advisable, a police force,  
57 permanent or temporary, to assist the chief of police in the  
58 discharge of his duty, and who, when appointed, to have the same  
59 power and authority in and about the arrest of offenders, as the  
60 chief of police may have; to build or purchase, or lease a suitable  
61 place of imprisonment within said city, for the safe keeping or  
62 punishment of persons charged with or convicted of a violation  
63 of the ordinances of the city, or they may adopt the county jail  
64 of Mercer county for the purpose; to erect or authorize or prohibit  
65 the erection of gas, water works, or electric works or all of them  
66 within the city limits, or near the same; to require any company



67 or person furnishing gas, electricity or water to said city for  
68 the inhabitants thereof, to put in standard meters for the meas-  
69 urement thereof, and may appoint any person to inspect the meters  
70 and remove the same, if not standard and in good order; to  
71 prevent injury to such works, or the pollution of any gas or  
72 water used or intended to be used by the public or any individual;  
73 to require the extension of gas, electric and water lines by such  
74 respective companies, to any and all parts of the said city when  
75 the said council may deem the same necessary; to provide for  
76 and regulate the weighing of hay, coal, lumber and other articles  
77 sold or kept within said city, and to establish rates and  
78 charges for the weighing and measuring thereof; to create by  
79 ordinance such committees and delegate such authority thereto as  
80 may be necessary or advisable; to provide for the annual assess-  
81 ment of taxable property therein, and for the revenue for the  
82 city for municipal purposes, and to appropriate such revenue to  
83 its expenses; and generally to have power to take such measures  
84 as are deemed necessary or advisable to protect person or property,  
85 public or private, within the city; to preserve peace, quiet and  
86 good order therein and to promote the health, safety, comfort  
87 and well being of the inhabitants thereof; to organize one or more  
88 fire companies and provide necessary apparatus, tools, implements,  
89 engines, or any of them, for their use, and in their discretion to  
90 organize a paid fire department; to make regulations with respect  
91 to the erection and location of telephone, telegraph, electric light  
92 or other poles by any individual or corporation; to grant and  
93 regulate all franchises in, upon, over and under the streets,  
94 alleys and public ways of said city, under such restrictions, as  
95 shall be provided by ordinance; but no exclusive franchise shall  
96 be granted by said council to any individual or corporation, nor  
97 shall any franchise be granted for a longer period than fifty years;  
98 to regulate, license and restrict the use of motor buses, automo-  
99 biles, carriages, drays and wagons, upon the streets, alleys and  
100 public grounds of the said city when the same are being used  
101 for hire and reward.

102 The council shall have authority to pass all ordinances not  
103 repugnant to the constitution and laws of the United States and  
104 of this state, which shall be necessary and proper to carry into  
105 full effect the power, authority, capacity and jurisdiction which  
106 is or shall be granted to or vested in the said city, or in the  
107 council or in any officer or body of officers of said city, and to

108 enforce any and all of the ordinances by reasonable fines and  
109 penalties, and upon the failure to pay any fine or penalty im-  
110 posed, may compel the offender to labor without compensation  
111 at and upon any of the public works or improvements undertaken,  
112 or to be undertaken, by said city, or to labor at any work which  
113 the said council may lawfully employ labor upon, at such rea-  
114 sonable rates per diem as the council may fix, until any fine, or  
115 fines and costs upon any offender by said city have been fully  
116 paid and discharged, after deducting reasonable charges of sup-  
117 port while in the custody of the officers of the city; *provided, how-*  
118 *ever,* that no fine shall be imposed exceeding thirty dollars and  
119 costs, and that no person shall be imprisoned or compelled to  
120 labor as aforesaid for more than thirty days for any one offense.  
121 And in all cases where a fine is imposed for an amount exceeding  
122 ten dollars and costs, or a person be imprisoned, or be compelled  
123 to labor as aforesaid for a greater term than ten days, an appeal  
124 may be taken from such decision upon the terms and conditions  
125 as appeals are taken from the judgment of a justice of this state.  
126 Such fines and penalties shall be imposed and recovered, and such  
127 imprisonment inflicted and enforced by and under the judgment  
128 of the mayor of said city; or in case of his absence or inability  
129 to act, by the recorder of said city; or in case of his absence or  
130 inability to act, then by any member of the council, to be ap-  
131 pointed by the council for that purpose; and for his services in  
132 trying cases, whether civil, criminal or infractions against ordi-  
133 nances, the mayor shall be entitled to charge and collect such  
134 fees as are paid to justices of the peace for similar services, which  
135 shall be paid into the city treasury. And in all such cases the  
136 chief of police, or other officer performing the service shall be  
137 entitled to receive such fees as are paid to constables for similar  
138 services, which shall be paid to the city treasury at the end of  
139 each month, taking proper vouchers therefor; *provided, further,*  
140 that the fee for making any arrest shall be one dollar, whether  
141 such officer be the chief of police or other officer. In addition to  
142 the powers above enumerated, the said city council shall have  
143 power to build, construct, maintain and operate a sufficient sew-  
144 erage system and water works, as may be necessary for the proper  
145 supply of water to the inhabitants of the said city, for both  
146 public and private use, and said city shall have the power to  
147 purchase or condemn any water works now in the said city or  
148 hereafter placed therein by any party other than said city, when-

149 ever the council of said city shall deem proper, and such order  
150 shall have been ratified by a vote of the qualified voters of said  
151 city, at an election called for that purpose, with due notice, and  
152 at least two-thirds of the votes cast at said election shall vote for  
153 the ratification of said council to purchase or condemn said  
154 water works; and the said city shall have the power to enlarge  
155 the said water works, if so purchased or condemned, by putting  
156 additional reservoirs either within or out of said city; and the  
157 said city shall have the right, if its council shall deem proper,  
158 and the order of said council be ratified by a vote as aforesaid,  
159 to build, construct, maintain, and operate such water works in  
160 the said city as may be deemed proper without the purchase or  
161 acquisition of any water works then in said city and said city  
162 shall have the right to lay pipes and mains for the proper distri-  
163 bution of said water, either in or out of said city, as shall be  
164 necessary for the proper distribution of same, and for that purpose  
165 may acquire by lease, purchase or condemnation all such lands  
166 as shall be necessary, either within or without the said city, or  
167 they may contract for such work to be done, in either event to  
168 supply an adequate supply of pure, healthful water for said city,  
169 and do all things necessary to supply the said city and the in-  
170 habitants thereof with water as aforesaid; and the said city may  
171 acquire by purchase or condemnation any electric light plant now  
172 in said city or hereafter placed therein by any party other than  
173 said city, and shall have the right to build, construct, maintain,  
174 and operate such plant for furnishing electricity for said city,  
175 and for the inhabitants thereof, but no electric light plant  
176 shall be purchased, condemned, or built or operated unless voted  
177 on by the qualified voters of said city at an election called and  
178 held as aforesaid, and the same be ratified by a two-thirds vote  
179 of all votes cast at said election. Whenever anything for which  
180 a state license is required is to be done in said city, the council  
181 may require a city license therefor and may impose a tax there-  
182 on, for the use of said city.

*Police Docket.*

Sec. 29. A well bound book, indexed, to be denominated the  
2 "police docket," shall be kept in the office of the mayor, in which  
3 shall be noted each case brought before or tried by him, together  
4 with the proceedings therein, including a statement of the com-  
5 plaint, the warrant or summons, the return, the fact of appearance,

6 or non-appearance, the defense, the hearing, the judgment, the  
7 costs, and in case the judgment be one of conviction the action  
8 taken to enforce the same. The record of each case shall be signed  
9 by the mayor, and the original papers thereof, if no appeal be taken,  
10 shall be kept together and preserved in his office.

*Annual Levy.*

Sec. 30. The council shall be governed in all respects in  
2 laying the annual levy or any additional or special levy by chapter  
3 nine of the acts of the extraordinary session of the legislature of  
4 West Virginia of nineteen hundred and eight and by chapter eighty-  
5 five of the acts of the session of the legislature of nineteen hundred  
6 and fifteen as the same is amendatory of certain sections of the  
7 said chapter nine of the said acts of nineteen hundred and eight,  
8 except that they may include a poll tax of not exceeding one dollar  
9 each year upon each able bodied man therein, who is above the age  
10 of twenty-one years and not over fifty years of age, which poll tax  
11 shall be used exclusively for opening, improving and maintaining  
12 roads, streets and alleys of the city, and shall designate the same  
13 as the "street taxes"; and the said council may also impose such  
14 license tax upon dogs and other animals as they may deem proper,  
15 and collect the same from the owners of such animals, as other  
16 taxes are collected, and prescribe such rules, regulations and penal-  
17 ties governing the payment of such tax on animals as they may  
18 deem reasonable. And the general annual levy upon the taxable  
19 property within the corporate limits of said city shall not exceed  
20 the sum of thirty-five cents upon each one hundred dollars  
21 valuation. But in addition to said levies above mentioned, and  
22 in addition to any levies provided by the general law, with which  
23 these are not meant to conflict, the council of said city, beginning  
24 with the year nineteen hundred and seventeen, are empowered  
25 to and shall lay a special annual levy not to exceed twenty  
26 cents on each one hundred dollars valuation of the property  
27 in said city for the purpose of creating a sinking fund with  
28 which to pay off the principal of the present outstanding bonded in-  
29 debtedness of said city when the same becomes due and for the  
30 purpose of paying annually, when due, the interest coupons of  
31 the said present outstanding bonded indebtedness of the said  
32 city, which said special levy shall be continued annually by the  
33 council for as many years as may be necessary to pay off said  
34 present outstanding bonded indebtedness and the interest cou-

35 pons that may become due thereon, but no longer. Also, in  
36 addition to the above, the said council, beginning with the year  
37 nineteen hundred and seventeen, are empowered to and shall lay  
38 a special annual levy not to exceed fifteen cents on each one hun-  
39 dred dollars valuation of the property in the said city for the  
40 purpose of paying off any outstanding orders issued against the  
41 treasury of said city prior to July the first, nineteen hundred and  
42 sixteen, and for the purpose of paying off any debts contracted  
43 prior to said date or any judgment taken against the said city  
44 prior to said date. And both of the aforesaid special levies,  
45 when collected, shall be used for no other purposes than for the  
46 aforesaid purpose for which they shall be laid as aforesaid.

*Annual Assessment.*

Sec. 31. It shall be the duty of the assessor to make an  
2 assessment of the property within the city subject to taxation  
3 substantially in the manner and form in which assessments are  
4 made by the assessor of the county, and return the same to the  
5 council on or before the first day of June of each year, and  
6 for this purpose he shall have all the powers conferred by law  
7 upon county assessors. He shall list the number of dogs and  
8 other animals subject to license tax in the city, and the names  
9 of the persons owning the same, which list shall be returned  
10 to the council at the same time his assessment books are returned.  
11 But in making his assessment on real and personal property  
12 he shall be governed by the assessment on real and personal  
13 property for state and county purposes for said year, and the  
14 value placed on said property shall not exceed the value of such  
15 assessment for county and state purposes. In order to aid the  
16 assessor in ascertaining the property subject to taxation by said  
17 city, he shall have access to all books and public records of  
18 said Mercer county, without expense to him or said city, and  
19 he shall have the same power and be subject to the same penalties  
20 in ascertaining and assessing the property and subjects of taxation  
21 in said city, as are granted and imposed on the county assessors  
22 throughout the state by general law; and the council shall have  
23 authority to prescribe by general ordinance, such other rules  
24 and regulations as may be necessary to enable and require such  
25 treasurer to ascertain and properly assess all property liable to  
26 be taxed by said city, so that such assessment and taxation shall  
27 be uniform and equal, and the council may enforce such rules

28 and regulations by reasonable fines to be imposed on any one  
29 failing to comply therewith. When he shall complete his assess-  
30 ment book he shall deliver the same when sworn to, to the city  
31 council.

#### *Liens for Taxes.*

Sec. 32. There shall be a lien on all real estate within the  
2 said city for the city taxes assessed thereon, and for all fines  
3 and penalties assessed against or imposed upon the owners  
4 thereof, by the authorities of said city, including expenses for  
5 making, maintaining and repairing, paving and macadamizing  
6 sidewalks, drains, gutters and streets from the time the same  
7 are so assessed or imposed, which shall have priority over all  
8 the other liens except taxes due the United States and the lien  
9 for taxes due the state, county and district, and such lien may  
10 be enforced by the council in the manner provided by law for  
11 the enforcement of the lien for county taxes. And the laws of  
12 the state of West Virginia in relation to delinquent taxes, and  
13 the sale of property therefor, are hereby and in all respects  
14 adopted as to all proceedings in relation to taxes for city pur-  
15 poses delinquent in said city. And the powers and duties con-  
16 ferred by the laws of said state upon county courts and their  
17 clerks and sheriffs in regard to delinquent taxes and their col-  
18 lection, are hereby in all things conferred upon said city council,  
19 its recorder and other city officials whose duties are of a similar  
20 nature as those of said county officials, in so far as the same  
21 may be directly or by implication applicable in the collection  
22 of delinquent taxes due said city.

#### *Collection of Taxes.*

Sec. 33. It shall be the duty of the city treasurer when  
2 the extended copies of the assessor's books are completed, to  
3 receive a copy thereof, receipting to the council for the same,  
4 and it shall be his duty to collect from the parties the entire  
5 amount of the taxes with which they are severally charged there-  
6 in, and may proceed to collect the same at any time after the  
7 first day of August, and may enforce the payment thereof by  
8 levy upon the personal property, and sale thereof, of the person  
9 charged with taxes at any time after the first of October, next,  
10 after said taxes are assessed. He may also allow a discount of

11 two and one-half per cent on all taxes paid on or before the  
12 thirtieth day of November. Said taxes shall be a lien upon the  
13 property upon which they are assessed, from and after the time  
14 the assessor's books are completed, verified and returned to the  
15 city council, and he shall write the word "paid," opposite the  
16 name of each person who pays the taxes against him, and shall  
17 also give to the person paying such taxes a receipt therefor;  
18 *provided, however,* that said treasurer may distrain at any time  
19 for any taxes assessed against a person who is about to remove,  
20 or who has removed from said city, after such taxes are as-  
21 sessed, and the books returned as aforesaid. He shall also receive  
22 such other moneys of the city as he is authorized by this act  
23 to receive, and also all moneys ordered by the council to be paid  
24 to him, giving receipt therefor to the parties paying the same,  
25 and shall keep an accurate, itemized account of all money received  
26 by him. His books shall, at all times, be open for the inspection  
27 of the mayor, council, city recorder, and to any taxpayer of the  
28 city. He shall also make up monthly statements of the money  
29 received by him and the amount paid out by him and to whom.  
30 showing the amounts in his hands from all sources, and shall  
31 post the same in the mayor's office on the last day of each month.  
32 He shall pay out the money in his hands upon the order of the  
33 city council, upon orders signed by the mayor and the recorder.  
34 He shall, on or before the expiration of the term of office of the  
35 mayor, and at such other times as the council may require, present  
36 to the council a full and complete statement of all the moneys  
37 with which he is chargeable, or that have been received by him  
38 and not previously accounted for, and shall at the same time, in  
39 like manner, furnish a complete statement, by separate items, of  
40 all disbursements made by him during such period, with his  
41 vouchers evidencing the same. He shall receive all taxes upon  
42 licenses and receipt to the party paying the same, by endorsement  
43 upon the permit granted by order of the council, or mayor as the  
44 case may be. He shall, upon the expiration of his term of office,  
45 turn over to the council all books and other property in his  
46 possession belonging to the city, except the money in his hands,  
47 which he shall turn over to his successor, upon the order of the  
48 council, as hereinbefore provided; and shall, before entering upon  
49 the duties of his office, execute a bond with good security payable  
50 to said city in a penalty of not less than ten thousand dollars,  
51 conditioned that he will faithfully discharge the duties of his  
52 office and account for and pay over as required by law and the

53 orders, ordinances, rules and regulations of the council of said  
54 city, all money which shall come into his hands, which bonds  
55 shall be subject to the approval of the council. He shall be  
56 chargeable with all the city taxes, levies and assessments and  
57 money of the city, which shall come into his hands and shall  
58 account therefor.

*Additional Duties of Assessor and Treasurer.*

Sec. 34. In addition to the other duties of the assessor it  
2 shall be his duty on or before the first day of August, in each  
3 year, to make a copy from the real and personal property books  
4 of the assessor of Mercer county of all property shown to be  
5 liable for taxes within the limits of the city of Princeton, and  
6 to certify such under his hand as a true and correct copy thereof,  
7 and to deliver the same to the council, to assist said council in  
8 preparing the annual estimate of expenses to be certified as a  
9 basis for the annual levy. After such annual levy is made in  
10 each year, it shall be the duty of the assessor to extend said  
11 levy upon said real estate and personal property books for said  
12 city, but the treasurer shall prepare proper tax tickets therefrom  
13 against all owners of real estate and personal property subject  
14 to taxation in said city.

*Licenses.*

Sec. 35. The council shall prescribe by ordinance the time  
2 and manner in which licenses of all kinds shall be applied for and  
3 granted, and shall require the payment of the tax thereon to the  
4 city recorder before the delivery thereof to the person applying  
5 therefor, which tax shall include the same fees for the issuing  
6 of such licenses as are charged for similar services by state and  
7 county officers, which fees shall be paid into the city treasury.  
8 The council may revoke any such license for a breach of any of  
9 the conditions, or for other good cause shown, but the person  
10 holding such license, must first have reasonable notice of the  
11 time and place of hearing and adjudicating the matter, as well  
12 as the cause alleged; and shall be entitled to be heard in person or  
13 by counsel, in opposition to such revocation. The term for which  
14 licenses provided for in this charter shall be granted shall be govern-  
15 ed by the general law providing for state licenses.



*Condemnation of Land for Public Use.*

Sec. 36. The council shall have the right to institute and  
2 prosecute proceedings in the name of the city for condemnation  
3 of real estate for streets, alleys, roads, drains, sewers, market  
4 grounds, city prison, city hall, water works, electric light plant or  
5 other works, or purposes of public utility. Such proceedings  
6 shall conform to the provisions of chapter forty-two of the code  
7 of West Virginia, and the expenses thereof shall be borne by the  
8 city, except in cases where it is proper under said chapter to  
9 charge said expenses or any part thereof against the defendant.

*Provisions for Bonding City.*

Sec. 37. The council of the said city shall have the right to  
2 bond the said city for the purpose of paving the said streets, or  
3 for other permanent improvements, or for the purpose of taking  
4 up, paying off or refunding any already outstanding city bonds or  
5 items of indebtedness, whenever the council thereof may deem the  
6 same necessary; but the aggregate indebtedness of the said city  
7 for all purposes shall never at any time exceed five *per centum* of  
8 the assessed valuation of the taxable property therein according  
9 to the last assessment next preceding said date. The said council  
10 shall provide a fund for the payment of the interest annually on  
11 the said indebtedness so created, and to pay the principal thereof  
12 within and not exceeding thirty-four years; *provided*, that no  
13 debt shall be contracted hereunder, unless all questions connected  
14 with the same be first submitted to a vote of the qualified voters  
15 of said city, and have received three-fifths of all the votes cast  
16 for and against the same.

*No Indebtedness to be Created for Current Expenses.*

Sec. 38. The council of the said city shall not, at any time,  
2 or for any purpose, create any indebtedness against the said city  
3 except as provided in the next preceding section, exceeding the  
4 available assets of the said city for the current year; and if the  
5 said council shall create such indebtedness or issue orders on the  
6 city for an amount exceeding the amount of money collected for  
7 that year for said city from all sources, and the amount of money  
8 then in the treasury appropriated, the members of said council  
9 shall be severally and jointly liable for the payment of the excess  
10 of such indebtedness or orders over the amount of money applica-

11 ble thereto, and the same may be recovered in any court having  
12 jurisdiction thereof. Any councilman violating the provisions of  
13 this section shall be deemed guilty of malfeasance in office, and  
14 may be removed as such councilman in pursuance of section fif-  
15 teen of this act. *Provided, however,* this shall not be applicable  
16 to such members who have voted against said excess; and, *provided*  
17 *further,* that the vote of each member of council shall be recorded.

#### *Streets, Roads and Bridges.*

Sec. 39. The said city shall construct, conduct and maintain  
2 its own roads and streets, and by reason thereof shall not be re-  
3 quired to pay any district or county road levies for the construction  
4 and maintenance of roads outside of the city limits.

#### *Existing Ordinances.*

Sec. 40. All ordinances, by-laws, resolutions and rules of  
2 the city of Princeton in force on the day preceding the passage  
3 of this act, which are not inconsistent therewith, shall be and  
4 remain in full force over the whole boundary of said city of Prince-  
5 ton, as established by this act, until the same are amended or  
6 repealed by the council of said city, and the officers elected on  
7 the first Tuesday in June, one thousand nine hundred and fifteen,  
8 in the city of Princeton, shall remain in office until their succes-  
9 sors under this act are elected and qualified as hereinbefore pro-  
10 vided; and after this act takes effect, shall have jurisdiction over  
11 all the territory embraced in the boundary specified in this act,  
12 and shall perform all the duties of such respective officers under  
13 this act; but nothing in this act shall be construed or held to in  
14 any way affect or impair any of the bonds, obligations or indebted-  
15 ness of the city of Princeton issued or contracted prior to the  
16 passage of this act; but, on the contrary, the said city of Princeton  
17 shall be liable for all the bonds, obligations and indebtedness of  
18 the city of Princeton as though the same had been created under  
19 this charter.

#### *Power to Make and Maintain Sidewalks, Streets, Etc.*

Sec. 41. The council shall have power to provide for the  
2 construction, maintenance and repair of sidewalks, drains and  
3 gutters upon the streets of the city, and assess the expense of the  
4 construction, maintenance and repair of the same upon the prop-

5 erty abutting thereon and the owners thereof, and collect the same  
6 in the same manner as other taxes and levies are collected, and  
7 shall have power to macadamize and pave the streets of the said  
8 city, or any of them, and assess part of the expenses of macadam-  
9 izing and paving not to exceed one-third thereof upon the abut-  
10 ting property on each side thereof, and the owners thereof, and  
11 collect the same in the same manner as other taxes and levies are  
12 collected; and such assessments for sidewalks, drains, gutters,  
13 macadamizing and paving shall be a lien upon such abutting  
14 property, the same as other taxes and levies within said city upon  
15 the property therein. *Provided*, that nothing herein shall be  
16 construed to prevent the council from arranging for the construc-  
17 tion of any such improvement, by agreement with the abutting  
18 property owners, if the council shall so desire and deem it advis-  
19 able to do so.

*The Duty of the Council to Appoint Officers to Hold Elections  
Hereunder.*

Sec. 42. The council of the city of Princeton shall provide  
2 places for voting in each ward in all municipal elections of the  
3 city, and appoint commissioners residing therein to hold and con-  
4 duct the election hereinbefore provided to be held, and shall pass  
5 all proper ordinances to give this act full force and effect.

*Duties of City Attorney.*

Sec. 43. The city attorney, if there be one, shall be the legal  
2 adviser of the city and all of its officers in all matters arising, and  
3 in which legal proceedings may be taken; he shall prosecute all  
4 suits, actions and proceedings instituted on behalf of said city,  
5 and defend all suits and actions against said city, and when re-  
6 quested in writing shall give his written opinion to the mayor or  
7 council or any standing committee thereto upon such legal ques-  
8 tions as may be referred to him affecting the city's interest; he  
9 shall perform such other duties as may be required. It shall be  
10 his duty to attend the sessions of the council when requested and  
11 prosecute all trials before said mayor and all appeals that are  
12 taken from such mayor to the criminal or circuit court, and for  
13 his services he shall receive such compensation as the council shall  
14 provide, and in addition thereto in all criminal prosecutions con-  
15 ducted by said city attorney, where there is a conviction of the

16 defendant, there shall be taxed an attorney's fee in favor of said  
17 city attorney, not less than five nor more than ten dollars, which  
18 said fee shall be taxed as a part of the costs of the case.

*Where Money to be Deposited.*

Sec. 44. It shall be the duty of the city treasurer to keep  
2 all funds of the city in some bank or banks within said city, which  
3 shall pay interest on such deposits and on the average daily bal-  
4 ances of such funds of the per cent. equal, at least, to that paid  
5 by state depositories on all funds of the state of West Virginia and  
6 in the same manner and at the same time. If no bank within  
7 said city is willing at any time to receive deposits of the treas-  
8 urer and pay such interest thereon, the treasurer shall report this  
9 fact to the council, whereupon the council shall designate the  
10 bank or banks in which he shall deposit said funds for the time  
11 being and until some bank in said city will receive such deposits  
12 on such terms.

*Salaries of Councilmen.*

Sec. 45. Each councilman of said city shall receive from  
2 the city to be paid out of the city treasury the sum of one hundred  
3 dollars a year, payable in monthly installments, and there shall  
4 be deducted from the salary of the mayor, recorder and council-  
5 man two dollars for each time either of said officers shall be ab-  
6 sent from a regular meeting of said council, unless such absence  
7 be caused by sickness or absence from the city.

*Repeal of Inconsistent Acts and Ordinances.*

Sec. 46. All ordinances of the city of Princeton, as they  
2 exist at the time of the passage of this act, which are inconsistent  
3 therewith, are hereby abrogated, and all acts and parts of acts  
4 inconsistent with any of the provisions of this act are hereby re-  
5 pealed.

**CHAPTER 115.**

(House Bill No. 390.)

AN ACT to amend and re-enact section twenty-eight of chapter twelve  
of the acts of one thousand nine hundred and fifteen, relating

to the powers and duties of the common council of the city of Elkins, relative to special assessments for street paving for and within said city of Elkins.

[Passed February 17, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

SEC. 28. Council cause street to be paved, etc.; may levy special assessments against property benefitted; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-eight of chapter twelve of the acts of one thousand nine hundred and fifteen be amended on page four hundred and thirty-two of said acts so as to read as follows, commencing at the middle of line three hundred and fifty-nine on said page four hundred and thirty-two: And whenever in the opinion and judgment of said council any street or alley of said city should be paved or repaired with brick, or other suitable substance for paving purposes, said council may cause the same to be graded, paved and curbed in such manner as in the opinion and judgment of the council is most suitable for the purpose, and whenever in the opinion and judgment of the council any side walks or foot walks of stone, brick, cement, or other suitable substance are necessary and beneficial and for the best interest of the inhabitants of said city, the council may order the same to be constructed in such manner and of such material as in the opinion and judgment of the council are most suitable for the purpose, and for the purpose of paying the expenses and cost of any such sewer, grading, paving and curbing, side walks or foot walks, the said council may levy a special assessment for the cost thereof against the real estate benefitted thereby which joins or abuts thereon.

All acts or parts of acts inconsistent with this act are hereby repealed.

## CHAPTER 116.

(Senate Bill No. 9.)

AN ACT to amend and re-enact sections one, six, thirty, thirty-seven and thirty-eight 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, as amended by chapter sixty-five of the acts of eighteen hundred and ninety-five, chapter one hundred and

forty-nine of the acts of nineteen hundred and one, chapters sixty-eight and sixty-nine of the acts of nineteen hundred and three, and chapter four of the acts of nineteen hundred and fifteen.

[Passed February 15, 1917. In effect from passage. Approved by the Governor February 23, 1917.]

<p>Sec. 1. Establishing boundaries of city of Wellsburg. 6. Duties of city collector and treasurer. 30. Duties and powers of city council as to paving, curbing, sewerling or otherwise improving streets and</p>	<p>Sec. alleys of city; how expense of same shall be paid. 37. How salaries herein provided for shall be paid. 38. Propositions involving appropriations must be concurred in by council; section not to apply to running expenses of city.</p>
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*Be it enacted by the Legislature of West Virginia:*

That sections one, six, thirty, thirty-seven and thirty-eight of the charter of the city of Wellsburg be amended and re-enacted to read as follows:

#### *Boundaries.*

Section 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 northerly 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 Gelsthorpe and J. F. Cree; thence in a northerly direction in a straight line across the lands of J. F. Cree and the I. H. Duval estate, to the south-east corner of lot number fifty-four of the plan of lots platted and recorded by the said I. H. Duval; thence in a northerly direction in a straight line to the northeast corner of lot number forty-two of said plan of lots; thence in a northeasterly direction in a straight line to the southeastern corner of the lands of H. W. Paull; thence in a northerly direction along the eastern boundary line of the property of said H. W. Paull, of the property of Elizabeth P. Jacob, of the property of Thomas Boyd, deceased, of the property of W. H. Tarr, of the property of Miss Lou Tarr, of the property of G. L. and S. R. Caldwell, of the property of A. P. Oxtoby, of the property platted into lots and recorded by F. L. Hall, of the property of J. W. Kunkel, of the property of

24 Sarah J. Jones, and of the property of the Brooke cemetery com-  
25 pany to the northeast corner of the property of said company;  
26 thence from the northeast corner of the said cemetery property  
27 in a northwesterly direction, in a straight line, to the east side  
28 of the barn on the property now owned by Robert McNabb; thence  
29 continuing in the same direction to the run or ravine lying on the  
30 north side of the property of the said Robert McNabb; thence in  
31 a westwardly direction, and following the meandering of said run  
32 or ravine to the east shore of the Ohio river; thence on a direct  
33 line across said Ohio river to the west shore of said river; thence  
34 extending along the western shore of the said Ohio river in a  
35 southerly direction to a point opposite the mouth of Buffalo  
36 creek; thence from said point to the mouth of said Buffalo creek,  
37 the place of beginning, including all the land and water between the  
38 boundary lines aforesaid.

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

#### *Duties of the City Collector and Treasurer.*

Sec. 6. It shall be the duty of the city collector and treasurer,  
2 at least once in every six months during his continuance in office,  
3 and oftener if required by council, to render an account of the  
4 taxes, fines, penalties, assessments and other claims in his hands  
5 for collection, and return a list of such as he shall not have  
6 been able to collect, by reason of insolvency, removal, or other  
7 causes; to which list he shall make affidavit that he used due  
8 diligence to collect the same, but has been unable to do so; and  
9 if the council shall be satisfied of the correctness of said list and  
10 the affidavit, it shall allow the city collector and treasurer a credit  
11 for said claims. He shall pay any money in his hands belonging  
12 to the city upon the order of council and not otherwise.

Sec. 30. If the owner of any real property next adjacent to  
2 any side walk, footway, gutter or drain within said city, shall fail  
3 or refuse to curb, pave or keep the same clean, in the manner or

4 within the time required by the council, it shall be the duty of  
5 the council to cause the same to be done at the expense of the  
6 city and to assess the amount of such expense to such owner of  
7 the property abutting thereon, and the same may be collected by  
8 the city collector and treasurer in the manner provided for the col-  
9 lection of city taxes. Council shall always have authority to pave,  
10 macadamize or improve the streets, alleys, sidewalks, footways,  
11 and to construct gutters, drains, and sewers in said city at the  
12 expense of the city. Whenever council shall deem it expedient  
13 to cause any street or alley in said city, or portion thereof, to be  
14 paved, curbed, macadamized or sewerred or otherwise improved in  
15 a permanent manner and the cost thereof assessed against the  
16 property abutting upon the street or alley so improved, paved,  
17 sewerred, or drained, the work shall be done and the assessments  
18 laid in the manner provided in chapter eight, of the acts of  
19 the legislature of West Virginia, extra session, one thousand nine  
20 hundred and eight, and the whole cost of said paving, improv-  
21 ing or sewerred, with the exception of the paving of squares at the  
22 intersections of streets which shall be borne and paid by the city,  
23 and with the further exception in case of a street occupied by  
24 street car tracks or other railway tracks of the distance between  
25 the rails and two additional feet outside of each rail, which por-  
26 tion shall be borne and paid entirely by the street car or other  
27 railway company operating such street or other railway unless  
28 otherwise provided for by the franchises of such street car or other  
29 railway company previous to the passage of the beforementioned  
30 chapter eight, of the acts of the legislature of one thousand nine  
31 hundred and eight, with the two foregoing exceptions; the entire  
32 cost of such paving, macadamizing, sewerred or other permanent  
33 improving shall be borne and paid by the owners of the land  
34 abutting upon said street, alley or portion thereof.

Sec. 37. All salaries herein provided for shall be paid  
2 monthly or quarterly as determined by council.

Sec. 38. All propositions involving the appropriation of  
2 money, shall be read before council and referred to the proper  
3 committee thereof, which shall examine the same and report there-  
4 on as soon as practicable, and such proposition shall not pass unless  
5 two-thirds of the members of council, present when the same is  
6 acted upon, shall concur therein; and if such proposition involves



7 the appropriation of one thousand dollars or more, it shall not pass  
 8 unless it receives the vote of every member of council present.  
 9 But this section shall not apply to the ordinary running expenses  
 10 of the city.

## CHAPTER 117.

(Senate Bill No. 30.)

AN ACT to amend and re-enact section six of the part entitled "Greater Wheeling Charter," of an act of the legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled: "An act to amend, revise and consolidate into one act an act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven, entitled: 'An act to amend, revise and consolidate into one act an act of the general assembly of Virginia, passed March eleventh, 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;" chapter eleven of the acts of said legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form part of the charter of the city of Wheeling;" and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen."

[Passed January 24, 1917. In effect from passage. Approved by the Governor February 3, 1917.]

Sec.  
 6. City council; number and term of service; residents of city and voters; who shall be eligible for membership; council to appoint chairman, officially known as

Sec.  
 mayor; to perform duties imposed by charter; majority vote necessary for election; to hold office at pleasure of council.

*Be it enacted by the Legislature of West Virginia:*

That section six of the part entitled "Greater Wheeling Charter," of an act of the legislature of West Virginia, passed on the twentieth day of February, A. D., one thousand nine hundred and fifteen, entitled: "An act to amend, revise and consolidate into one act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven, entitled: 'An act to amend, revise and consolidate into one act of the general assembly of Virginia, passed March eleventh, 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'; chapter eleven of the acts of said legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature, passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form part of the charter of the city of Wheeling; and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen," be, and such section six is, hereby amended and re-enacted so as to read as follows:

Section 6. Said city shall have a city council of nine members. All councilmen shall serve for a term of two years and 3 until their successors are elected and have qualified, unless sooner 4 removed from office as hereinafter provided. They shall be residents of the city and qualified voters therein. No one elected a 6 member of such city council shall be eligible to hold office as 7 such member, who shall be interested, directly or indirectly, in 8 the profits or emoluments of any contract, job, work or service 9 for the city, or in any sale to it of any property, real or personal; 10 or be, directly or indirectly, a holder or owner of any bond or 11 stock of any public utility corporation enjoying a municipal franchise, privilege or easement in or from such city; or be an officer, 13 agent, trustee, servant or employee of such a corporation. If any 14 such person shall serve or attempt or continue to serve as a member of such city council who is not eligible for such membership,

16 he shall be guilty of a felony, and upon conviction thereof, be  
 17 confined in the penitentiary of this state not less than one nor  
 18 more than five years. The council shall appoint, within ten days  
 19 after their election, one of their number as their chairman or pre-  
 20 siding officer, who shall be known officially as mayor of the city,  
 21 and recognized as such for ceremonial purposes, and for the pur-  
 22 pose of being served with civil processes against the city, and for  
 23 the performance of all duties imposed upon him by this charter.  
 24 A majority vote of all the councilmen elected shall be necessary  
 25 for the election of such chairman. The mayor shall hold his office  
 26 as such at the pleasure of the council.

## CHAPTER 118.

(Senate Bill No. 89.)

AN ACT to create the municipal corporation of the "City of Saint  
 Albans", in the county of Kanawha, defining the powers thereof,  
 and describing the limits of said city, and to grant a charter  
 thereto:

[Passed February 14, 1914. In effect from passage. Became a law without the  
 Governor's approval.]

Sec.	Sec.
1. The city of Saint Albans.	18. Powers of council.
2. Corporation limits and boundaries.	19. Duties of mayor.
3. The common council may designate voting places.	20. Duties of clerk.
4. Officers of city.	21. Duties of solicitor.
5. Common council.	22. Duties of police judge.
6. Elections.	23. Duties of chief of police.
7. First election.	24. Treasurer.
8. Nominations.	25. City manager.
9. Oath of office.	26. Lien for taxes.
10. Council shall prescribe powers and define duties of officers.	27. Licenses.
11. What to do appointing treasurer, clerk and manager.	28. Council shall prescribe manner for granting licenses.
12. Council shall require and take bonds from officers.	29. Franchises may be granted.
13. Council has authority to remove officers.	30. Financial statement.
14. Council to fix time and place of meetings; a quorum.	31. Health.
15. Council record; ordinance book; bonds, where filed.	32. Street improvements; sidewalks.
16. Meeting of council.	33. Petition of owners as to sidewalks.
17. Ordinances, etc. for the expenditure of money, how passed.	34. Paving streets and constructing sewers; sale of bonds, etc.
	35. Sewers.
	36. Petition of owner as to sewer.
	37. Release of liens.
	38. Issue and sell bonds.
	39. Rights and powers to be vested, etc.
	40. Conflicting acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the inhabitants of that portion of the county  
 2 of Kanawha, in the state of West Virginia, within the boundaries  
 3 described in the next succeeding section of this bill, be and they  
 4 are hereby made and created a municipal corporation by the name

5 of "The City of Saint Albans", by which name they shall have  
6 perpetual succession and a common seal, and by which name they  
7 may sue and be sued, plead and be impleaded, contract and be  
8 contracted with, and purchase, or otherwise acquire and hold real  
9 estate and personal property needed in the discharge of the func-  
10 tions of government conferred by law, and the provisions of this  
11 bill.

Sec. 2. The corporate boundaries of the said city shall be  
2 as follows:

3 Beginning at a point at the low water mark on the south side  
4 of the Kanawha river, at the mouth of Coal river, and on the east  
5 side of said Coal river; thence up Coal river, following the mean-  
6 ders of the low water mark on the east side thereof 10,100 ft.  
7 more or less, to a point opposite a sycamore tree, the original  
8 corner of the land formerly owned by Ella A. Drew; thence N.  
9  $70^{\circ}$  E 125 feet to said sycamore; thence with the line of the  
10 land formerly owned by said Ella A. Drew, now owned by C. A.  
11 Zirkle, and following the present corporation line of the town  
12 of Saint Albans N.  $4^{\circ} 50'$  E. crossing the county road on top  
13 of the hill between the waters of Coal and Kanawha rivers at 850  
14 feet in all 1,600 feet more or less, to the intersection of said line  
15 with the west line of Highland road of Ravens Court addition;  
16 thence with the west line of said road 1,200 feet more or less to  
17 the north line of Second avenue of said Ravens Court addition,  
18 to a point on the west side of said road at the intersection of same  
19 with the north line of Second avenue of said addition; thence  
20 S.  $64^{\circ} 40'$  E. crossing said Highland road 1,075 feet to a stake;  
21 thence S.  $57^{\circ}$  E. 170 feet, crossing Fourth street of said addition  
22 to the corner of Fourth street and Second avenue; thence following  
23 the north line of Second avenue, same course, (S.  $57^{\circ}$  E.) 91  
24 feet to the intersection of Second avenue with Third street; thence  
25 following the north line of said Second avenue 860 feet more or  
26 less, to the intersection of Second avenue with the east side of  
27 First street of said Ravens Court addition; thence following the  
28 north line of the proposed continuation of said Second avenue  
29 200 feet more or less to a stone on the John S. Cunningham line;  
30 thence following same N.  $70^{\circ} 15'$  E. crossing the James River and  
31 Kanawha Turnpike at eight hundred and fifty feet crossing the  
32 Chesapeake and Ohio railway right of way at 2,800 feet in all  
33 3,900 feet more or less, to a stake at the low water mark of the  
34 Kanawha river on the south side thereof; thence down the same,

35 following the meanders of the low water mark 7,300 feet more or  
36 less, to the beginning.

Sec. 3. The common council shall designate and provide  
2 one or more voting places in said city and shall have the right to  
3 divide the same into as many voting precincts as may be from  
4 time to time expedient.

Sec. 4. The officers of said city shall be a mayor, six council-  
2 men, a city manager, clerk, who shall be *ex-officio* collector, a  
3 city treasurer, solicitor, police judge and a chief of police. The  
4 mayor and six councilmen shall be elected by the qualified voters  
5 of the said city. The city manager, clerk, treasurer and solicitor  
6 shall be appointed by the council, and the police judge and the  
7 chief of police shall be appointed by the mayor.

8 No person shall be eligible to any elective office unless he is  
9 a qualified voter of said city, nor unless he has resided therein for  
10 at least one year before his election, and he must be a freeholder  
11 of said city, and have paid taxes for the year preceding his elec-  
12 tion on at least three hundred dollars worth of real estate, in his  
13 own or his wife's name. And no person shall be elected to any  
14 office, or retain and hold the same who shall be or become an offi-  
15 cer or employee of any person, firm or corporation holding any  
16 franchise or contract under or with said city.

Sec. 5. The municipal authorities of said city shall consist  
2 of the mayor, and six councilmen, who together shall form a com-  
3 mon council, and all the corporate powers of said city shall be  
4 exercised by said council, or under its authority, except where  
5 otherwise provided.

6 The mayor shall preside at all meetings of the said council,  
7 and in case of his absence the council shall select one of its own  
8 members to preside over its meetings, who shall have a vote in  
9 case of a tie. No presiding officer of said council shall have the  
10 right to vote except in case of a tie, and in no case shall he have  
11 the right to more than one vote.

#### *Elections.*

Sec. 6. Elections shall be conducted under the general law.  
2 The first election held hereunder shall be held the first Tuesday  
3 in April, one thousand nine hundred and seventeen, and annually  
4 thereafter as hereinafter provided. Every person who has been a  
5 *bona-fide* resident of the city for three months next preceding any  
6 election, and otherwise a qualified voter under the constitution

7 and laws of this state, shall be entitled to vote at such election.  
8 The elections shall be held, conducted and the results thereof be  
9 ascertained, returned and determined under such rules and regula-  
10 tions as may be prescribed by the council which shall not be in-  
11 consistent with the general laws of the state governing municipal  
12 elections, and shall conform as nearly as practicable to such laws.  
13 Contested elections shall be tried by council, and the proceedings  
14 therein shall conform as nearly as may be to similar proceedings  
15 in the case of the county and district officers. The council shall  
16 be judge of the election, returns and qualification of its own mem-  
17 bers. In case two or more persons receive an equal number of  
18 votes for the same office, if such number be the highest cast for  
19 such office, the city council shall decide by vote which of them  
20 shall be returned elected, and shall make their return accordingly.  
21 The judges of the first election provided for in this section,  
22 shall consist of three voters and taxpayers of said city, one of  
23 which shall be appointed by the candidates of each of the two  
24 principal parties participating in said election, and the third to  
25 be chosen by the mayor of the town of Saint Albans.

Sec. 7. At the first election provided for in section six, there  
2 shall be elected a mayor, and six councilmen. The mayor shall  
3 be elected for a term of one year, or until his successor is duly  
4 elected and qualified. The two councilmen receiving the highest  
5 number of votes shall serve for a term of three years; and the two  
6 receiving the next highest number of votes shall serve for a term  
7 of two years, and the two receiving the next highest number of  
8 votes, for a term of one year, and thereafter two councilmen shall  
9 be elected annually for a term of three years, and the mayor for  
10 a term of one year, and their term of office shall begin the first  
11 Monday in May, next after said election.

Sec. 8. Nominations may be made by primary elections,  
2 conventions or by petition; but no nominations by petitions shall  
3 be considered valid unless said petition be signed by at least fifty  
4 qualified voters of said city.

#### *Oath of Office.*

Sec. 9. Every person elected or appointed to any office in  
2 said city, shall, within twenty days after his election, or appoint-  
3 ment, and before entering upon the discharge of the duties there-  
4 of, take and subscribe the oath of office prescribed by law for of-  
5 ficers generally, which may be done before the mayor or clerk of

6 said city, or before any person authorized by law to administer  
7 oaths; and the same, together with the certificate of the officer  
8 administering the oath, shall be filed with the clerk of said city  
9 and preserved by him. And if a bond be required by said officer,  
10 he shall likewise give such bond, and with such surety and in such  
11 penalty as the council may fix, and to be approved by the council,  
12 before he shall assume the duties of the office to which he is ap-  
13 pointed or elected.

Sec. 10. The council shall prescribe the powers and define  
2 the duties of all officers by it appointed, except so far as the same  
3 are by this act defined; shall fix their compensation, and may  
4 require and take from them respectively, bonds payable to the  
5 city in its corporate name, with such securities and in such penal-  
6 ties as may be deemed proper, conditioned for the faithful per-  
7 formance of their duties.

Sec. 11. In the appointment of the city treasurer, clerk and  
2 manager, the city council shall receive written applications from  
3 all persons seeking to fill such positions, which application shall  
4 state the compensation for which the applicant agrees to render  
5 his services for the respective positions applied for, and the council  
6 shall in each case appoint such person or persons as in their judg-  
7 ment are competent and qualified to fill the respective positions,  
8 giving preference to the lowest bidder. The council shall have  
9 the right to reject all applicants.

Sec. 12. The council shall require and take from all officers  
2 elected or appointed as aforesaid, whose duty it shall be to re-  
3 ceive funds, assets or property belonging to the city, or having  
4 charge of the same, such bonds, obligations or other writings as  
5 may be deemed necessary and proper to secure the faithful per-  
6 formance of their several duties. All bonds, obligations or other  
7 writings taken in pursuance of any of the provisions of this act  
8 shall be made payable to "The City of Saint Albans," with such  
9 sureties and in such penalties as may be deemed proper, condition-  
10 ed for the faithful performance of their duties, and for the ac-  
11 counting for and paying over as required by law, all monies com-  
12 ing into their hands by virtue of their offices; and the respective  
13 persons and their heirs, executors and assigns bound thereby,  
14 shall be subject to the same proceedings on said bonds, obliga-  
15 tions and other writings, for enforcing the conditions of the terms  
16 thereof, by motion or otherwise, before any court of competent  
17 jurisdiction, held in and for the county of Kanawha, that collect-

18 ors of county levies and other sureties are, or shall be subject to,  
19 on their bonds for enforcing the payment of the county levies.

Sec. 13. The council shall have the authority to remove  
2 from office any elective or appointive officer of the city for mis-  
3 conduct, drunkenness or neglect of duty, by an affirmative vote  
4 of two-thirds of the members of the council; but only after  
5 reasonable notice to such officer, and a hearing of the charges pre-  
6 ferred; and any vacancy in office, however occasioned, may be  
7 filled by the council for the unexpired term or until the next  
8 succeeding election.

Sec. 14. The council shall fix the place and time for hold-  
2 ing its regular meetings; may provide for special and adjourned  
3 meetings; shall have power to compel the attendance of its mem-  
4 bers; and may prescribe rules and regulations not inconsistent  
5 herewith, for the transaction of business and for its own guidance  
6 and government.

7 A majority of the council elected shall be necessary to consti-  
8 tute a quorum for the transaction of business. No member of  
9 the council shall vote upon, or take part in the consideration of  
10 any proposition in which he is, or may be interested otherwise  
11 than as a resident of said city.

Sec. 15. The council shall cause to be kept by the clerk, in  
2 a well bound book to be called the "council record," an accurate  
3 record of all its proceedings, ordinances, acts, orders and resolu-  
4 tions, and in another to be called the "ordinance book," accurate  
5 copies of all the ordinances adopted by the council, both of which  
6 shall be fully indexed and open to the inspection of any one re-  
7 quired to pay taxes to the city or who may be otherwise interestea.  
8 All oaths and bonds of officers of the city and all papers of the  
9 council shall be endorsed, filed and securely kept by the clerk,  
10 except the bond of the clerk, which shall be filed with the mayor.  
11 All printed copies of such ordinances purporting to be published,  
12 under authority of the council, and transcripts of such ordinances,  
13 acts, orders and resolutions, certified by the clerk under the seal  
14 of the city, shall be deemed *prima facie* correct, when sought to  
15 be used as evidence in any court or before any justice.

Sec. 16. At each meeting of the council the proceedings of  
2 the last meeting shall be read, and if erroneous, corrected, and  
3 signed by the presiding officer for the time being. Upon call  
4 of any member, the yeas and nays on any question shall be taken  
5 and recorded in the minute book.



Sec. 17. 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.

*Powers of Council.*

Sec. 18. 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, parks, city buildings or other work or purpose of public utility or necessity. 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, and the said council of said town shall have power to lay off, vacate, close, open, alter, grade and keep in 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 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 for holding the same, provide suitable and convenient buildings therefor, and 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 town limits, or the exercise of any unhealthful or offensive business, trade or employment; to abate all nuisances within the town 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 of any town 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 said city, (it however

33 being understood that section three-a of chapter sixty of the  
34 code of West Virginia, prohibiting stock from running at large  
35 is and shall remain in full force and effect in said city), and as  
36 one means of prevention, to provide for impounding and con-  
37 fining such animals and fowls, and upon failure to reclaim, for  
38 the sale thereof; to preserve order in and about the premises  
39 where and when divine worship is held; to regulate the keeping  
40-41 of gunpowder and other inflammable or dangerous substances;  
42-43 to provide and regulate the building of houses, fences or other  
44-45 structures, and the proper drainage of town lots, and other  
46-47 parcels of land, by or at the expense of the owners or occupants  
48-49 thereof; to provide against damages or danger by fire; to punish  
50 for carrying deadly weapons, and assaults and batteries; to pro-  
51 hibit loitering upon the streets; to prohibit houses of ill-fame,  
52 and to prevent lewd and lascivious conduct, and the sale or  
53 exhibition of indecent pictures or other representations; the des-  
54 ecration of the Sabbath day and profane swearing; the illegal  
55 sale of intoxicating liquors, drinks, mixtures and preparations,  
56 beer, ale, habit forming drugs, wine or drinks of like nature; to  
57 protect the persons of those residing or being within said city;  
58 to build or purchase or lease, and to use a suitable place within  
59 or near said city for the safe keeping or punishment of persons  
60 charged with or convicted of the violation of ordinances; to pro-  
61 vide for the employment of persons convicted of the violations of  
62 ordinances, or who may be committed in default of fines, penalties  
63 or costs and who are otherwise unable to discharge the same by  
64 putting them to work for the benefit of the city, and to use such  
65 means to prevent their escape, while at work, as they may deem  
66 expedient; to erect, or authorize or prohibit the erection of gas  
67 works, electric light works or water works within the city limits,  
68 to prevent injury to such works or the pollution of any gas or  
69 water used or intended to be used by the public or individuals,  
70 and to do all things necessary to adequately supply said city  
71 and the inhabitants thereof with pure, healthful, and wholesome  
72 water; to use, generate, distribute, sell and control electricity  
73 and gas for heat, light, and power, and to furnish light for the  
74 streets, houses, buildings, stores and other places in and about  
75 said city; to provide a sewerage system for said city; to provide  
76 for and regulate the weighing and measuring of hay, coal, lumber  
77 and other articles sold or kept or offered for sale within said  
78 city; to regulate the running and speed of automobiles, engines

79 and cars within said city; to organize one or more fire compa-  
80 nies, and provide necessary apparatus, tools, implements, engines,  
81 or any of them, for their use, and in their discretion to organize  
82 a paid department; to make regulations with respect to the  
83 erection and location of all telephone, electric light or other  
84 poles within said city, and the extension of any wires, lines and  
85 poles by any individuals or corporation; to grant and regulate  
86 all franchises in, upon, over and under streets, alleys, and public  
87 ways of said city, under such restrictions as shall be provided  
88 by ordinance, but no exclusive franchise shall be granted by  
89 said council to any individual or corporation, nor shall any fran-  
90 chise be granted for a longer period than fifty years; to create  
91 by ordinance such committee or boards, and delegate such author-  
92 ity thereto, as may be deemed necessary or advisable; to provide  
93 for the annual assessment of taxable property therein; including  
94 dogs kept in said city, and to provide revenue for the city for  
95 municipal purposes, and to appropriate such revenues to its  
96 expenses; and generally, to take such measures as may be deemed  
97 necessary or advisable to protect the property, public and private,  
98 within the city, and to preserve and promote the health, safety,  
99 comfort, good order and well-being of the inhabitants thereof.

100 The council shall also have power and authority to control  
101 and regulate the construction and repairs of all houses and other  
102 buildings within the city; to provide for granting of building per-  
103 mits; to cause the removal of unsafe walls, and may, upon the pe-  
104 tition of the person or persons owning the greater amount of front-  
105 age of the lots abutting on any street, between any two cross streets  
106 or any square in said city, prohibit the erection on such streets  
107 or in such square, of any building or of any addition to any  
108 building, more than ten feet high, unless the outer walls thereof  
109 be made of brick and mortar or other fire-proof material; and to  
110 provide for the removal of any building or addition which shall  
111 have been erected contrary to such prohibition, at the expense  
112 of the owner thereof, and shall have power to define certain areas  
113 or districts within the corporate limits where no structure other  
114 than such whose outer walls are constructed of fire-proof mate-  
115 rial, and to prevent all unnecessary noises and regulate the blow-  
116 ing of steam whistles in said city. To carry into effect these  
117 enumerated powers and all others by this act or general law  
118 conferred, or which may hereafter be conferred upon the said  
119 city or its council or any of its officers, the said council shall

120 have and possess full authority to make, pass and adopt all  
121 needful ordinances, by-laws, orders and resolutions not re-  
122 pugnant to the constitution and laws of the United States or of  
123 this state; and to enforce any or all of such ordinances, by-laws,  
124 orders or resolutions by prescribing for a violation thereof, fines  
125 and penalties and imprisonment, in either the county jail of  
126 Kanawha county or the city prison; but no fine shall exceed one  
127 hundred dollars, and no term of imprisonment shall exceed  
128 ninety days.

129 Such fines and penalties shall be imposed and recovered, and  
130 such imprisonment inflicted and enforced, by and under the  
131 judgment of the police judge of said city; or, in case of absence  
132 or inability to act, of the clerk of said city, or in case of absence  
133 or inability to act of both of the said officers, of one of the coun-  
134 cilmen, appointed for that purpose by the council.

#### *Duties of the Mayor.*

Sec. 19. The mayor shall be chief executive officer of the  
2 city and shall preside at all meetings of the council, and shall  
3 have a vote in case of a tie. He shall appoint a police judge and  
4 have charge and control of the police department, and he shall see,  
5 except as herein otherwise provided, that the laws and ordinances  
6 of the city are enforced; that the peace and good order of the city  
7 are preserved and that persons and property therein are protected,  
8 and to this end he may cause the arrest and detention of riotous  
9 and disorderly persons, and shall perform such other duties and  
10 services as the council may ordain in addition to the duties pre-  
11 scribed in this act and not inconsistent herewith. The clerk, ex-  
12 cept as herein otherwise provided, shall perform the duties of  
13 the mayor whenever and so long as the mayor is from any cause  
14 not able to perform his official duties, and he shall, in the absence  
15 of the mayor, perform any and all the duties of the mayor except he  
16 shall not preside over the council. If the mayor and clerk are  
17 both absent from the city, or otherwise disabled from performing  
18 the duties of the mayor, the council may elect a mayor *pro tempore*.  
19 The mayor shall have the power at any time to appoint special  
20 policemen, who shall be sworn in without confirmation of the  
21 council.

#### *Clerk.*

Sec. 20. It shall be the duty of the city clerk to keep a  
2 journal of the proceedings of the council, and have charge of and

3 preserve the records, papers, contracts and other documents belong-  
4 ing to the city; it shall be his duty to attend the sessions of the  
5 police court, and keep an accurate record of its proceedings, and all  
6 judgments shall be entered by him, within twenty-four hours af-  
7 ter the same are rendered. He shall, in cases of sickness or disa-  
8 bility of the mayor to act, or in case of his absence from the city,  
9 or during any vacancy in the office of the mayor, perform the  
10 duties of mayor, and shall be vested with all the powers necessary  
11 for the performance of such duties; he shall also perform such  
12 other duties pertaining to the fiscal affairs of the city, or other-  
13 wise, as may be required of him by this act or by the council.

14 As soon as the rate of levy shall have been fixed by council  
15 according to law, the clerk shall fix the tax against the property  
16 situated in the city, in the land and personal property books, in  
17 separate columns in said books.

18 The clerk shall, when the extended copies of the assessor's  
19 books are completed and returned to the clerk of the county court,  
20 have access to the same, for the purpose of making out the tax  
21 tickets of the taxes therein extended, and it shall be the duty of the  
22 clerk to make out all tax tickets, and when the same shall have  
23 been examined, compared and approved by the finance committee  
24 of the council and found to be correct, they shall forthwith be  
25 turned over to the clerk, whose receipt shall be returned to the  
26 council and entered upon its record, and the clerk shall be charged  
27 therewith.

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

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

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

41 The said clerk shall receive all taxes, assessments, fines and  
42 costs, and other money due the city authorized by this act, or by  
43 any ordinance of the said city, to be paid to the city, and shall re-

44 ceipt for the same. He shall keep an accurate account of all money  
45 paid to him for the use of said city, showing under separate ac-  
46 counts the amounts received for account of taxes, sewer purposes,  
47 street pavements, licenses and other bills due the city, fines and  
48 costs and of other matters pertaining to his office, which books  
49 shall at all times be open to the inspection of the council, or to  
50 any committee appointed by it for such purposes; he shall pay  
51 over promptly all money which he may receive, within five days  
52 after the receipt thereof, into the hands of the treasurer of the  
53 said city, showing an itemized statement of the several funds in-  
54 cluded in said payment, taking the treasurer's receipt therefor.  
55 He shall keep his office at the office of the mayor, unless otherwise  
56 ordered by the council and shall keep his office open for the trans-  
57 action of business during the usual business hours, and as may  
58 be directed by council; he shall on or before the first day of Janu-  
59 ary and July of each year and oftener, if directed by council, pre-  
60 sent to the council a full, complete and detailed statement of all  
61 money with which he is chargeable, or that has been received by  
62 him from all sources up to that time, together with a statement  
63 of all money paid to the treasurer and proper receipt therefor; and  
64 he shall at such times return a list of all taxes, levies, assessments  
65 and other claims in his hands for collection which he shall not  
66 have been able to collect by reason of insolvency, removal, or other  
67 cause, to which list he shall append an affidavit that he has used  
68 due diligence to collect the several items therein mentioned, but has  
69 been unable to do so, and if the council should be satisfied as to  
70 the correctness of said list, it shall allow him a credit for said  
71 claims, but may thereafter take such lawful measure to collect  
72 the same as shall be by it prescribed. The said clerk shall receive  
73 all taxes on licenses, and receipt to the party paying the same by  
74 endorsement upon the permit granted by order of the council,  
75 and shall charge himself with the amount received from the same,  
76 and report to the council, at the next regular meeting thereafter,  
77 the amount so received, and pay the same over to the treasurer,  
78 taking his receipt for the same; he shall upon the expiration of  
79 his term of office, or upon the order of council, turn over to his  
80 successor all money, books of account and other property of said  
81 city in his possession.

82 The clerk of said city before entering upon the discharge of  
83 his duties, shall execute a bond, conditioned for the faithful per-

84 formance of the duties of his office, and for the accounting for and  
85 paying over, as required by law, all money which may come into  
86 his hands by virtue of his office, with sureties satisfactory to the  
87 council, payable to "The City of Saint Albans," in a penalty to be  
88 fixed by council sufficient to indemnify the city against any loss  
89 as the council may prescribe. He shall be custodian of all bonds,  
90 notes, certificates and other evidences of indebtedness to the city,  
91 together with all valuable papers which may be placed in his pos-  
92 session by the council, except that the bond of the clerk shall be  
93 deposited with the mayor; he shall be chargeable with, and it shall  
94 be his duty to collect the city taxes, levies and assessments, under  
95 such regulations as may be prescribed by law and the ordinances  
96 of the city, and in case the same are not paid within one year,  
97 after they are placed in his hands for collection, he may distrain  
98 and sell therefor in like manner, and have the same power and  
99 authority possessed by the officer charged with the collection of  
100 state taxes.

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

#### *Solicitor.*

Sec. 21. It shall be the duty of the solicitor to prepare when  
2 directed by council, all ordinances for said city, to represent the  
3 said city in all matters and proceedings in any court, in which  
4 the said city is interested, and advise the said council when re-  
5 quested. He shall receive compensation for his services, to be  
6 fixed by the council.

#### *Duties of Police Judge.*

Sec. 22. The police judge shall be *ex-officio* a justice and  
2 conservator of the peace within the city, and he shall, within the  
3 same, have, possess and exercise all the powers and perform all  
4 the duties vested by law in a justice of the peace, except that he  
5 shall have no jurisdiction in civil causes of action arising out of

6 the corporate limits of the city. He shall have the same power  
7 to issue attachments in civil actions as a justice of his county has,  
8 though the cause of action arose out of the city limits; but in  
9 such case he shall have no power to try the same, but must have  
10 such attachment returnable and heard before some justice of the  
11 county. Any warrant or other process issued by him may be  
12 executed within the same territorial limits as that of a justice of  
13 the county. He shall have power to issue executions for all  
14 fines, costs and penalties imposed by him, or he may require the  
15 immediate payment thereof, and in default of such payment he  
16 may commit the party in default to the jail of the city or the  
17 jail of the county of Kanawha, until the fine, penalty or costs  
18 shall be paid; but the term of imprisonment in such cases shall  
19 not exceed sixty days. The expense of maintaining any person in  
20 the county jail shall be borne by the city, when said person has  
21 been committed to answer indictment. But such police judge  
22 shall not receive any money belonging to the state, or any indi-  
23 vidual, unless he shall give bond and security as required of a  
24 justice of the peace under the laws of the state of West Virginia;  
25 and all provisions under the laws of the state of West Virginia  
26 relating to moneys received by justices shall apply as to like  
27 moneys received by the police judge.

#### *Chief of Police.*

Sec. 23. It shall be the duty of the chief of police to preserve  
2 order and quiet in said city, and to see that all subordinate police  
3 officers faithfully perform their official duties, and he may for  
4 good cause appearing to him, for neglect of duty or insubordina-  
5 tion, suspend any such officer from duty, and report his action and  
6 his reasons therefor, to the next regular meeting of council for  
7 action thereon. He shall make a list of all dogs within said city  
8 liable to tax, collect the license tax thereon and pay the same to  
9 the clerk, as may be provided by ordinance of said city; he shall  
10 be present in the police court whenever the same shall be in ses-  
11 sion, and see that all its orders and requirements are properly  
12 executed; he shall with the consent of the mayor, but not other-  
13 wise, appoint one or more policemen as the mayor may determine;  
14 he shall, before entering upon the discharge of his duties, execute  
15 a bond conditional for the faithful performance by him, of the  
16 duties of his office, and for the accounting for and paying over,  
17 as required by law, all money which may come into his hands by



18 virtue of his office, with sureties satisfactory to the council, in a  
19 penalty as the council may prescribe; he shall receive such salary  
20 as may be fixed by council.

21 In case a violation of any ordinance of said city is committed  
22 in the presence, or within view of the chief of police or other  
23 police officer, the offender may be forthwith apprehended and  
24 taken before the police judge, and a complaint under oath, stating  
25 such violation there lodged and filed; and thereupon such offender  
26 may be tried and dealt with according to law, (without summons).  
27 The chief of police shall execute within the county of Kanawha  
28 when directed to him, any proper process issued by the police  
29 judge in proceedings for the enforcement of ordinances; and shall  
30 collect by levy of execution or otherwise, and duly account for,  
31 all fines assessed and costs imposed in such proceedings. He shall  
32 also have all the rights and powers, within said city in regard to  
33 the arrest of persons, the collection of claims and execution and  
34 return of process, that are or may be lawfully exercised by a con-  
35 stable of a district within the same, and shall be entitled to the  
36 same compensation therefor; and he and his sureties shall be  
37 liable to all fines, penalties and forfeitures, for which a constable  
38 is liable, for any dereliction of duty in office, to be recovered in  
39 the same manner and in the same courts, that such fines, penalties  
40 and forfeitures are recovered against constables. He shall pay  
41 over all fines or sums collected to the clerk forthwith.

#### *Treasurer.*

Sec. 24. The treasurer may be a citizen, a bank or trust com-  
2 pany of said city, and shall be selected by council and shall hold  
3 office during the pleasure of the council. All money due the  
4 city shall be paid to the clerk, and be by the clerk deposited with  
5 the treasurer. The money deposited with the treasurer shall be  
6 disbursed only upon orders drawn against the same, signed by  
7 the mayor and countersigned by the clerk.

8 The treasurer shall receipt to the clerk for all money paid by  
9 him, and shall keep regular books of account, showing the amount  
10 of the several funds paid or deposited with the treasurer by said  
11 clerk, and shall make report to the council once each month, or  
12 at such other times as the council may direct, showing the re-  
13 ceipts and disbursements of the funds of the city, and the treas-  
14 urer shall produce his books and accounts to council or any com-  
15 mittee of the same for inspection, upon the order of the council.

16 The treasurer shall give bond, with security to be approved by  
17 the council, in a sum of not less than five thousand dollars, with  
18 condition that the said treasurer shall account for and pay over  
19 all money received for the account of said city, as may be directed  
20 by the council.

21 Any bank or trust company of said city, is hereby made  
22 eligible to act as treasurer of said city, and the funds of said city  
23 shall be deposited in two or more banks or trust companies of  
24 said city, but not more than sixty per cent of said funds shall be  
25 deposited in any one bank or trust company, and the same shall  
26 be liable for all money deposited therein; *provided, however,*  
27 that the rate of interest paid to said city on such deposit shall not  
28 be less than three per cent per annum.

#### *City Manager.*

Sec. 25. The city manager shall have general supervision  
2 over the streets, alleys, sidewalks, drains and sewers of said city  
3 and of the construction of new streets, alleys, sidewalks, drains  
4 and sewers, and of making changes in the ones existing; and  
5 shall see that the streets are properly lighted in pursuant to con-  
6 tract. It shall be his duty to investigate all applications for new  
7 streets, alleys, sidewalks, drains and sewers and report the same  
8 to the council with his recommendation in regard thereto. He  
9 shall have general supervision of the construction of all streets,  
10 alleys, sidewalks, drains and sewers and the planting of trees and  
11 other improvements which may from time to time be made in  
12 any public street or alley, and to this end, may by and with the  
13 consent of the council appoint such assistants as are necessary in  
14 the faithful performance of his duties herein conferred. It shall  
15 likewise be his duty to report to the council every obstruction  
16 found in any of the streets, alleys, sidewalks, drains or sewers, in  
17 said city, and on such report the mayor shall instruct the police  
18 judge to summons the offender to show cause why the same should  
19 not be removed at the expense of the offender, and why a fine  
20 should not be imposed upon such offender for violation of the  
21 ordinance of said city, in regard thereto. It shall likewise be  
22 the duty of said city manager to supervise and protect all of the  
23 buildings and other property belonging to said city and provide  
24 for the proper heating, cleaning and lighting of said city build-  
25 ings and lockup. He shall have supervision of all the tangible  
26 property of the said city and all the appliances used by the fire

27 department of said city, and he shall see to it that the same are  
28 properly taken care of and kept in proper condition for use.

*Lien for Taxes.*

Sec. 26. There shall be a lien on all real estate and personal  
2 property within said city for the city taxes assessed thereon, and  
3 for all fines and penalties assessed to, or imposed upon the owners  
4 thereof, by the authorities of said city from the time the same  
5 are so assessed or imposed, which shall have priority over all other  
6 liens, except the lien for taxes due the state, county and district;  
7 and which may be enforced by the council in the same manner  
8 provided by law for the enforcement of the lien for county taxes.  
9 If any real estate within said city be returned delinquent for the  
10 non-payment of the delinquent taxes thereon, a copy of such de-  
11 linquent list may be certified by the council to the auditor, and the  
12 same may be sold for the city taxes, interest and commissions  
13 thereon, in the same manner, at the same time and by the same  
14 officer as real estate is sold for the non-payment of state taxes.

*License.*

Sec. 27. The council shall have the authority to require a  
2 city license as follows: For anything to be done, carried on or  
3 exhibited within said city, for which a state license is now, or  
4 may hereafter be required, and for the keeping of automobiles,  
5 hacks, carriages, carts, wagons, and other vehicles for hire within  
6 the city, and for the keeping of dogs within the city, and the  
7 council may provide for the killing of all dogs, the keeping of  
8 which is not so licensed. And upon all such licenses the council  
9 may impose a reasonable tax for the use of the city. This section  
10 shall not be construed to authorize the granting by the common  
11 council of said city of a license to sell at retail, spirituous liquors,  
12 wine, porter, ale or beer or any drink of like nature, without the  
13 consent of the county court of Kanawha county.

Sec. 28. The council shall prescribe by ordinance, the man-  
2 ner in which licenses of all kinds shall be applied for and granted,  
3 and shall require the payment of the tax thereon to be made to  
4 the clerk of said city before delivery to the person applying there-  
5 for, and the provisions of sections thirty-nine, forty, and forty-  
6 one of chapter thirty-six of the acts of one thousand nine hundred  
7 and five, relating to licenses, shall govern the city in the granting

8 of licenses, similar in character to those mentioned, except where  
9 otherwise herein provided. Licenses for keeping dogs shall also  
10 expire on the thirtieth day of June next after they are granted,  
11 and all other licenses may be for such times as the council may  
12 determine.

Sec. 29. Franchises may be granted by the city council to  
2 persons or corporations allowing such occupancy of portions of  
3 the streets and alleys, as may be necessary for works of public  
4 utility and service; but no such franchise shall be hereafter grant-  
5 ed except under the following restrictions and conditions: No  
6 ordinance shall be passed granting any franchise for the use of  
7 any of the streets or alleys of the city for any of the purposes  
8 above named, until the same shall have been filed with the clerk  
9 at least thirty days prior to the time when it is to be acted upon  
10 by council, and notice of such application, stating the object of  
11 such franchise, and when same shall be considered by the council,  
12 shall have been given thirty days notice, by not less than four  
13 consecutive weekly publications in some newspaper of general  
14 circulation published in the city. Nor shall such franchise be  
15 granted within thirty days after the application has been filed,  
16 nor until an opportunity has been given any citizen or corpora-  
17 tion, interested in the granting or refusing of said franchise to  
18 be heard.

19 Nor shall any franchise be hereafter granted by council for  
20 a longer period than fifty years; *provided*, that council shall have  
21 power to renew any such franchise for the term of fifty years  
22 when the same shall have expired. No franchise hereafter grant-  
23 ed for a longer period than fifty years shall be of any force or  
24 validity. No grant of any such franchise shall be made without  
25 at the time of making it, providing that the grantee, its succes-  
26 sors or assigns, shall indemnify the city against all damages  
27 caused by the construction or maintenance of such works.

28 If any corporation, or person to whom a franchise has been  
29 heretofore or may hereafter be granted, or their successors or  
30 assigns, shall fail to comply with the conditions of the ordinance  
31 granting such franchise within one year from the time said condi-  
32 tions are directed to be performed, said franchise shall be and  
33 the same become null and void.

#### *Financial Statement.*

Sec. 30. In the month of August in each year, the council  
2 shall cause to be published in two newspapers of opposite politics

3 in the city, if there be such published therein, at a compensation  
4 not to exceed the rate as provided by law for like publications,  
5 for one issue, or if no such newspaper be published therein, to  
6 publish in pamphlet form not less than one hundred copies of a  
7 sworn statement of the financial condition of said corporation.  
8 Said statement shall be posted in at least five public places in  
9 said city and shall contain a list of the real and personal property  
10 owned by the city, and an itemized account of the receipts and  
11 expenditures of the city, showing the source from which all money  
12 was derived, the name of the person to whom an order was issued,  
13 together with the amount of each order, and why such order was  
14 issued, arranging the same under distinct heads, and also a spe-  
15 cific list of the debts of the city showing the purpose for which  
16 any debt was contracted, the time it became due, the rate of in-  
17 terest, up to what time the interest thereon has been paid, the  
18 amount of money in the treasury at the end of the preceding  
19 administration and debts contracted by it; such statement shall  
20 be prepared by the city every twelve months and shall then be  
21 printed according to the provisions of this section. Either method  
22 of making this report shall be sworn to by the clerk, by the mayor  
23 and members of the finance committee of the council. One copy  
24 of such printed report shall be delivered to the judge of the  
25 circuit court, one to the clerk of the circuit court of Kanawha  
26 county, and to the clerk of the county court, and one shall be  
27 kept as a part of the records of the city, and the remainder shall  
28 be held for distribution as called for by the taxpayers of the  
29 city.

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

### *Health.*

Sec. 31. The council shall have the authority to ordain and  
2 enforce such regulations within said city as shall be necessary  
3 or proper to preserve the health of the inhabitants of said city,  
4 and to secure them from disease; to require and compel the  
5 abatement of and removal of all nuisances within said city at  
6 the expense of the person or persons causing the same, or of  
7 the owner or owners of the ground whereon the same shall be;

8 to prevent or regulate slaughter houses within said city; or the  
9 exercise of any unhealthy or offensive business, trade or employ-  
10 ment therein; to prevent the keeping of any stale meats, fish,  
11 vegetables or other matter or depositing the same, or dirt, rubbish  
12 or offal, upon any lot, street, alley or square within said city, or  
13 upon the banks of any stream within the limits thereof.

14 The council shall have the power, by ordinance, to regulate  
15 the sale of cocaine, morphine, opium and poisonous drugs within  
16 said city, and to prescribe punishment, including fine and im-  
17 prisonment, for the violation of any such ordinance, and to pro-  
18 vide that one or more convictions for violating the same shall  
19 operate as a revocation of the license of any druggist or pharma-  
20 cist holding a license under said city.

21 The council shall, in the month of May, one thousand nine  
22 hundred and seventeen, and in said month of every year thereafter,  
23 appoint a suitable person, who shall be a practicing physician, as  
24 health commissioner, whose term of office shall be for one year  
25 and until his successor is appointed and qualified. The mayor,  
26 clerk and health commissioner shall comprise the board of health  
27 of said city.

28 The board of health shall have power to abate all nuisances  
29 within said city, and it shall do and perform all such other duties  
30 and exercise such other powers as may be required of or conferred  
31 upon them by legal ordinances of said city. The council of said  
32 city shall provide by ordinance the way and method of trying and  
33 abating such nuisances, and shall prescribe all penalties that may  
34 be proper and necessary for such purpose. The board of health  
35 shall have the power to summon witnesses, hear testimony and  
36 to do any and all other things necessary and proper in the per-  
37 formance of such duties under this act and under the general laws  
38 of the state, in such cases made and provided.

#### STREET IMPROVEMENTS.

##### *Sidewalks.*

Sec. 32. After having caused a proper grade to be established  
2 and the necessary grading to be done, at the expense of the said  
3 city, the council may require sidewalks or footways on any streets,  
4 avenues, roads or alleys of the said city to be paved with brick,  
5 stone or such other suitable material and of such widths as the  
6 council may determine, under the direction of the city manager, by

7 the owners respectively of the lots, or the fractional parts of lots  
8 facing or abutting on such sidewalk or footway, or of the real  
9 property next adjacent thereto; and if such owners shall fail or  
10 refuse to pave the same in the manner or within the time required  
11 by the council, it shall be the duty of the council to cause the  
12 same to be done at the expense of the city, and to assess the  
13 amount of such expense upon such owner, and the clerk shall  
14 notify the owner of said lot the amount of such assessment; if  
15 the said assessment be not paid within thirty days from the date of  
16 said notice, he shall cause a memorandum showing the name of  
17 the owner of said lot, a description of the lot and the amount of  
18 such assessment to be filed in the office of the clerk of the county  
19 court of Kanawha county, and the same shall constitute a lien  
20 on such property, which may be enforced by a suit in equity, in  
21 the name of the city, in the circuit court of Kanawha county, as  
22 other liens against real estate are enforced. And upon the payment  
23 of said assessment, the clerk shall issue to the person entitled  
24 thereto a release of said lien; *provided, however,* that reasonable  
25 notice shall first be given to said owners that they are required  
26 to construct such sidewalks or footways. In case the owner is a  
27 non-resident of the city, the notice aforesaid may be given by publi-  
28 cation for four successive weeks in a newspaper published in said  
29 city; or, if there be no newspaper published in said city, then in any  
30 newspaper published in Kanawha county. The provisions of this  
31 section shall also be applicable to needed repairs to any of the  
32 pavements of the city, and to the substitution of new pavements  
33 for any which may have been heretofore, or which may be here-  
34 after laid and completed, and which may be deemed insufficient.  
34-a The council may also require the owners or occupiers of the land  
35 or lots or parts of lots facing upon said avenues, streets, roads, or  
36 alleys to keep such sidewalks clean and in good repair and to  
37 keep the plot of ground on either side of the sidewalk, between  
38 the curb and the property line, sodded with grass and free of  
39 weeds and obstructions and otherwise in good condition and to  
40 plant and care for shade trees along said avenue, street, road or  
41 alley.

Sec. 33. Upon the petition in writing of the owners of not  
2 less than one-half in lineal feet of the property abutting upon  
3 any avenue, street, road or alley asking the city to grade and put  
4 down a sidewalk of brick, stone, concrete or other suitable mate-  
5 rial and offering in said petition to have their property so abut-

6 ting as aforesaid assessed proportionately to pay for the entire  
7 cost of said sidewalk, including the grading, supervision and in-  
8 spection as petitioned for, the council may order such work done  
9 as heretofore provided in section thirty-two and the total cost  
10 thereof be charged to and paid by the owners of the abutting  
11 property as hereinbefore provided.

*Paving of Streets and Constructing Sewers, Sale of Bonds, etc.*

Sec. 34. After having caused a proper grade to be estab-  
2 lished and the necessary grading done and providing for the neces-  
3 sary drainage at the expense of the said city, the city council of  
4 said city of Saint Albans is hereby authorized to order and cause  
5 any avenue, street, road or alley to be paved between and in-  
6 cluding the curb, with brick, wood blocks; asphalt, or other  
7 suitable material, or to be macadamized, or to be otherwise per-  
8 manently improved under the supervision of the city manager or  
9 such other supervision as they shall direct by ordinance, upon the  
10 lowest and best terms to be obtained, by advertising for bids or  
11 proposals therefor; and the cost of such paving or macadamizing  
12 of any of the avenues, streets, roads or alleys thereof shall be as-  
13 sessed to the owners of the lots, or fractional parts of lots, front-  
14 ing and bounding on such avenue, street, road or alley in pro-  
15 portion to the lineal feet so fronting or bounded owned by  
16 each; *provided*, the cost of paving or otherwise improving the in-  
17 tersection of avenues, streets, roads and alleys shall be paid for  
18 by the city and in case the cost of paving any such avenue, street,  
19 road or alley should exceed the true and actual value of the abut-  
20 ting property, the said excess cost shall be paid by the city; and  
21 *provided, further*, that if any such avenue, street, road or alley  
22 be occupied by street car tracks, or tracks of other railways,  
23 the cost of said improvements of the space between the rails, and  
24 two additional feet outside of each rail, shall be borne and paid  
25 entirely by the person or company owning or operating such street  
26 car or other railway line, unless otherwise provided by the fran-  
27 chise of such street car or other railway, granted previous to the  
28 passage of this act.

29 When the city council shall deem it expedient to cause any  
30 avenue, street, road or alley in said city or any portion thereof to  
31 be paved, curbed, or macadamized or otherwise permanently im-  
32 proved, they shall by ordinance order the work done in the fol-  
33 lowing manner and in the following terms:



24 The contract for such improvements shall, after thirty days  
35 notice published in two daily newspapers of opposite politics in the  
36 said city, if there be such, and if not, published in the city of  
37 Charleston, in like manner, be let to the lowest responsible bidder,  
38 but said city shall reserve the right to reject any and all bids there-  
39 for. Before advertising for bids on said work the city council shall  
40 approve of and adopt plans and specifications therefor and the  
41 advertisements for bids and contracts awarded thereon shall refer  
42 to such specifications.

43 The cost of said paving, macadamizing or other permanent  
44 improvements shall be paid for as follows:

45 The said city of Saint Albans is hereby authorized to issue  
46 its bonds for the purpose of providing for the cost of paving,  
47 curbing or macadamizing, or otherwise permanently improving  
48 the avenues, streets, roads and alleys of said city or constructing  
49 sewers for the proper drainage of said city in anticipation of spe-  
50 cial assessments to be made upon the property abutting upon the  
51 avenues, streets, roads and alleys so improved or property so sew-  
52 ered or drained. Such bonds may be in such amount as shall be  
53 sufficient to pay the entire cost and expenses of said improvements,  
54 for which such special assessments are to be levied, and also to pay  
55 the city's proportion of such improvements and said city is author-  
56 ized to sell said bonds but not below the par value thereof. The  
57 amount for which said bonds are issued shall be made up of not  
58 exceeding thirty bonds, payable in two, four, six, eight, ten, twelve,  
59 fourteen, sixteen, eighteen, twenty, twenty-two, twenty-four,  
60 twenty-six, twenty-eight and thirty years, respectively, from the  
61 date of their issue, and shall bear interest not to exceed six per  
62 centum per annum, payable annually; and, in the issuance and  
63 sale of said bonds, the said city shall be governed by the restric-  
64 tions of the constitution and the restrictions and limitations of  
65 the laws of this state relating to the issuance and sale of bonds,  
66 so far as such state laws are not in conflict or inconsistent with  
67 the provisions of this act, and the assessments as herein pro-  
68 vided for shall be applied to the liquidation of the bonds issued  
69 for the purpose herein mentioned, and the interest thereon. If, by  
70 reason of the penalties collected with the delinquent assessments  
71 there be any balance, after the payment of said bonds and all ac-  
72 crued interest and costs, it shall be turned into the city treasury  
73 to the credit of the interest and sinking fund of said city.

74 *Provided*, that such city may, by sale or issue of such bonds,

75 cause the aggregate of its debts of every kind whatsoever to amount  
76 to, but not to exceed, five per centum on the taxable property  
77 therein, and, *provided, further*, that nothing herein contained  
78 shall be considered as authorizing said city on becoming indebted  
79 in any other manner, or for any other purpose, to an amount in-  
80 cluding the existing indebtedness in the aggregate exceeding two  
81 and one-half per centum on the value of the taxable property  
82 herein (as provided in chapter fifty-one of the acts of one thou-  
83 sand nine hundred and five), except for the purpose of paving,  
84 sewerage and otherwise permanently improving the avenues,  
85 streets, roads and alleys of said city, as provided for in this act;  
86 nor shall said city make such issue and sale of bonds without at  
87 the time providing for a collection of a direct annual tax suffi-  
88 cient to pay annually the interest on such debt, and the principal  
89 thereof within and not exceeding thirty years.

90 And it shall be the duty of the city council to immediately  
91 after the completion of the improvements herein mentioned, cer-  
92 tify the assessments herein provided for to the clerk for collection  
93 as herein provided; and a copy of said order shall be certified by  
94 the city clerk to the clerk of the county court of Kanawha county,  
95 who is hereby required to record and index the same in the proper  
96 trust deed book in the name of each person against whose property  
97 assessments appear therein.

98 The amounts so assessed against said abutting lots and owners  
99 thereof, respectively, shall be paid in ten payments, as follows;  
100 that is to say, one-tenth of said amount, together with interest  
101 on the whole assessment for one year, shall be paid into the city  
102 treasury of the city before the first day of the following May; and  
103 a like one-tenth part, together with interest for one year upon  
104 the whole amount remaining unpaid on or before the first day of  
105 May in each succeeding year thereafter, until all has been paid.  
105 May in each succeeding year thereafter, until all has been paid.  
107 per centum per annum, payable annually from the date of assess-  
108 ment. *Provided, however*, that the owner of any abutting land  
109 so assessed on said avenue, street, road or alley, shall have the  
110 right, at any time, to anticipate and pay any such assessment and  
111 interest thereon, and have the lien against the property so assess-  
112 ed released as hereinafter provided.

113 If any such assessment shall not be paid when due, the council  
114 shall cause to be enforced the payment of said assessment and in-  
115 terest in all respects as herein provided for the collection of taxes

116 due the city; and said assessments shall be a lien from the time  
117 the same are recorded in the county clerk's office, upon the prop-  
118 erty liable therefor, the same as for taxes, which lien may be en-  
119 forced in the same manner as provided for the sale of property  
120 for the payment of taxes and tax liens; and the liens herein pro-  
121 vided for shall have priority over all other liens, except those for  
122 taxes due the state and the county, and shall be on a parity with  
123 taxes and assessments due the city.

124 When all of said assessments for paving, curbing, macadamiz-  
125 ing or other permanent improvements, or for sewerage, shall be  
126 paid in full to the clerk, he shall deliver to the owner of said  
127 property a release of the lien therefor, which may be recorded in  
128 the office of the clerk of the county court as other releases of liens  
129 are recorded.

130 Under this plan all of said permanent improvements of said  
131 avenues, streets, roads and alleys of said city, the contractors  
132 shall look only to the city for payment for the work, and in no  
133 sense to the abutting land owners.

#### *Sewers.*

Sec. 35. The council of said city of Saint Albans shall have  
2 the authority under the provisions of ordinances adopted by the  
3 council of said city, to cause all necessary sewers to be constructed  
4 in any or all of the streets, alleys and public grounds of said  
5 city, upon the lowest and best terms to be obtained by the direc-  
6 tion of said council, and shall fix a uniform assessment against  
7 the owners of the real estate, lots or parcels of ground within  
8 said city, abutting or abounding on the streets, alleys or public  
9 grounds, in which sewers are so constructed.

10 The method of advertising for bids for the construction of  
11 said sewers, the assessment of the abutting property and a lien  
12 thereon and the method and terms of payment shall be the same  
13 as herein provided as the payment for the paving of avenues,  
14 streets, roads and alleys; and the council is hereby authorized  
15 to issue bonds under the same conditions and stipulations as  
16 above provided for, for the improvements of streets.

17 The intersections of all streets and alleys shall be provided  
18 with sewers at the expense of the city; but all connections to  
19 sewers in street or alley, to be made by property owner abutting  
20 on said street wherein sewer is constructed. The sums of money  
21 thus assessed for sewer connection shall be a lien on the lots,

22 tracts or parcels of land upon which they are assessed, which  
23 lien may be enforced by a suit in equity in the circuit court  
24 of Kanawha county, to subject the said real estate to the pay-  
25 ment of the sum so assessed against it as herein provided, in  
26 the same manner that judgment liens are enforced.

27 The council shall cause a notice to be published for one week  
28 in some newspaper published in said city, showing the  
28-a owners of the real estate and number of feet owned  
29 by each fronting on said improvement, as well as  
30 the time and place when and where the said council  
31 will proceed to fix said assessments as herein provided,  
32 and giving notice to any person having an interest in  
33 the property so assessed, to appear and show cause, if any he  
34 can, why such assessment should not be made; and the council  
35 may in making or reviewing said assessment consider the peti-  
36 tion of any person, or corporation affected thereby, relative to  
37 the inequality of said assessment, and may equalize and adjust  
38 the same. A copy of the list of such assessments, showing the  
39 name of owner, number of lot, or parcel of land, and the amount  
40 of assessment, attested by the mayor and clerk, shall be recorded  
41 in the office of the clerk of the county court of Kanawha county  
42 within thirty days after the said assessments are approved by  
43 the said council; otherwise, the lien of said assessment shall be  
44 void as to any purchaser of said real estate, for value and with-  
45 out notice, who shall have purchased such real estate, and the  
46 clerk shall execute and deliver on behalf of said city, a release  
47 of such lien, upon the payment in full of said assessment.

48 The funds derived by the said city from assessments for  
49 construction of sewers, as herein provided, shall be  
50 used by said city for sewer construction only, and  
51 the clerk and treasurer shall keep separate accounts  
52 of receipts and disbursements of said fund, and shall  
53 make separate report with respect to said fund from time  
54 to time as the council may direct, and the said clerk and treas-  
55 urer shall be liable to said city, on their official bonds, for the  
56 payment of all money which may come into their hands, re-  
57 spectively, by virtue hereof, and shall pay over the same upon  
58 the proper order of the council.

59 And the said council may by ordinance compel the owners  
60 of lots or parcels of ground, fronting or abutting on any street  
61 or alley in which such sewer is constructed, or has heretofore

62 been constructed under the supervision of such officer as the  
63 council may designate, to connect any residence, store, or ware-  
64 house, factory, or other building occupied by persons as a place  
65 of residence, or for labor, with such sewer within thirty days  
66 after its completion, and may inflict fines and penalties for any  
67 violation of such ordinance.

68 The assessment for the construction of sewers shall not in  
69 any case exceed one dollar for each front foot of land or parcel  
70 of land fronting or abutting on the avenue, street, road or alley  
71 or public ground in which such sewer is constructed and should  
72 the cost of the construction of such sewer exceed one dollar for  
73 each front foot of the abutting property, the amount in excess  
74-75 shall be paid by the city.

76 The sewers heretofore constructed, in any of the streets or  
77 alleys of said city at the expense of the property owners abutting  
78 thereon, and by the authority of said council, may be taken for  
79 public use by said city, and the same may be used subject to  
80 the provisions of the preceding section; but before such sewer  
81 is so occupied by the city, compensation shall be made to the  
82 persons having paid for the same or entitled thereto. Such  
83 compensation shall be determined by the award of three arbitrators,  
84 one selected by the council, one selected by the person or persons  
85 having paid for the construction of said sewer, or his assigns, and  
86-87 the two selected shall choose a third arbitrator, and the said  
88 arbitrators shall, after hearing all evidence as to what would be  
89 a just compensation for such sewer, make their award in writing,  
90 which award shall be final, and entered of record by the council.  
91 The arbitrators so selected and chosen, shall not be interested  
92 in the matters submitted to them other than as taxpayers of  
93 said city. And the owners of any real estate abutting on any  
94 such street or alley, in which any such private sewer has been  
95 constructed by authority of the council, and at their own expense,  
96 shall not be required to pay any assessment levied or assessed  
97 against the same for the construction of a sewer in a street or  
98 alley, in which such private sewer has been so constructed, until  
99 said private sewer is taken by said city and compensation made  
100 therefor as herein provided; and any private sewer so taken by said  
101 city shall be held, used and occupied as provided in the next  
102 preceding section, and the property abutting thereon subject to  
103 the assessments as therein provided.

Sec. 36. Upon the petition in writing of the owners of not

2 less than one-half in lineal feet of the property abutting upon any  
3 avenue, street, road or alley, asking the city to grade, curb and  
4 pave, with suitable material, said avenue, street, road or alley or  
5 to construct a sewer in said avenue, street, road or alley and offer-  
6 ing in said petition to have the property so abutting as aforesaid  
7 assessed to pay for the entire cost of said improvements including  
8 the grading, the cost of intersections, engineering, supervision and  
9 inspection as petitioned for, the council may order such work  
10 done as heretofore provided in section thirty-four, and the total  
11 cost thereof be charged to and paid by the owners of the abutting  
12 property. The council may contract for such paving or sewer  
13 construction or other said improvements, to be done as aforesaid,  
14 and may acquire or take land for street purposes, as aforesaid;  
15 and may if the council so elect, stipulate that the costs thereof,  
16 in whole or in part, shall be paid by the abutting property owners,  
17 in five equal installments to be evidenced by five paving certificates  
18 issued therefor, payable in thirty days, and one, two, three and four  
19 years, respectively, after the date of their issue, and shall bear inter-  
20 est not to exceed six per centum per annum, payable annually, which  
21 certificates, to be signed by the mayor and the clerk, or other person  
22 or persons designated of record by the council, may be sold, either  
23 to the contractor doing the paving or other said improvements, or to  
24 any other person, and which shall cover the entire cost of such  
25 work, or the cost of acquiring or taking land for street purposes,  
26 including the cost of surveys, notices and other things pertaining  
27 thereto; *provided*, the city, in negotiating and selling such certifi-  
28 cates, shall not be held as guarantor or in any way liable for pay-  
29 ment thereof, except upon the direct action of the council as ex-  
30 pressed by resolution of record before such sale. And the certifi-  
31 cates covering the amount of the assessment shall be paid by the  
32 owner of the land, lot or fractional part thereof, so assessed for  
33 the cost of said improvements on such avenue, street, road or  
34 alley so paved or improved, or land acquired or taken, as aforesaid.  
35 The amount specified in said assessment certificate shall be a lien  
36 as aforesaid in the hands of the holder thereof upon the lands,  
37 lot or part of lot so assessed, and shall also be a debt against the  
38 owner of such real estate, and said amount shall draw interest  
39 from the date of said certificates, payable annually; and the  
40 payment of the debt may be enforced as provided by law for the  
41 collection of other debts, or such lien may be enforced as provided  
42 in this act in the name of the holder of such certificate.

43 It is further provided that the city may assume the payment  
44 of such assessments or certificates covering the cost of intersection  
45 and grading or any part thereof as provided in section thirty-  
46 four of this act, or may reimburse the property owners, paying  
47 the same out of its general levy for streets, or any surplus that  
48 remain from any bond issue for street improvements, but there  
49 shall be no legal obligation on the city to do so.

50 After a contract has been made by the council to pave or  
51 otherwise permanently improve any public road, avenue, street  
52 or alley in said city, under this act, and the paving or other  
53 permanent improvements, or any stipulated part thereof, has been  
54 completed, or the cost of acquiring or taking land as aforesaid  
55 has been ascertained, the council shall assess the amount each lot  
56 shall bear, and shall make a written report, stating the number  
57 of lots and the blocks or tracts of land when not laid off into  
58 lots, and the names of the owners of such lots or land when  
59 known, and the amount assessed thereon; and when the said  
60 council approves said report, or modifies it and then approves it,  
61 a copy of said report, so adopted by the council, when certified  
62 to by the city clerk of said city, may be recorded in the clerk's  
63 office of the county court of Kanawha county in a trust deed  
64 book, and shall be a continuing tax lien upon the lot or land  
65 against which the assessment is made until the certificates as  
66 aforesaid are paid, except as otherwise provided in section thirty-  
67 seven of this act, and the clerk shall index the same in the name  
68 of each lot or land owner mentioned therein.

#### *Release of Liens.*

Sec. 37. In addition to the provisions for the release of said  
2 assessment liens, either for street paving or other permanent  
3 street improvements, or construction of sewers, as elsewhere set  
4 out in this act, on the presentation by the land or lot owner of any  
5 of the certificates issued as aforesaid against him or his predeces-  
6 sor in title to such lot, the clerk of the county court shall mark  
7 upon the margin of the trust deed book at which said certified  
8 report is recorded, that the lien is released to the land or lot  
9 mentioned in such certificate to the extent of the amount of the  
10 certificates thus exhibited. And the county clerk shall thereupon  
11 write across the face of each of said certificates the date of their  
12 production to him for the release of lien, and shall sign his name  
13 thereto in his official capacity, for which he shall receive in ad-

14 vance a fee of twenty-five cents for each certificate so marked,  
15 from the person demanding the release of the lien aforesaid; but  
16 if more than one of the serial certificates against the land or lot or  
17 lots shall be produced at the same time, the fee of the county  
18 clerk shall not exceed twenty-five cents for the release of the liens  
19 as to all of the certificates thus produced and relating to the same  
20 real estate.

21 *Provided*, that the owner of any lot or land against which any  
22 paving or sewer certificate is an unreleased lien of record shall  
23 make and produce to the county clerk, or some person for such  
24 owner shall make and produce such affidavit, setting out therein  
25 that such certificate (or certificates) has been paid in full, and,  
26 after diligent search, cannot be found, said county clerk shall,  
27 upon the payment of a fee of twenty-five cents, file and preserve  
28 said affidavit as a public document, and shall forthwith note the  
29 release of said lien to the extent of said lost certificate (or certifi-  
30 cates) and the lots or land against which it is a lien upon the  
31 margin of the trust deed book, as aforesaid, and noting therewith  
32 the filing of said affidavit, which shall operate as a release of such  
33 lien to the extent of such marginal notation. If the affidavit so  
34 filed be false, the person making oath and subscribing thereto  
35 shall be guilty of a felony, and upon conviction thereof shall be  
36 fined not to exceed five hundred dollars, or sentenced to be con-  
37 fined in the penitentiary for a term of not more than one year,  
38 or both, in the discretion of the court passing sentence.

39 *Provided, further*, that any paving or sewer lien, which may  
40 be created in consequence of the provisions of this act, or any  
41 lien which may have heretofore been created in consequence of an  
42 act of which this is an amendment for an assessment, the last  
43 payment of which is not yet due, shall not, under any circum-  
44 stances, be a lien against the lot or land, or fractional part of the  
45 lot or land, against which it may have been assessed and made a  
46 lien, for a longer period than one year after the last assessment  
47 or certificate of the same date and group, representing such lien,  
48 shall have become due and payable, unless some suit or action, at  
49 the termination of said one year period, shall be pending for the  
50 enforcement of such lien, or unless the amount of the lien or  
51 some part thereof is in some way involved in a suit or action pend-  
52 ing at the end of said one year period; and, *provided, further*,  
53 that no such paving or sewer lien heretofore placed to record in  
54 said county court clerk's office for an assessment, the last pay-



55 ment of which is past due, shall remain or be a lien against the  
56 real estate therein described for a longer period than one year  
57 from the time this act takes effect, unless a suit shall be pending  
58 at the end of said one year period for the enforcement of said  
59 lien, or the amount thereof shall in some way be involved in some  
60 action then pending.

61 All of the assessment certificates, which may be issued under  
62 the provisions of this act, shall be made payable at the office of  
63 the treasurer, who shall receive payments thereon when due, if  
64 tendered to him, and interest thereon from the date of such pay-  
65 ments shall cease. The treasurer shall keep a separate and special  
66 account of all said sums of money received by him, and he shall  
67 hold said money in trust for the person who thereafter delivers  
68 to the treasurer for cancellation any and all certificates on which  
69 said treasurer has received full payment as aforesaid; but the  
70 owner of said certificates shall not be entitled to interest on said  
71 sum after the date of payment thereof to the treasurer. When  
72 the whole amount of any such assessment lien shall have been  
73 paid to the treasurer as aforesaid, or the treasurer shall be con-  
74 vinced that all of the paving or sewer certificates against any  
75 land, lot or fractional part of lot, shall have been paid, in full,  
76 he shall, when demanded, execute a release of said lien in the  
77 manner hereinbefore provided for the release of said lien in the  
78 manner hereinbefore provided for the release of paving liens.  
79 If the city shall have no person for treasurer, the clerk, unless  
80 some other person is designated by ordinance, which the council  
81 is hereby authorized to enact, shall perform the duties here re-  
82 quired to be performed.

Sec. 38. It shall be lawful for said city of Saint Albans to  
2 issue and sell its bonds, as provided in this act for the sale of  
3 other paving and sewer bonds, to pay the city's part of the cost  
4 of construction of said sewers, and the paving or other improve-  
5 ments of avenues, streets, roads and alleys, as required by this  
6 act; and said city may levy taxes, in addition to all other taxes,  
7 authorized by law, to pay such bonds and interest thereon;  
8 *provided*, that the total indebtedness of the city for all purposes  
9 shall not exceed five per centum of the total value of all taxable  
10 property therein. It is expressly provided that no bonds shall  
11 be issued under the provisions of this act, unless and until the  
12 question of issuing said bonds shall have first been submitted to  
13 a vote of the people of said city and shall have received three-

14 fifths of all votes cast at said election for and against the same.  
15 The council of said city may provide by ordinance for submitting  
16 to the people at any regular election, or special election called for  
17 that purpose, the question whether or not said city shall be  
18 authorized to issue bonds for the purpose specified in this act;  
19 but the ordinance relating to the issuance of said bonds, and the  
20 submission of the same to the vote of the people, need not specify  
21 in detail the location of the improvements contemplated to be  
22 paid for out of, and the works to be constructed with, the pro-  
23 ceeds of sale of said aggregate issue authorized thereby; and if  
24 at such election the people by their vote thereon shall authorize  
25 the issuance of said bonds, said city council may offer the sale  
26 of same, as needed for said improvements and works, dealing with  
27 all the requirements set forth in this act; and notwithstanding  
28 the provisions of sections two, three and six of chapter forty-  
29 seven-a of the code, it shall be sufficient description of the purpose  
30 for which election is held for the ordinance calling the same or  
31 submitting said question to a vote at any general election, if it  
32 shall recite that it authorizes the city council to issue bonds for  
33 the purpose of paving, curbing, sewerage, or otherwise permanent-  
34 ly improving the avenues, streets, roads and alleys of said city,  
35 authorized by this act, at such times as the city council shall  
36 deem fit or expedient.

37 The provisions of chapter forty-seven-a of the code, concern-  
38 ing bond elections shall, so far as they are not in conflict with the  
39 provisions of this chapter, apply to the bond election and special  
40 election herein provided for.

Sec. 39. The city of Saint Albans, shall succeed to all the  
2 rights, powers and responsibilities, and be vested with the title  
3 to all property of the town of Saint Albans and the town of Saint  
4 Albans as heretofore existing, and all officers of said town acting  
5 as such, at the time this enactment takes effect, shall continue  
6 until the first Monday in May, one thousand nine hundred and  
7 seventeen, or until their successors, the officers herein mentioned,  
8 are elected or appointed and qualified, to exercise the powers, per-  
9 form the duties, and receive the compensation heretofore con-  
10 ferred, prescribed and allowed by former charter, by general law  
11 or by the ordinances of said city. Such ordinances in force at  
12 the time referred to shall continue to have full operation and  
13 effect until amended, repealed or superseded by the council of  
14 said city.

Sec. 40. All acts and parts of acts coming within the purview of this act, and inconsistent herewith, are hereby repealed.

## CHAPTER 119.

(Senate Bill No. 131.)

AN ACT to amend and re-enact sub-section (e) of section nineteen of chapter eighty-eight of the acts of one thousand nine hundred and thirteen, of the legislature of West Virginia, entitled, "An act to amend and re-enact section nineteen of chapter eighty-three of the acts of one thousand nine hundred and eleven, of the legislature of West Virginia, entitled, 'An act to amend and re-enact chapter sixty-six of the acts of one thousand nine hundred and three, and chapter four of the acts of one thousand nine hundred and seven, extraordinary session of the legislature, incorporating the city of Parkersburg, in the county of Wood, and repealing all acts and parts of acts inconsistent or in conflict therewith.' "

[Passed February 7, 1917. In effect from passage. Approved by the Governor February 15, 1917.]

Bond issue for street improvements if deemed expedient by council; amount of bonds; city authorized to sell said bonds; provisions as to price, time and interest; city governed by restrictions of constitution; assessments applied to liquidation of bonds; funds to be invested; how penalties from delinquent instalments may be

used; provision as to aggregate of debts of city; to provide for direct annual tax; not to prohibit indebtedness of city within certain limit; assessments applied to annual tax required to pay interest on debt; if amount insufficient, council shall collect so much of levy as is necessary.

*Be it enacted by the Legislature of West Virginia:*

That sub-section (e) of section nineteen of chapter eighty-eight, of the acts of one thousand nine hundred and thirteen, be amended and re-enacted so as to read as follows:

Sub-section (e). Whenever it is deemed expedient by the  
 2 council to provide for paving, sidewalks, curbing or sewers in  
 3 or upon any of the streets or alleys of the city by the issue and  
 4 sale of bonds of the city, it shall, by resolution entered of record  
 5 on the minutes of its proceedings, so declare and thereupon the  
 6 city shall be and is hereby empowered and authorized to issue  
 7 its bonds for the purpose of providing for paving, laying side-  
 8 walks, curbing the streets and alleys of the city and of construct-  
 9 ing sewers for the proper drainage of said city, in anticipation of  
 10 special assessments to be made upon the property abutting upon

11 the streets and alleys so improved, and upon street car and other  
12 railway companies occupying the said streets or alleys with tracks,  
13 and such bonds may be in such amount as shall be sufficient  
14 to pay the entire cost and expense of said improvements for which  
15 such special assessments are levied; and said city is also authorized  
16 to sell said bonds; *provided*, that the price for which they are  
17 sold shall not be below the par value of said bonds; said bonds  
18 shall be payable not to exceed ten years from the date of the issue  
19 thereof, and shall bear interest at not to exceed six per centum  
20 per annum, payable semi-annually; and in the issuance and sale  
21 of said bonds the city shall be governed by all the restrictions  
22 and limitations of the constitution of this state, and so far as  
23 not in conflict with the provisions of this section by the restric-  
24 tions and limitations of this state with respect to the issuance and  
25 sale of other bonds; and the assessments, as paid and provided  
26 for in this section, shall be applied to the liquidation of said  
27 bonds and the interest thereon and to that end paid to the  
28 trustees of the sinking fund of the city to be by them invested  
29 for the best advantage of the city, anything in any general or  
30 special statute of the state notwithstanding to the contrary; and,  
31 if by reason of penalties collected with the delinquent installments,  
32 there may be any balance after the payment of said bonds and  
33 all accrued interest and costs, said balance shall be turned into  
34 the city treasury to the credit of a fund for street improvements  
35 for said city and used for no other purpose; *provided*, that the  
36 city shall not by the sale or issue of such bonds cause the aggregate  
37 of its debts of every kind whatsoever to exceed five per centum  
38 of the value of the taxable property therein; nor shall said city  
39 make such issue and sale without at the same time providing for  
40 the collection of a direct annual tax sufficient to pay annually  
41 the interest on such debt and principal thereof within and not  
42 exceeding ten years.

43 *Provided, further*, that nothing herein contained shall be  
44 construed to prohibit said city from becoming indebted; but  
45 said city is hereby authorized to become indebted, in any lawful  
46 manner or for any lawful purpose, other than the purpose men-  
47 tioned in this section, to an amount including existing indebt-  
48 edness (and in determining the amount of "existing indebted-  
49 ness", bonds issued for the purposes provided in this section,  
50 shall not be included) in the aggregate not exceeding two and  
51 one-half per cent on the value of the taxable property therein to be

52 ascertained by the last assessment, for state and county taxes  
53 previous to the incurring of said indebtedness.

54 All of the assessments, interest and penalties thereon col-  
55 lected from the abutting property owners on account of the  
56 grading, paving, sewerage or otherwise improving the streets and  
57 alleys of the city, under the provisions of this section, shall  
58 annually be applied to the annual tax required to pay the interest  
59 on such debt, and such principal within and not exceeding ten  
60 years; and in the event that the assessments, interest and penalties  
61 so collected should not amount to a sum sufficient to pay annu-  
62 ally the interest on such debt, and the principal thereof, within  
63 and not exceeding ten years, then the council shall collect so much  
64 of said levy as will pay annually the interest on such debt and  
65 the principal thereof within and not exceeding ten years.

## CHAPTER 120.

(Senate Bill No. 186.)

AN ACT to amend and re-enact sections forty-nine, fifty and fifty-one of an act of the legislature of West Virginia, entitled: "An act to amend and re-enact the act of the legislature of West Virginia passed on the twenty-ninth day of February, one thousand eight hundred and sixty-eight, entitled: 'An act to amend and re-enact the charter of the town of Martinsburg,' and being chapter eighty of the acts of one thousand eight hundred and sixty-eight, amended by chapter forty of the acts of the legislature of West Virginia of one thousand eight hundred and seventy-two, passed the fifteenth day of February, one thousand eight hundred and seventy-two; and as further amended by chapter one hundred and fifty of the acts of one thousand eight hundred and seventy-two passed the twenty-eighth day of February, one thousand eight hundred and seventy-two; as further amended by chapter one hundred and fifty of the acts of one thousand eight hundred and eighty-one, passed on the fourteenth day of March, one thousand eight hundred and eighty-one; as further amended by chapter two hundred and four of the acts of one thousand eight hundred and eighty-two, passed the twenty-seventh day of March, one thousand eight hundred and eighty-two; and as further amended by chapter twenty-nine of the act of one thousand eight hun-

dred and eighty-three, passed the twenty-first day of February, one thousand eight hundred and eighty-three; and as further amended by chapter one hundred and five of the acts of one thousand eight hundred and ninety-seven, passed the twenty-second day of February, one thousand eight hundred and ninety-seven; and as further amended by chapter six of the acts of one thousand nine hundred and nine, passed the twenty-second day of January, one thousand nine hundred and nine; and as further amended by chapter eighty of the acts of one thousand nine hundred and eleven, passed the second day of February, one thousand nine hundred and eleven; and as further amended by chapter eighty of the acts of one thousand nine hundred and thirteen, passed the fifteenth day of February, one thousand nine hundred and thirteen; and to repeal all acts and parts of acts inconsistent with the provisions of this act, and to consolidate into one act, the whole charter of said city," passed on the eleventh day of February, one thousand nine hundred and fifteen, and adding thereto sections forty-six-a and forty-six-b.

[Passed February 15, 1917. In effect from passage. Became a law without the Governor's approval.]

SEC.  
46-a. Council shall have charge of water works; mayor to appoint superintendent and other employees; council to fix and regulate, subject to approval of public service commission, rates for water; power to provide penalties; how water rates are collected.

46-b. Streets or alleys owned by turnpike or other companies subject to council requirements.

49. Paving street or alley, under direc-

SEC.  
tion of council; how to be done; proportion to be paid by city and property owners; sergeant to collect; duty of clerk of county court; how paid, etc.

50. Sewers; under direction of council; when and how constructed and paid for.

51. By ordinance of the council the city may sell, assign and transfer liens acquired; authorized to borrow money, issue bonds, etc.

*Be it enacted by the Legislature of West Virginia:*

That sections forty-nine, fifty and fifty-one of an act of the legislature of West Virginia entitled "An act to amend and re-enact the act of the legislature of West Virginia, passed the twenty-ninth day of February, one thousand, eight hundred and sixty-eight, entitled: 'An act to amend and re-enact the charter of the town of Martinsburg;' and being chapter eighty of the acts of one thousand eight hundred and sixty-eight; as amended by chapter forty of the acts of the legislature of West Virginia, of one thousand eight hundred and seventy-two, passed the fifteenth day of February, one thousand eight hundred and seventy-two; and as further amended by chapter one hundred and fifty of the acts of one thousand eight hun-

dred and seventy-two, passed the twenty-eighth day of February, one thousand eight hundred and seventy-two; as further amended by chapter one hundred and fifty of the acts of one thousand eight hundred and eighty-one, passed on the fourteenth day of March, one thousand eight hundred and eighty-three; and as further amended by chapter one hundred and five of the acts of one thousand eight hundred and eighty-two, passed the twenty-seventh day of March, one thousand eight hundred and eighty-two; and as further amended by chapter twenty-nine of the acts of one thousand eight hundred and eighty-three, passed the twenty-first day of February, one thousand eight hundred and eighty-three; and as further amended by chapter one hundred and five of the acts of one thousand eight hundred and ninety-seven, passed the twenty-second day of February, one thousand eight hundred and ninety-seven; and as further amended by chapter six of the acts of one thousand, nine hundred and nine, passed the twenty-second day of January, one thousand nine hundred and nine; and as further amended by chapter eighty of the acts of one thousand nine hundred and eleven, passed the second day of February, one thousand nine hundred and eleven; and as further amended by chapter eighty of the acts of one thousand nine hundred and thirteen, passed the fifteenth day of February, one thousand nine hundred and thirteen; and to repeal all acts and parts of acts inconsistent with the provisions of this act, and to consolidate into one act, the whole charter of said city," passed on the eleventh day of February, one thousand nine hundred and fifteen, be amended and re-enacted, and sections forty-six-a and forty-six-b be added thereto, so as to read respectively, as follows:

Section 46-a. The council shall have general charge of its water works, and the mayor shall have the power to employ a superintendent of said works, and such other employees and laborers as the council may deem expedient and necessary; and the council shall fix their compensation. The council shall fix and regulate, subject to the approval of the public service commission, the rates and charges for water supplied to all consumers, and shall prescribe such reasonable rules and regulations as may be deemed proper with reference to the use and consumption of water taken from the city mains, the terms and conditions upon which connections to said mains shall be made, and the place and manner thereof. The council shall further have the power to provide penalties, by way of additional charges, for the failure to pay water rates promptly; and to this end, water rates and

15 charges, when assessed in the name of the owner of any real estate,  
16 shall be a lien from the first day of April, of the year in which  
17 same are assessed, upon the said real estate for the benefit of  
18 which the water is furnished, whether the water so furnished be  
19 for the use of the owner, agent or tenant of such real estate; and  
20 the water rates and charges as aforesaid may be distrained for and  
21 collected in the same manner in which the collection of taxes  
22 owing to the city may be enforced. The collection of water rates  
23 and charges may also be enforced by shutting off the supply of  
24 water from delinquents, and the refusal thereafter to furnish water  
25 to delinquents until all arrearages are paid. But the owner of  
26 any property may notify the city in writing that he will not be  
27 responsible for payment of such water rates and charges, in which  
28 case the same shall not become a lien upon the property, nor shall  
29 resort be had upon the owner for payment thereof.

Sec. 46-b. When any road, street or alley in said city is  
2 owned or controlled by any turnpike company or companies, said  
3 company or companies shall be liable for the construction, im-  
4 provement, repair and good order of such roads, streets or alleys,  
5 and the council of the city of Martinsburg may require the same  
6 to be constructed, paved, improved, repaired and kept in good order  
7 and repair by the turnpike company owning or operating the  
8 same; and should the said company owning or operating the same  
8-a refuse or neglect for a period of thirty days to carry out the  
9 order of the council in this regard, then and in that event, the  
10 council, under such agency as it may desire, may proceed to con-  
11 struct, pave, improve, or repair the same, and collect the cost  
12 thereof, with all penalties, liens and conditions, and in the same  
13 manner as provided in section forty-eight hereof.

Sec. 49. Whenever the council may deem it expedient to  
2 cause any street or alley in said city, or portion thereof, to be  
3 paved in a permanent manner, it shall order the work done in the  
4 following manner and upon the following terms: The contract  
5 for such paving shall, after due advertisement, in which the coun-  
6 cil shall reserve the right to reject any and all bids, be let, if let,  
7 to the lowest and best bidder, and the contract shall not become  
8 binding until the contractor shall give a bond in the penalty and  
9 with the conditions as prescribed in sub-section three of section  
10 fifty hereof, for the construction of sewers. The contractor shall  
11 look only to the city for payment for the work, and in no sense  
12 to the abutting land owners. If the council should reject all bids,



13 it may cause the work to be done by the city, by proper ordinance,  
14 under the direction of the mayor and the supervision of the com-  
15 missioner of streets. The total cost of grading and paving any  
16 such street or alley, (except when streets are occupied by street  
17 car tracks, for the distance between the rails and two additional  
18 feet outside of each rail, which portion shall be borne and paid  
19 entirely by the street car company owning or operating such rail-  
20 way and tracks) shall be borne by the city and the abutting  
21 property owner, in the proportions of one-third by the city and  
22 one-third each by the abutting property owner on each side of the  
23 block or street on which said paving shall be constructed, appor-  
24 tioned according to the respective frontage of each owner thereon.  
25 The cost of such paving chargeable to the abutting property is  
26 not to include any portion or amount paid for paving of squares  
27 at intersections of streets, which shall in all cases be borne and  
28 paid by the city.

29 When the paving of any street or alley or portion thereof  
30 shall be completed, it shall be the duty of the commissioner of  
31 streets to cause the several frontages abutting thereon to be meas-  
32 ured, to calculate the assessment upon each and every land owner  
33 so abutting, and to certify the same to the council, showing the  
34 proper amount to be determined as provided in the foregoing  
35 plan. It shall be the duty of the council to examine and com-  
36 pare such assessments, amounts and names so certified to it. There-  
37 upon the council shall give notice by publication for two successive  
38 weeks in some newspaper published in said city that an assessment,  
39 under this act, is about to be laid against abutting property for  
40 paving done on said streets or alleys, describing the location of  
41 such paving. Any owner or owners of abutting property shall have  
42 the right to appear before said council, within three weeks from  
43 the first publication thereof, and move such council to correct  
44 any apportionment or assessment improperly made; which cor-  
45 rections said council shall have the power to make. If found to  
46 be correct, or when rectified, the council shall cause the same to  
47 be entered, together with the description as to the location, front-  
48 age, depth and ownership of the lands, so far as the same may be  
49 ascertained, upon its records; and to enter in its records that  
50 such owners and lots be assessed and chargeable with the amounts  
51 so ascertained to be borne by them, respectively. When so ap-  
52 proved, certified and entered of record, the same shall be and con-  
53 stitute an assessment against said owners and lots for such re-

54 spective amounts. It shall be the duty of the council to immedi-  
55 ately certify such assessment to the sergeant for collection as  
56 hereinbefore provided. A copy of such order shall be certified by  
57 the recorder to the clerk of the county court of Berkeley county,  
58 who shall be required to record and index the same in the proper  
59 deed book in the name of each person against whose property as-  
60 sessments appear therein. The amount so assessed against any  
61 land owners, as aforesaid, shall be paid in ten installments as  
62 follows; that is to say: One-tenth thereof within sixty days  
63 from the date the same is certified to the sergeant; one-tenth there-  
64 of, with interest from day of entry, on the first day of Octo-  
65 ber next ensuing; and one-tenth thereof, with interest from the  
66 date of entry payable October first of each year, on the first day  
67 of October in each year thereafter, until the whole thereof shall  
68 have been paid; *provided, however*, that any owner or owners so  
69 liable for any part of the costs of such paying shall have the right  
70 at any time within sixty days after certification as aforesaid to  
71 anticipate the payment of such installments, or any of them, and  
72 to discount the same for cash on the basis of two and one-half per  
73 cent. To each of such installments of assessments remaining  
74 unpaid in the sergeant's hand at the time specified for such pay-  
75 ment, a penalty of five per cent, together with six per cent per  
76 annum interest until paid, shall be added; and payment thereof  
77 enforced in all respects as hereinbefore provided for the collec-  
78 tion of any other taxes due the city; and such shall be a lien upon  
79 the property liable therefor, the same as for other taxes, and the  
80 lien may be enforced in the same manner as provided for other  
81 taxes.

82 The liens hereinbefore provided for shall have priority over  
83 all other liens, except those for taxes due the state and county,  
84 and shall be on a parity with other taxes and assessments due the  
85 city. Upon payment either to the sergeant, or otherwise, the re-  
86 lease of the lien shall be had and obtained in the same manner  
87 as provided in sub-section nine of section fifty hereof for the pay-  
88 ment of and release of liens for the construction of sewers.

Sec. 50. The terms "sewer", and "sewering", as employed  
2 in this act, shall be construed in their most comprehensive sense,  
3 so as to authorize and include mains, laterals, connections, traps,  
4 incinerating and disposal plants, as well as the paving, repair-  
5 ing and improving streets, and all other necessary, convenient  
6 and useful accessories to a modern, sanitary, and efficient sewer-

7 age system. But it is understood that should a sewer be laid in  
8 a street, highway or alley of the city, which has not been perma-  
9 nently paved, that then the terms above shall not include the  
10 paving, repairing and improving thereof.

11 Whenever the council shall deem it expedient to construct a  
12 public sewer in any one or more city blocks, or any part thereof,  
13 or in any street or alley, or any part of a street or alley; or to  
14 provide at once adequate incinerating and disposal plants,  
15 or any part thereof, for said city, it shall so order, and the im-  
16 provement thus ordered shall be made in accordance with the  
17 following conditions, to-wit:

18 First: The council shall adopt a general, comprehensive  
19 plan for sewerage and sewage disposal, inclusive of incinerating  
20 and disposal plants, approved by some competent sewerage en-  
21 gineer, and of sufficient capacity to serve the whole territory with-  
22 in the city limits.

23 Second: Upon the adoption of such plan the council shall  
24 fix by order, the time when and place where the work upon such  
25 improvement shall be begun, and whether the same shall be un-  
26 dertaken as a whole, or, for the time being, confined to certain  
26-a designated sections, blocks, squares and streets; and if less than  
27 the whole improvement be authorized, the construction of such  
28 part or parts thereof as shall be so ordered shall be executed in  
29 accordance with the specifications therefor embraced in said  
30 general plan, so that when completed the whole shall form a  
31 properly co-ordinated system conforming to said general plan.

32 Third: The contract for such work, whether for the whole  
33 or for parts of said system, shall be submitted to competitive  
34 bidding, after an advertisement of not less than once a week  
35 for two successive weeks in two newspapers published in said  
36 city, and awarded to the lowest and best responsible bidder.  
37 The council, however, shall have the right to reject any and all  
38 bids; and no contract shall be made in pursuance of this author-  
39 ity except upon the express condition that, before the same  
40 becomes binding upon the city, the contractor, or some one  
41 for him, shall enter into and acknowledge bond, with security  
42 to be approved by the council, in a penalty double the price  
43 named in the contract for the work therein specified, with con-  
44 ditions that he will faithfully perform the duties and promptly  
45 and skillfully perform and complete the work provided for in  
46 said contract, and pay all costs and damages that may be sus-

47 tained by said city or by any citizen, inhabitant, resident or  
48 taxpayer thereof, in respect to both persons and property, in  
49 the execution thereof, and save it and them harmless in the  
50 premises. If the council should reject all bids, it may cause  
51 the work to be done by the city, by proper ordinance, under  
52 the direction of the mayor and the supervision of the com-  
53 missioner of streets.

54 Fourth: The contractor shall look alone to the city for  
55 payment for the work covered by such contract.

56 Fifth: The contractor shall receive payment for his ser-  
57 vices, not to exceed the contract price, at such times and in  
58 such sums as the council may by said contract prescribe; but  
59 ten per centum, at least, of the contract price shall be retained  
60 by the council for ninety days after the completion of the work  
61 specified in the contract as additional security for the proper  
62 execution of the work. The contract may contain all such  
63 other safeguards, limitations, provisions and conditions, as are  
64 usual and as to the council may seem fair and right.

65 Sixth: The total cost of the disposal and incinerating  
66 plants, including the acquisition and purchase of the ground, if  
67 any, necessary therefor, as well as the acquisition and purchase  
68 of any other real estate necessary to the work as a whole, shall  
69 be borne by the city.

70 Seventh: The total cost of laying sewers in public squares,  
71 and in squares formed by the intersection of streets and al-  
72 leys, (and in front of all city property) shall be borne by the  
73 city.

74 Eighth: The total cost of all other work incident to laying  
75 such sewer or sewers in any city block or blocks, and in the  
76 streets and alleys of the city, not herein made a special charge  
77 against the city shall be borne by the city and by the abutting  
78 property owners in the proportion of one-third by the city and  
79 one-third each by the abutting property owner on each side of  
80 the block or street in which such sewer shall be constructed,  
81 apportioned according to the respective frontage of each owner  
82 thereon; except that corner lots shall be estimated on a basis  
83 of not exceeding one hundred and fifty feet in depth.

84 Ninth: When said sewer is completed, in whole or in part,  
85 and connected up with the disposal plant ready for use, then,  
86 as to so much and such part or parts thereof as have been so  
87 completed and connected up, the commissioner of streets shall

88 report to the council in writing the total cost, together with a  
89 description of the lots and lands abutting thereon, their loca-  
90 tion, frontage, depth and ownership, so far as ascertainable,  
91 with the amount chargeable against each lot and owner thereof  
92 estimated on the basis above named. The council shall verify  
93 said report, and correct any errors that appear upon the face  
93-a thereof, and give notice by publication once a week for two  
94 successive weeks in two newspapers of opposite politics pub-  
95 lished in said city that, on a day named in said notice, an as-  
96 sessment under this act will be laid against abutting property  
97 and the owners thereof in the amounts and against the owners,  
98 respectively, appearing in said report, for the sewers constructed  
99 in the blocks, streets and alleys in the notice designated. Any  
100 owner or owners of abutting property shall have the right to  
101 appear before the council on or before the day fixed in said  
102 notice and move the review and revision of any such proposed  
103 assessment. The council shall have power, in its discretion, to  
104 make any proper correction and adjustment of the proposed  
105 assessment complained of; *provided*, the application therefor be  
106 made within the time limited by said notice, but not, if made  
107 afterwards. At the expiration of the time fixed by said notice,  
108 if no application for review or revision of any assessment be  
109 pending, or, if pending, then upon the determination thereof,  
110 the council shall proceed to lay an assessment on the basis  
111 aforesaid against the lots and lands abutting on such sewer,  
112 and the respective owners thereof, and cause the same to be  
113 entered upon its records, together with a description thereof  
114 substantially as reported by said commissioner, and from the  
115 date of such entry the amounts so reported, laid and found, shall  
116 constitute an assessment against the lots and lands, and the  
117 owners thereof, and in the amounts therein named, respectively.

118 It is expressly provided, however, that in apportioning said  
119 cost the amount assessed against the abutting property owner  
120 shall in no case exceed a sum equal to a charge of one dollar  
121 per front foot for inside and one dollar and fifty cents per  
122 front foot (calculated to a depth of not exceeding one hundred  
123 and fifty feet) for corner lots.

124 A copy of the order making such assessment, certified by  
125 the city recorder, shall be filed for record with the clerk of the  
126 county court of Berkeley county, and be recorded and indexed  
127 by him in the proper deed-of-trust book, or judgment lien

128 docket, in the name of each owner against whose property as-  
129 sessments appear therein.

130 Immediately upon the entry of such assessments the council  
131 shall certify the same to the sergeant for collection, and from  
132 the time of filing the same for record in the office of the clerk of  
133 the county court such assessments shall be a lien against the  
134 lots and lands in respect to which the assessment was made.

135 The amounts so assessed against said lots and lands and the  
136 owners thereof shall be payable in ten installments as fol-  
137 lows: One-tenth thereof within sixty days from the date the  
138 same is certified to the sergeant for collection; one-tenth there-  
139 of, with interest from date of entry, on the first day of October  
140 next ensuing; and one-tenth thereof, with interest from the  
141 date of entry, payable October first of each year, on the first of  
142 October in each year thereafter, until the whole thereof shall  
143 have been paid; *provided, however*, that any owner or owners  
144 so liable for any part of the costs of such sewers shall have  
145 the right at any time within sixty days after certification as  
146 aforesaid, to anticipate the payment of such installments, or  
147 any of them, and to discount the same for cash on the basis of  
148 two and one-half per cent. To each of said installments re-  
149 maining unpaid at maturity, or to any part thereof, a penalty  
150 of five per cent shall be added, in addition to the interest, and  
151 payment thereof enforced in all respects as provided for the  
152 collection of other city levies; all of which charges, as-  
153 sessments and penalties shall be a lien upon the property liable  
154 therefor the same as other city levies and enforced in the same  
155 manner. The liens herein provided for shall have priority over  
156 all other liens, except for state and county levies, and shall be  
157 on a parity with other taxes and assessments made for the  
158 benefit of the city. Upon payment of any such assessment the  
159 sergeant shall deliver to the party making payment a release  
160 of the lien therefor substantially in the form and to the effect  
161 provided by the statutes of West Virginia for the release of  
162 liens created by deeds of trust, judgments, or otherwise, which  
163 shall be admitted to record by the clerk of the county court  
164 in the same manner as other releases, should such assessment  
165 not be paid to the sergeant, or being paid to him not be turned  
166 over by him to the treasurer, and it be made to appear to the  
167 satisfaction of the council that the same has been actually paid  
168 to any person authorized to receive the same, the council may

169 direct the mayor or recorder, or auditor, or other person  
170 specially designated for the purpose, to execute a release of the  
171 lien securing the same, and the recordation thereof shall re-  
172 lease said lien.

173 Tenth: The owner or owners of any lot abutting upon any  
174 street in said city in which a public sewer is or may hereafter  
175 be laid and constructed, on which lot any business or resi-  
176 dence building is or shall hereafter be erected, and which  
177 building is not otherwise lawfully connected with a public  
178 sewer, a part of the sewerage plan aforesaid, may be required  
179 and compelled by the council, or by the board of health of the  
180 city, to connect such building with such sewer. Notice to so  
181 connect shall be deemed sufficient if given to the owner, lessee,  
182 or occupant of such building. Each day's failure to comply  
183 with such notice, and to make such connection by such owner or  
184 owners, after the lapse of ten days from the day such notice is  
185 given, shall be a misdemeanor, and a separate and new offense  
186 under this act, and each such offender shall be punishable, on  
187 conviction, by a fine of not less than five dollars nor more than  
188 twenty-five dollars. Jurisdiction to hear, try, determine and  
189 sentence for violations of this section is vested in the police  
190 court of said city. Notwithstanding anything herein, however,  
191 if said owner or owners shall fail to comply with such notice,  
192 the council may also, by ordinance, order such connection to be  
193 made at the expense of the owner, and the cost thereof to be  
194 certified to the clerk of the county court of Berkeley county for  
195 record, and the same shall constitute a lien upon the lots and  
196 lands of said owner or owners abutting on such sewer from the  
197 date of filing said certificate for record with the same force  
198 and effect and with the same penalties and remedies as in the  
199 case of the assessments hereinbefore provided for.

200 Eleventh: Whenever the council deems it expedient to per-  
201 manently pave or re-surface any street or alley, or any part  
202 thereof, of said city, not then served by a public sewer, and it  
203 is in the interest of economy that a sewer should first be laid  
204 therein, in anticipation of being later made a part of the gen-  
205 eral sewerage system hereinbefore mentioned, it shall have the  
206 power, and it is hereby authorized, to order the construction of  
207 such sewer and to assess against and collect of the abutting  
208 property owners the same proportion of the cost thereof, upon  
209 the same terms, with the same rights, remedies and penalties in

210 all respects, as provided for the construction of the general  
211 sewerage system hereinbefore set forth; excepting, however,  
212 that the right to lay such assessments and to collect the same  
213 shall not be dependent upon the connection of such sewer with  
214 the disposal plant as a matter precedent to the payment there-  
215 for.

Sec. 51. By ordinance of the council, the city of Martins-  
2 burg may sell, assign and transfer the liens acquired under  
3 either of the two preceding articles, at not less than par, with  
4 or without recourse, to whoever the council may desire, or the  
5 city may retain the liens as part of the assets of the city. The  
6 funds derived from the sale of the liens may be expended only  
7 for the purpose of paying the city's proportionate share of ad-  
8 ditional paving and sewerage; that is to say, that the money de-  
9 rived from the sale of the liens created for grading and paving  
10 the streets, shall be used only for the purpose of paying the city's  
11 proportionate share of additional grading and paving; and the  
12 funds derived from the sale of the liens for sewerage and other  
13 street improvements shall be used only to pay for the city's pro-  
14 portionate share for additional sewerage and other street im-  
15 provements. In case the said money shall not be used for such  
16 purpose or purposes, it shall then be paid by the council, with-  
17 out diminution for any purpose, into the sinking fund created  
18 for the purpose of paying the issue or issues of bonds, author-  
19 ized under this section, for paving or sewerage, or both, which  
20 is made to pay for the work from which the liens were acquired;  
21 or the council may purchase the bonds, or any of them, in which  
22 case, when the bonds are purchased and cancelled, the debt of  
23 the city shall be diminished and extinguished to that amount.

24 The city of Martinsburg is hereby authorized to borrow  
25 money and issue its bonds for the purpose of providing funds  
26 sufficient to pay for any part or the entire cost of paving or  
27 sewerage, or both, as provided in sections forty-nine and fifty  
28 of this act, as the council may determine, and, in either event,  
29 the authorization, submission, election, sale, payment of prin-  
30 cipal and interest, and all other matters shall be done in the  
31 manner provided by sections forty-nine-b, one, two, three, four,  
32 five, six, seven, eight, nine, ten and eleven of chapter forty-seven  
33 of the code of one thousand nine hundred and thirteen. And  
34 at any election held for the purpose of authorizing the issue of  
35 bonds hereunder, an ordinance may be submitted, which shall



36 include not only the issuance of bonds for the purpose of paving  
37 or sewerage, or both, but it may include any other purpose;  
38 *provided*, such ordinance shall comply with sub-division six of  
39 section forty-nine-b, chapter forty-seven, code of one thousand  
40 nine hundred and thirteen, aforesaid.

## CHAPTER 121.

(Senate Bill No. 246.)

AN ACT to incorporate the city of Spencer, in the county of Roane, state of West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said city and the officers of same.

[Passed February 20, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

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| <p>SEC.</p> <ol style="list-style-type: none"> <li>1. City of Spencer; liability as to debt.</li> <li>2. Boundary lines; corporate limits.</li> <li>3. Power to enact and enforce ordinances.</li> <li>4. Power to construct, condemn, purchase, etc.</li> <li>5. May receive bequests, etc.</li> <li>6. Extent of legislative, executive and judicial powers.</li> <li>7. Ordinances that shall remain in force.</li> <li>8. Elective officers and terms.</li> <li>9. Qualification of commissioners.</li> <li>10. Compensation of commissioners.</li> <li>11. Shall take oath of office.</li> <li>12. Commissioners to give bond.</li> <li>13. Mayor, duties of.</li> <li>14. Mayor shall have supervision of health department.</li> <li>15. Police judge, duties of.</li> <li>16. City clerk.</li> <li>17. Board of commissioners.</li> <li>18. Each commissioner to engage in actual work of office.</li> <li>19. Right of appeal to aggrieved person.</li> <li>20. Number and salary of officers, etc.</li> <li>21. Selection of appointive officers; who.</li> <li>22. Removal from, or forfeiture of office.</li> <li>23. City depository.</li> <li>24. Deposits to be secured by bond.</li> <li>25. Power to acquire and sell property.</li> <li>26. Legislative department.</li> <li>26-a. Restrictions as to granting franchise.</li> <li>27. Power to fill vacancy.</li> <li>28. Determine rules of procedure.</li> <li>29. Time for holding meetings.</li> <li>30. Quorum.</li> <li>31. Style of ordinances.</li> </ol> | <p>SEC.</p> <ol style="list-style-type: none"> <li>32. Ordinance to embrace but one subject.</li> <li>33. Ordinances shall take effect.</li> <li>34. Provision for emergency ordinances.</li> <li>34-a. Municipal code.</li> <li>35. Judicial department.</li> <li>36. Police court.</li> <li>37. Ordinances, how enforced.</li> <li>38. Fine, imprisonment, work on the streets.</li> <li>39. Fines, etc., to be the property of the city.</li> <li>40. Style of process.</li> <li>41. Power of commission to remit fines.</li> <li>42. Appeal to circuit court.</li> <li>43. Elections.</li> <li>44. Revenue.</li> <li>45. Licenses may be required.</li> <li>46. City taxes, how collected.</li> <li>47. Lien on real estate for taxes thereon.</li> <li>48. Revenues that may be placed in general fund.</li> <li>49. General provisions.</li> <li>50. Labor and material to be used.</li> <li>51. <i>Prima facie</i> evidence to be used in court.</li> <li>52. Claims against city to be approved.</li> <li>53. Removal under general laws.</li> <li>54. Commissioners may administer oaths.</li> <li>55. Liability for improper payment.</li> <li>56. Conservator of the peace.</li> <li>57. Fiscal year.</li> <li>58. Term of officers of Spencer and Alvord terminate, except.</li> <li>59. City to be divided into wards.</li> <li>60. This act to be ratified by the voters; form of ballot.</li> <li>61. Inconsistent acts repealed.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That the inhabitants of so much of the county of Roane, as is within the boundaries prescribed by section two

3 of this act, and their successors, shall be, and they are hereby  
4 made a body politic and corporate, by the name and style of "The  
5 City of Spencer," and as such, and by that name may contract  
6 and be contracted with, sue and be sued, plead and be impleaded,  
7 answer and be answered unto, and make purchase, take, receive,  
8 hold and use goods and chattels, lands and tenements and choses  
9 in action or any interest, right or estate therein, either for the  
10 proper use of said city, or in trust for the benefit of any person  
11 or corporation therein; and the same may grant, sell, convey,  
12 transfer, let and assign, pledge, mortgage, charge and encumber  
13 in any case, and in any manner, in which it would be lawful for a  
14 private individual so to do, subject to the limitations and provis-  
15 ions of the constitution of the state of West Virginia; and may  
16 have and use a common seal, and alter and remove the same at  
17 pleasure; and generally shall have all the rights, franchises, capac-  
18 ities and powers appertaining to like corporations in this state,  
19 and shall have and succeed to all powers, franchises and immuni-  
20 ties, rights and privileges, which were conferred upon or belonged  
21 or appertained to the town of Spencer and the town of Alvord in  
22 Roane county, by virtue of any act or acts of the legislature of this  
23 state heretofore passed, or which may have been conferred upon  
24 said two towns, or either of them, by the constitution and laws of  
25 this state; and "The City of Spencer" shall have all the rights,  
26 privileges, capacities and powers provided by chapter forty-seven  
27 of the code of West Virginia, as contained in the edition edited  
28 and compiled by Charles E. Hogg, known and cited as "Code  
29 1913," and for which provision is not herein otherwise expressly  
30 made; and "The City of Spencer" shall be liable for all debts and  
31 obligations for which the present corporations known as "The  
32 Town of Spencer" and "The Town of Alvord" are now legally  
33 bound.

Sec. 2. The corporate limits of said city shall hereafter be as  
2 follows: Beginning at west end of bridge on Arnoldsburg pike, at  
3 northwest corner, thence S. 51 50' E 205 feet; to point at east  
4 abutment to said bridge; thence S 35 25' E 107 feet, to point on  
5 east side of cement road; thence S 10 5' E 85 feet, to point at  
6 oak tree east side of road; thence S 23 50' W 137 feet, to point  
7 on east side of road; thence S 28 W 107 feet, to point on east side  
8 of road; thence S 11 35' E 44 feet, to point on east side of road;  
9 thence S 46 E 432 feet, to point on east side of road; then S 70  
10 15' E 197 feet, to point on east side of road; thence S 54 E 189

11 feet, to point on east side of road; thence S 56 40' 586 feet, to  
 12 point on east side of road; thence S 81 15' E 338 feet, to point on  
 13 east side of road; thence N 24 40' E 1013 feet, to point on hill;  
 14 thence N 8 15' W 545 feet, to a hickory tree, thence N 4 4' W 1221  
 15 feet, to a point on top of hill; thence N 57 W 453 feet, to a point  
 16 on top of hill; thence N 38 25' W 171 feet, to a point on top of  
 17 hill; thence N 42 30' W 303 feet, to a point on top of hill; thence  
 18 N 21 5' W 276 feet, to a black oak above corner; thence N 42 W  
 19 1450 feet, to a point at beech stump; thence N 36 50' W 443 feet,  
 20 to a point in road at large stone; thence N 59 W 488 feet, to a  
 21 point on east side of Spring creek; thence N 77 45' W 865 feet,  
 22 to a stake at foot bridge; thence N 50 45' W 83 feet, to sycamore  
 23 tree; thence S 85 35' W 2880 feet, to a point west of concrete  
 24 road; thence S 63 5' W 296 feet, to a chestnut tree; thence S 3  
 25 20' W 2864 feet, to an oak tree east side of Tanner's run road;  
 26 thence N 87 10' W 274 feet, to a rock point; thence S 2 45' E  
 27 1060 feet, to a hickory tree; thence S 74 20' W 315 feet, to a  
 28 point in fence line; thence S 46 30' E 1520 feet, to a point in line;  
 29 thence S 27 E 370 feet, to a point in line; thence S 89 5' E 290  
 30 feet, to a point in line; thence S 71 30' E 321 feet, to a point in  
 31 line; thence S 51 45' E 489 feet, to a point in line; thence S 36  
 32 E 156 feet, to a point in line; thence S 87 E 220 feet, to a point  
 33 in line; thence N 43 20' E 90 feet to a point by Miller's house;  
 34 thence S 41 5' E 52 feet, to a point at side walk; thence N 50  
 35 25' E 83 feet, to a point on creek bank; thence S 38 E 196 feet, to  
 36 a point in street; thence S 5 30' E 68 feet, to a point on the east  
 37 side of Spring creek; thence down Spring creek with meanderings  
 38 thereof on the north side 2598 feet, to the beginning, containing  
 39 about nine hundred acres, as surveyed January twenty-fifth, one  
 40 thousand nine hundred and seventeen.

Sec. 3. The city of Spencer shall have power to enact and  
 2 enforce all ordinances necessary to protect health, life and prop-  
 3 erty and to prevent and summarily abate and remove nuisances and  
 4 to preserve and enforce good government and order for the security  
 5 of the city and its inhabitants; to enact and enforce all ordinances  
 6 upon any subject; *provided*, that no ordinance shall be enacted in-  
 7 consistent with the general laws of this state, the state constitu-  
 8 tion or this charter.

Sec. 4. The city of Spencer shall have power, within and  
 2 without its territorial limits, to construct, condemn and pur-  
 3 chase, acquire, lease, improve, add to, maintain and conduct and

4 operate water works, light plants, power plants, heating plants, in-  
5 cinerating plants, local in use, and everything required therefor for  
6 the use of said city and the inhabitants thereof, and any such sys-  
7 tems, plants, works or ways or any contracts in relation thereto or  
8 in connection therewith that may exist and which said city may de-  
9 sire to purchase may be purchased or acquired by said city, which  
10 may enforce such purchases by proceedings at law or in equity by  
11 right of eminent domain, and said city shall have the power to  
12 issue bonds upon a vote of the taxpaying electors at any special or  
13 general election in any amount necessary to carry out any of said  
14 powers or purposes, said amount being limited only by the constitu-  
15 tion and the laws of the state of West Virginia and by other pro-  
16 visions in this charter.

17 *Provided, however,* that the power to condemn shall not be  
18 exercised for the purpose of acquiring such utilities now existing  
19 and operating under franchises granted by the town of Spencer or  
20 the town of Alvord, except under the terms of said franchise.

Sec. 5. Said city may receive bequests and gifts of all kinds  
2 of property in fee simple or in trust for charitable and public  
3 purposes, and perform all acts necessary to carry out the purposes  
4 of said gifts, bequests, or trusts, with power to manage, sell, lease,  
5 or otherwise dispose of the same in accordance with the terms of  
6 such gifts, bequests or trust.

Sec. 6. The legislative, executive and judicial powers of the  
2 city shall extend to all matters of local and municipal government,  
3 it being the intent hereof that the specification of particular  
4 powers by any other provision of this charter shall never be con-  
5 strued as limiting or impairing the effect of the general grant of  
6 powers hereby made.

Sec. 7. All existing ordinances of the town of Spencer not  
2 inconsistent with this charter or inapplicable under the altered  
3 form of municipal government provided by this charter, shall be  
4 and continue in full force and effect as ordinances of the city of  
5 Spencer, until amended or repealed or until they expire by their  
6 own limitations; and no existing right, action (civil or penal),  
7 suit or proceedings, or contracts, shall be effected in the change  
8 of the form of government of the territory set out in section two  
9 of this act; but all shall continue as though no such change had  
10 taken place; and all debts, penalties and forfeitures which have ac-  
11 crued, or which may hereafter accrue by virtue of anything here-  
12 tofore done or existing, shall inure to the benefit of the city and

13 may be sued for and recovered by said city as though this charter  
14 had not been adopted. Nothing herein, however, shall legalize or  
15 make legal any invalid indebtedness of the town of Spencer or the  
16 town of Alvord heretofore contracted or incurred or impair any  
17 defense against the payment of the same; nor shall the adoption  
18 of this charter in any wise interfere with any proceedings hereto-  
19 fore instituted relating to the levy and collection of taxes, special  
20 assessments, or levies of any nature, or with any proceedings to  
21 enforce the payment of the same, and all contracts heretofore  
22 entered into by the town of Spencer and the town of Alvord shall  
23 remain in full force and effect and be completed under ordinances  
24 existing at the time of the adoption of this charter.

Sec. 8. The elective officers of this city shall be three com-  
2 missioners, namely, the mayor, who is commissioner of public  
3 affairs, the police judge, who is commissioner of public justice,  
4 and the city clerk, who is commissioner of public accounts and  
5 finances, who shall be nominated and elected at large by the quali-  
6 fied electors of the city of Spencer, for a term of three years and  
7 until their successors are elected and qualified: *provided*, that the  
8 commissioners elected at the first election under this charter shall  
9 assume the duties of their respective offices on the first Monday  
10 after their election and their terms of office shall expire as fol-  
11 lows: The term of office of the mayor and commissioner of public  
12 affairs first elected under this charter shall expire on the first  
13 Monday in May, one thousand nine hundred and eighteen; the  
14 term of the office of the police judge and commissioner of public  
15 justice first elected under this charter shall expire on the first  
16 Monday in May, one thousand nine hundred and nineteen; and  
17 the term of office of the city clerk and commissioner of public  
18 accounts and finances first elected under this charter shall ex-  
19 pire on the first Monday in May, one thousand nine hundred and  
20 twenty.

Sec. 9. Each commissioner must be at least twenty-five years  
2 of age, an elector of the city, not in litigation with the city nor in  
3 arrears for city taxes when elected, and not the owner of stock or  
4 bonds of any public service corporation doing business in the city,  
5 and must for one year next preceding the date of his election have  
6 been a *bona fide* resident and taxpayer of the city of Spencer; *pro-*  
7 *vided*, that at the first election held under this charter this pro-  
8 vision as to residence shall be construed so as to make qualified to  
9 hold the office of commissioner any person possessing the quali-

10 fications required by this section who shall have been a *bona fide*  
11 resident and taxpayer for one year next preceding his election with-  
12 in the boundaries set out in section two of this act. The police  
13 judge and commissioner of public justice must be a licensed at-  
14 torney.

Sec. 10. The compensation of each commissioner shall be  
2 thirty-five dollars per month, payable monthly; *provided*, that a  
3 larger or smaller salary may be paid when the amount shall first  
4 be fixed by a majority vote of all the votes of the city of Spencer  
5 cast at a regular annual general election held in said city.

Sec. 11. Each commissioner and all other officers of the city,  
2 shall, before entering upon the discharge of the duties of their  
3 office, take and subscribe the oath of office prescribed for county  
4 officers in this state, and in addition thereto shall also take an  
5 oath that he is not under direct or indirect obligation or promise  
6 to appoint any person to office, position or employment under the  
7 city government.

Sec. 12. Each commissioner, as such, shall give a good and  
2 sufficient bond for the faithful performance of the duties of his  
3 office, in the sum of three thousand five hundred dollars, payable  
4 to the city of Spencer, for the use and benefit of said city, and to  
5 be executed by some surety company duly licensed to do business in  
6 this state or by not less than two good and sufficient sureties, in  
7 such form as the board of commissioners may require, and to be  
8 approved by the other two commissioners; and each of said com-  
9 missioners shall give such additional bond, as the board of com-  
10 missioner may by ordinance require, the cost of such additional  
11 bond to be paid by the city; and all other officers and employees  
12 shall give such bond as may by ordinance be required.

Sec. 13. The mayor, as such, shall be the chief executive of-  
2 ficer of the city, and chairman of the board of commissioners, and  
3 when present shall preside at all meetings of the board. And, in  
4 addition to other duties imposed upon him by state and municipal  
5 laws and the board of commissioners, shall sign the commissions  
6 of all appointive officers, shall endorse the approval of all official  
7 bonds when same shall be approved by the commissioners, sign all  
8 warrants and orders drawn upon the commissioner of public ac-  
9 counts and finances for money, sign all bonds, contracts, convey-  
10 ances and other written obligations of the city and all ordinances  
11 passed by the board of commissioners, and shall cause each of the  
12 above enumerated writings to be attested by the commissioner of

13 public accounts and finances as clerk of the board under the seal  
14 of the city.

Sec. 14. The mayor, as commissioner of public affairs, shall  
2 have supervision of the health department and department of san-  
3 itation; he shall also have charge and be superintendent of the de-  
4 partment of public affairs, which shall include water works, parks,  
5 libraries, cemeteries, public service corporations, operating under  
6 a city franchise; the opening, grading, paving, lighting, cleaning,  
7 repairing and sprinkling of streets, sewers, viaduct and bridge  
8 construction, side-walks and crossings, and the city engineering de-  
9 partment, and shall have charge of all other municipal property  
10 not delegated to other departments. He shall perform such other  
11 duties, not inconsistent herewith, as the board of commissioners  
12 may, from time to time prescribe, and in case of absence from the  
13 city, sickness or inability of the police judge to perform the duties  
14 of his office the mayor shall temporarily act as judge of the police  
15 court.

Sec. 15. The police judge, as commissioner of public justice,  
2 shall be at the head of the department of peace and safety, and  
3 he shall have supervision of the fire department, police department  
4 and legal department. He shall see, except as may be herein oth-  
5 erwise provided, that the laws and ordinances of the city and the  
6 resolutions and orders of the board of commissioners are enforced;  
7 that the peace and good order of the city are preserved; and that  
8 the persons and property therein are protected. He shall be the  
9 legal adviser of the board of commissioners and the chief counsel  
10 for the city in all the courts except the police court of the city. In  
11 case of absence, sickness or inability of the mayor to perform the  
12 duties of his office he shall act as mayor. He shall be the custodian  
13 of the city hall and the city jail, and shall perform such other du-  
14 ties not inconsistent herewith, as may be hereinafter prescribed, or  
15 by the board of commissioners from time to time imposed.

Sec. 16. The city clerk, as commissioner of public accounts  
2 and finances shall have charge of the department of accounting and  
3 finance, which shall include the collection of all municipal taxes,  
4 rents, licenses, fees, and all revenues of the city, from whatsoever  
5 source derived. He shall have charge of all bond issues, assess-  
6 ments, printing and city fiscal affairs generally. He shall be the  
7 purchasing agent for the city, and, subject to the direction of the  
8 board of commissioners and the provisions of this charter, shall  
9 purchase all supplies and make all contracts for city printing. He

10 shall be clerk of the board of commissioners, and as such, perform  
11 such duties as usually devolve upon a city clerk and shall perform  
12 such other duties, not inconsistent herewith, as the board of com-  
13 missioners may, from time to time, prescribe. He shall also be  
14 the city treasurer and have custody of the funds of the city, and  
15 shall pay out the same only upon the order of the board of com-  
16 missioners, duly signed and attested. He shall invest the funds  
17 of the city only in such securities as are provided by the constitu-  
18 tion and laws of the state of West Virginia in such cases made and  
19 provided, and such investments, if any, shall be made only upon  
20 the direction of the board of commissioners, and all uninvested  
21 funds shall be deposited in the city depository in the city of  
22 Spencer.

Sec. 17. The board of commissioners shall have power to  
2 assign duties not specifically named above to any department to  
3 which they may properly belong and by a unanimous vote to trans-  
4 fer duties from one commissioner to another commissioner.

Sec. 18. Each of the commissioners provided for in this  
2 charter shall be required to engage in the actual work of his office  
3 to the extent that his services may be necessary for the full and  
4 proper discharge of his duties thereunder. At all times each com-  
5 missioner shall have absolute, actual management and control of  
6 the affairs of his department and he shall be responsible directly to  
7 the people therefor, and he shall also be held directly responsible  
8 for his vote upon any action taken by the board, by the people of  
9 the city.

Sec. 19. Any person, firm or corporation feeling aggrieved at  
2 the decision or action of any one of the commissioners in the trans-  
3 action of the business of his department, shall have the right to  
4 appeal from said decision to the board of commissioners by serving  
5 written notice of such appeal upon said commissioner within five  
6 days from the time of such decision, and said board of commission-  
7 ers may by a two-thirds vote order the decision or action so appeal-  
8 ed reversed, changed, modified or affirmed: *provided*, that no ap-  
9 peal shall lie to the board of commissioners upon the merits after  
10 conviction of an offense in the police court.

Sec. 20. The board of commissioners shall fix the number  
2 and salary of all officers and employees in each department but  
3 every officer and employee of the city shall be appointed and em-  
4 ployed by the commissioner in whose department their duties mainly  
5 fall and their services are required and such commissioner shall



6 to the people be responsible therefor; and all officers and em-  
7 ployees shall hold their respective positions at the will and pleasure  
8 of the power appointing or employing them.

Sec. 21. All appointive officers and employees of the city  
2 shall be selected with reference to their qualification and fitness and  
3 for the good of the public service, but no person who is a near rela-  
4 tive by blood or marriage, of any of the commissioners or any of the  
5 heads of any of the departments of the city, shall be appointed to  
6 any office or employment under the city, and if any such appoint-  
7 ment be made the same shall be void.

Sec. 22. The receiving, directly or indirectly, by any officer  
2 or employee of said city for his own use and benefit, or any other  
3 use and purpose than is authorized and provided in this charter and  
4 the laws of this state, of any interest, profit or perquisite arising  
5 from the use or loan of public funds in his hands or to be raised  
6 through his agency or department for city purposes, or from the  
7 letting of any contract for any public improvement, or the purchase  
8 of any equipment for the use of any department, shall be deemed  
9 sufficient cause to forfeit the office of said official and any commis-  
10 sioner, officer or employee convicted of so receiving the same shall  
11 then and there forfeit his office and be thereafter disqualified to hold  
12 any office in said city.

Sec. 23. The city depository shall be a bank at Spencer, West  
2 Virginia, making the highest and best bid therefor; said bids shall  
3 be competitive, and sealed, and shall stipulate a contract for the  
4 amount of interest to be charged for loans and overdrafts of the  
5 city and the amount of interest to be paid on daily balances of the  
6 city with such bank and the board of commissioners shall deter-  
7 mine which is the best bid or bids, and shall designate as city depos-  
8 itory the bank making the best competitive bid.

Sec. 24. The city depository shall secure all deposits by giv-  
2 ing a good and sufficient bond with some surety company or com-  
3 panies, to be approved by the board of commissioners. Said bond  
4 shall be in the sum of the probable maximum deposits of the city  
5 at any one time with such depository, and a new bond may be ex-  
6 acted by the board of commissioners at any time when the exist-  
7 ing bond shall be deemed insufficient; *provided*, that the board of  
8 commissioners shall have power to take from such depository in lieu  
9 of such bond, any outstanding bonds or warrants of the city, le-  
10 gally issued and properly assigned, to be held by the commission-  
11 er of public accounts and finances as collateral security, and to the

12 extent of the par value of such warrants or bonds of the city, said  
13 depository shall be relieved from such surety bond.

Sec. 25. The board of commissioners shall have power by two-  
2 thirds vote to purchase and acquire any property, real or personal,  
3 which it deems to be for the best interest of the city, and shall  
4 have power to sell and dispose of any property, real or personal,  
5 now or hereafter owned by the city, but the power herein granted  
6 shall at all times be subject to the following limitations, viz:

7 (1) When the value of the property sought to be purchased  
8 or sold exceeds the sum of six hundred dollars, but does not exceed  
9 the sum of one thousand two hundred dollars, the board of com-  
10 missioners is authorized, *by unanimous vote*, to make such pur-  
11 chase or sale.

12 (2) When the value of the property to be purchased or sold  
13 exceeds the sum of one thousand two hundred dollars, the question  
14 of its purchase or sale shall be first submitted to the electors of the  
15 city at an election called for that purpose, and the question sub-  
16 mitted thereat shall be substantially: "Shall the board of commis-  
17 sioners of the city of Spencer purchase, or sell, (as the case may  
18 be), the following described property, viz:?" (description of prop-  
19 erty); and if the majority of the votes cast in said election shall  
20 be in the affirmative, then the board of commissioners shall have  
21 the power thereby conferred, and not otherwise.

#### *Legislative Department.*

Sec. 26. The legislative powers of the city are hereby vested  
2 in a board composed of the three commissioners herein provided  
3 for, sitting as a board of commissioners. Said board shall have the  
4 power to enact all ordinances for the city, not in conflict with this  
5 charter or the constitution and laws of this state, the intention be-  
6 ing that the said board shall be vested with the power and charged  
7 with the duty of enacting and adopting all laws and ordinances not  
8 inconsistent with this charter, the statutes of this state and the  
9 constitution thereof, touching every subject and matter of local or  
10 general application within the boundaries of the city or within  
11 one mile thereof, within the purview of the local government insti-  
12 tuted by this charter and within the powers granted and conferred  
13 by the constitution and laws of the state of West Virginia.

Sec. 26-a. While the board of commissioners shall be vested  
2 with the legislative powers of the city as set out in section twenty-  
3 six herein, and shall in such capacity exercise such powers as

4 usually devolve upon the council of a city, (*such board of com-*  
5 *missioners shall not grant any franchise to any public service cor-*  
6 *poration desiring to operate in said city, for a period of longer*  
7 *than ten years*); except by unanimous vote of said board of com-  
8 missioners; and in no case shall said board of commissioners grant  
9 any franchise to any public service corporation, or person for  
10 any purpose, for a period of longer than twenty years, unless  
11 the question of the granting of said franchise shall first be sub-  
12 mitted to the electors of the city at an election called for that pur-  
13 pose, the expenses of said election to be paid for by the person or  
14 public service corporation applying for said franchise, unless said  
15 election shall be held at the same time as the regular city election  
16 held annually in said city. And the board of commissioners shall  
17 have power to fix charges and prices for service or commodities of  
18 persons or companies operating public service plants or utilities  
19 by incorporating said prices and charges in any franchise granted;  
20 *provided*, the same shall be under the supervision of the public ser-  
21 vice commission.

Sec. 27. In case of the death, resignation, removal from  
2 office, or removal from the corporate limits of the city of any com-  
3 missioner, or when from any cause the office of any member of the  
4 board may become vacant, the remaining members or member shall  
5 elect a successor or successors to fill the vacancy, who shall hold of-  
6 fice and perform the duties pertaining thereto until the next reg-  
7 ular annual city election, and until a successor is elected by the  
8 people of the city to fill the unexpired term of said commissioner.

Sec. 28. The board of commissioners shall determine its own  
2 rules of procedure, may punish its members for disorderly conduct  
3 and compel their attendance at its meetings; *provided*, that any  
4 commissioner who shall fail to attend at least one meeting in  
5 any month of the board of commissioners shall forfeit his salary  
6 as such commissioner for said month unless said commissioner shall  
7 be excused from said attendance by unanimous vote of the board of  
8 commissioners on account of sickness, physical disability or other  
9 cause; and *provided* further, that any commissioner who shall from  
10 any cause, fail or refuse to perform the duties of his position in-  
11 cluding attendance at the meetings of the board for a period of  
12 three months shall lose his office and the same shall be declared va-  
13 cant by the remaining commissioner or commissioners and said  
14 vacancy filled as herein provided.

Sec. 29. The regular meetings of the board of commission-

2 ers shall be held on the first Monday after the election of the com-  
3 missioners and thereafter at least twice a month, and on such day  
4 and at such hour as shall be designated by ordinance or resolution  
5 of the board. Adjourned meetings may be held and special meet-  
6 ings called at any time by the mayor or by two commissioners as  
7 circumstances may demand.

Sec. 30. Two members of the board shall constitute a quo-  
2 rum and the affirmative vote of two members shall be necessary to  
3 adopt any motion, resolution or ordinance, or pass any measure,  
4 unless a greater number is provided for by this charter. Upon  
5 every motion involving the expenditure of money and for the letting  
6 of any public contract, and on all ordinances, the ayes and nays  
7 shall be taken and recorded, and every ordinance shall be reduced  
8 to writing and read before a vote is taken thereon. The chairman  
9 of the board shall have a vote on all questions, but shall have no  
10 veto power. Every resolution or ordinance passed by the board  
11 shall be signed by the chairman or acting chairman, attested by  
12 the clerk, or acting clerk, and recorded before the same shall be  
13 in force.

Sec. 31. The style of all ordinances shall be: "Be it ordain-  
2 ed by the board of Commissioners of the city of Spencer." Such  
3 caption may be omitted when said ordinances are revised and di-  
4 gested under the order of the board, or when published in book  
5 form.

Sec. 32. Every ordinance shall embrace but one subject,  
2 which shall be clearly expressed in the title. *Provided*, that if any  
3 subject matter be embraced in any ordinance contrary to the pro-  
4 visions of this section, such ordinance shall be void only as to so  
5 much of the ordinance as may not be clearly expressed in the title  
6 thereof. Such subject may be omitted when ordinances are pub-  
7 lished in book form.

Sec. 33. All ordinances passed by the board of commission-  
2 ers, except emergency ordinances, shall take effect and become  
3 valid and binding at the expiration of thirty days from the date of  
4 their passage, unless otherwise provided in this charter.

Sec. 34. The board of commissioners, by unanimous vote,  
2 may pass an emergency ordinance when the public peace, public  
3 health or public safety shall, in the judgment of the board, demand  
4 it. Every emergency ordinance must as a part of the title, contain  
5 the words: "And declaring an emergency," and every such or-

6 dinance shall provide that such ordinance shall take effect and be  
7 in full force immediately upon its passage.

#### *Municipal Code.*

Sec. 34-a. The first board of commissioners elected under  
2 the provisions of this act shall have authority to compile and adopt  
3 *eo instanti* such of the ordinances of the present town of Spencer  
4-5 as may be applicable to the changed form of government under  
6 this charter, change the penalties fixed by said ordinances, and  
7 adopt the same together with such other proper ordinances as they  
8 may deem immediately necessary to preserve the public peace and  
9 insure the general welfare of said city; and publish all of said or-  
10 dinances in one book or pamphlet, in any form directed by said  
11 board of commissioners; and said ordinances when so compiled  
12 shall be in effect in the form compiled, after the tenor thereof, im-  
13 mediately from the date of said compilation, and all ordinances  
14 of the town of Spencer not included in such compilation shall  
15 then cease to be effective in said city.

#### *Judicial Department.*

Sec. 35. The judicial power of the city of Spencer shall be  
2 vested in a police court, which court is hereby created, and the  
3 police judge and commissioner of public justice shall be *ex-officio*  
4 the judge of said court. All trials shall be before said judge  
5 without any jury.

Sec. 36. The police court shall have original and exclusive  
2 jurisdiction to hear and determine all offenses against the or-  
3 dinances or the charter of the city of Spencer; and of all civil  
4 actions and proceedings arising out of a violation of the ordi-  
5 nances and charter of said city; and for the collection of all li-  
6 censes, fees, rents or other revenues required by ordinances ex-  
7 cept such actions and proceedings as fall within the exclusive  
8 jurisdiction of other courts under the provisions of the constitu-  
9 tion and laws of this state.

Sec. 37. The ordinances of the city of Spencer shall be  
2 enforced by the imposition of fines, forfeitures or penalties  
3 against any person violating such ordinances, or any of them;  
4 and the commissioners shall prescribe in each particular ordi-  
5 nance made for that purpose, the minimum and maximum fine  
6 for the infraction thereof, which maximum shall not exceed one

7 hundred dollars, exclusive of costs, for any one specific offense.  
8 The same costs shall be taxed in each criminal case tried in the  
9 police court as is provided by law to be taxed by justices of the  
10 peace in the trial of misdemeanor cases coming under the jur-  
11 isdiction of justices of the peace, except that in every contested  
12 criminal case, the police judge may also tax an attorney fee of not  
13 exceeding five dollars, to be paid to the city prosecutor for his  
14 services in said case, if a conviction be had in said case.

Sec. 38. The police court may provide in all judgments  
2 of conviction for the violation of any ordinance of the city a fine,  
3 and that the person against whom said fine is assessed shall be im-  
4 prisoned until the fine and costs of prosecution shall be paid or the  
5 same are remitted by the police judge or board of commissioners.  
6 And any person committed for the non-payment of fine and costs,  
7 while in custody, may be compelled to work on the streets, alleys,  
8 public grounds or works until such fine and costs are paid al-  
9 lowing one dollar per day for the work of said prisoner to apply  
10 on said fine and costs.

Sec. 39. All fines, penalties, forfeitures and collections of  
2 every kind made by the police judge shall be the property of the  
3 city and shall be deposited with the commissioner of public ac-  
4 counts and finances, within ten days after the collection thereof,  
5 to be by him applied to the proper fund of the city as may by  
6 ordinance be required.

Sec. 40. The style of all process of the police court shall  
2 run in the name of the city of Spencer.

Sec. 41. The board of commissioners shall have the power  
2 to remit fines and grant pardons after conviction in the police  
3 court.

Sec. 42. Appeals from the police court shall lie to the cir-  
2 cuit or criminal court of Roane county, as is now or may be  
3 provided by the statutes of this state governing appeals from  
4 police courts to circuit or criminal courts.

#### *Elections.*

Sec. 43. Candidates to be voted for at all city elections at  
2 which any or all of the commissioners provided for by this act  
3 are to be elected, shall be nominated by a primary election, and  
4 no other names shall be printed upon the general ballot, except  
5 those selected in the manner hereinafter prescribed. The pri-  
6 mary election for such nominations shall be held on the second

7 Tuesday preceding the general city election. Two judges of  
 8 election of opposite political faith shall be appointed by the com-  
 9 missioners for each polling precinct for the general city election,  
 10 and such judges shall be judges of the primary election, and it  
 11 shall be held at the same place, so far as possible, and the polls  
 12 shall be opened and closed at the same hours. The council of the  
 13 town of Spencer, as constituted at the passage of this act, shall ap-  
 14 point the judges for the first primary and general city election  
 15 to be held hereunder.

16 Any person desiring to become a candidate for commis-  
 17 sioner shall, at least ten days prior to said primary election, file  
 18 with the city clerk a statement of such candidacy, in substantially  
 19 the following form:

20 State of West Virginia, county of Roane, ss:

21 I ....., being first duly sworn, say that I  
 22 reside on ..... street in the city of Spencer, West  
 23 Virginia; that I have been for one year next preceding the com-  
 24 ing general city election a *bona fide* resident within the corporate  
 25 limits of said city and am a qualified voter and taxpayer therein;  
 26 that I am a candidate for nomination to the office of commissioner  
 27 of ..... to be voted upon at the primary elec-  
 28 tion to be held on Tuesday, the ..... day of .....,  
 29 19...., and I hereby request that my name be printed upon the  
 30 official primary ballot for nomination by such primary election  
 31 for such office.

32 Signed.....

33 Subscribed and sworn to before me this ..... day of  
 34 ....., 19....

35 Signed .....

36 Notary Public.

37 Immediately upon the expiration of the time of filing the  
 38 statements of candidates, the city clerk shall cause to be pub-  
 39 lished at least one time in each weekly newspaper published in the  
 40 city, in proper form, the names of persons as they appear upon  
 41 the primary ballot, said names to be placed upon said ballot in  
 42 the order in which the candidates' statements were filed; and  
 43 the said clerk shall thereupon cause the primary ballots to be  
 44 printed. Upon said ballot shall first appear the name of the office  
 45 to be voted for, following which and below same shall appear the  
 46 words, "Vote for one" in parenthesis, following which and be-  
 47 low same shall appear the names of the candidates, each on a sep-

48 arate line with a square at the left of each name. The ballots  
49 shall be in substantially the following form:

50 (Place a cross in the square preceding the names of the par-  
51 ties you favor as candidates)

52 OFFICIAL PRIMARY BALLOT.

53 For Mayor and Commissioner of Public Affairs.

54 (Vote for One)

55 (Name of Candidate)

56 For Police Judge and Commissioner of Public Justice.

57 (Vote for One)

58 (Name of Candidate)

59 For City Clerk and Commissioner of Public Accounts and  
60 Finances.

61 (Vote for One)

62 (Name of Candidate)

63 Official ballot, attest:

64 .....*City Clerk.*

65 (*Or Acting City Clerk.*)

66 Having caused said ballot to be printed, the city clerk, or  
67 acting city clerk, shall cause to be delivered at each polling pre-  
68 cinct a number of said ballots equal to twice the number of votes  
69 cast in such polling precinct for mayor at the preceding general  
70 city election; *provided*, that at the first election held under the  
71 provisions of this act there shall be delivered at each polling pre-  
72 cinct on the day of said election, if two polling precincts be des-  
73 igned by the present council of the town of Spencer, at least  
74 five hundred ballots, and if only one polling precinct shall have  
75 been designated by said council, there shall be delivered to said  
76 polling precinct by the recorder of the town of Spencer as acting  
77 city clerk, not less than one thousand ballots. The persons who  
78 are qualified to vote at the general city election shall be qualified  
79 to vote at the primary election and challenges can be made by not  
80 more than two persons at each polling precinct, to be appointed  
81 at the time of the opening of the polls by the judges of election;  
82 and the general law applicable to challengers at general municipal  
83 elections shall be applicable to challengers made at such primary  
84 election. Judges of election shall immediately upon the closing  
85 of the polls, count the ballots and ascertain the number of votes  
86 cast in such precinct for each of the candidates, and make return  
87 thereof to the city clerk within fifteen hours of the closing of



88 the polls. On the day following the said primary election the  
89 said clerk and the other commissioners of the city (at the first  
90 primary and general elections held hereunder, the recorder and  
91 council of the town of Spencer) shall canvass the returns from  
92 all polliny precincts publicly and shall announce and publish in  
93 two newspapers in said city at least once, the result thereof. The  
94 two candidates receiving the highest number of votes in said pri-  
95 mary for each office voted upon shall be the candidates, and the  
96 only candidates whose names shall be placed upon the ballot at the  
97 succeeding general election. *Provided*, that in the event any  
98 candidate entitled under the foregoing provisions to become a  
99 candidate at the next succeeding general city election shall become  
100 ineligible or decline to allow his name to appear on the official  
101 ballot therefor, the candidate for such office standing next in or-  
102 der in the computation of votes shall succeed to his rights with  
103 respect thereto; and, *provided, further*, that in the event any  
104 candidate shall receive a majority of all the votes cast for the  
105 office for which he is a candidate, he shall be the candidate and  
106 the only candidate whose name shall be placed upon the ballot  
107 for such office at the succeeding general city election.

108 The general city election shall be held and conducted annu-  
109 ally on the third Tuesday in April of each year, *provided*, that  
110 the first general city election held under the provisions of this  
111 act shall be held on the second Tuesday after this act  
111-a shall be ratified by the people of said city. Said general  
112 city election shall be held and conducted, the ballots arranged,  
113 printed and distributed and the returns thereof made in the  
114 manner and within the same time as is provided herein for pri-  
115 mary elections and the candidate receiving the highest number  
116 of votes cast for each office voted upon shall be declared elected  
117 thereto and shall take charge of his office on the first Monday  
118 in May following his election; *provided*, that the first officials  
119 elected under the provisions of this act shall be inducted into  
120 office on the first Monday following their election. In the  
121 event of a tie between two candidates for any office at a general  
122 city election they shall cast lots to determine who shall be elected  
123 thereto. The expenses attending the holding of said primary  
124 and all other elections shall be borne by the city unless otherwise  
125 provided herein. The persons entitled to vote at said primary  
126 and general elections shall be qualified voters of Roane county,  
127 West Virginia, and residents of the boundaries embraced in sec-

128 tion two of this act for at least six months preceding said pri-  
129 mary or general election.

*Revenues.*

Sec. 44. The commissioner of public accounts and finances  
2 shall, on or before the first day of August, in each year, prepare  
3 and submit to the board of commissioners an estimate of the  
4 amount of money necessary and advisable to be expended by the  
5 city for the current year next ensuing, and to be provided for by  
6 the tax levy as herein provided for such current year, in which  
7 estimate said commissioners shall ascertain and present a detailed  
8 and itemized account or estimate of the money necessary to  
9 pay interest on the bonded indebtedness of the city, the amount  
10 required for the several sinking funds for the reduction of the  
11 principal thereof, the amount to be expended severally by the  
12 department of public affairs, the department of public justice and  
13 the department of public accounts and finances, (the amounts to  
14 be expended by each of the other two departments to be fur-  
15 nished said commissioner of public accounts and finances by the  
16 commissioner having charge of each department), together with  
17 a statement of the probable contingent expenses and miscellaneous  
18 expenses and including in said estimate an itemized statement  
19 of the estimated receipts, other than that to be derived from the  
20 annual levy, and after receiving such estimate, and before making  
21 the levy, the board of commissioners shall apportion the  
21-a rate thereof, (including estimated receipts from licenses and  
22 all other sources), among the several funds so ascertained and pro-  
23 vided for, which said apportionment when adopted, shall be spread  
24 upon the records of the board of commissioners. Upon the esti-  
25 mate of such expenses, the board of commissioners shall there-  
26 upon, by an ordinance, lay a levy for the ensuing tax year of a  
27 sum not to exceed fifty-five cents on each one hundred dollars  
28 assessed valuation of all taxable property, real and personal, sub-  
29 ject to taxation in said city, as well as a capitation tax not to  
30 exceed two dollars upon every male inhabitant of said city over  
31 the age of twenty-one years who is subject to a capitation tax  
32 under the laws of the state of West Virginia, and said board of  
33 commissioners is authorized to levy to such maximum of fifty-  
34 five cents on each one hundred dollars of valuation, notwithstand-  
35 ing any general laws now in force, or which may be enacted, re-  
36 stricting the powers of municipal corporations to levy taxes.

Sec. 45. Whenever anything for which a state license is  
2 required, is to be done within said city, or within one mile of the  
3 corporate limits thereof, the board of commissioners, as herein  
4 provided, may require a city license to be had for doing the same,  
4-a except that no license taxes shall be levied by said city under  
4-b paragraphs "r" and "s" of section two of chapter thirty-two of the  
5 code and may, in any case require from any person licensed a bond  
6 with sureties, and in such penalty and with such conditions as it  
7 may deem proper, and the board of commissioners may on notice  
8 revoke such license if the conditions of such bond are broken, or  
9 for any other good cause. The city authorities may prescribe, im-  
10 pose and enforce a fine, under order of the police judge of said  
11 city upon any person carrying on or attempting to carry on any  
12 business or doing anything for which a city license may by or-  
13 dinance be required, without first obtaining a city license there-  
14 for and paying the city license tax assessed thereon. All licenses  
15 shall be paid to the commissioner of public accounts and finances.  
16 For the purpose of enforcing the provisions of this section the  
17 city shall have police jurisdiction for one mile beyond the cor-  
18 porate limits of the city.

Sec. 46. The city taxes annually levied by the board of com-  
2 missioners shall be collected as follows: Immediately after the  
3 annual levy for city taxes is laid, the city clerk shall extend the  
4 same on the property books made out by him, including thereon  
5 the proper capitation taxes. He shall make out proper tax tick-  
6 ets in the following manner, that is to say: There shall be a sin-  
7 gle ticket for the whole amount charged to any person, firm or  
8 corporation, and after the tickets have been examined and com-  
9 pared and found to be correct by the board of commissioners,  
10 they shall be turned over to the city clerk and commissioner of  
11 public accounts and finances, and said city clerk shall then give  
12 notice, by publication or posting for at least ten days, stating that  
13 the tax tickets are in his hands for collection, the penalty for the  
14 non-payment thereof, and the time and place where the same may  
15 be paid; *provided, however,* that the tax-payer shall have the  
16 right to anticipate the payment of the whole or any part of the  
17 taxes as assessed. Immediately upon the payment of said taxes,  
18 or any part thereof, the said amount shall be deposited by the  
19 commissioner of public accounts and finances in the city depos-  
20 itory to the credit of the "City of Spencer." All taxes shall be  
21 due and payable within thirty days after the expiration of the

22 notice posted by the city clerk, as hereinbefore set forth, and  
23 in case the same are not paid within said time, he may distrain  
24 and sell therefor, in like manner as the officer collecting the state  
25 taxes may distrain therefor, and he shall have in all other re-  
26 spects the same power to enforce the payment and collection there-  
27 of. On all tickets remaining uncollected in the hands of the  
28 commissioner of public accounts and finances, thirty days after  
29 the date of the expiration of the notice posted by him, there shall  
30 be added and collectable, ten per cent interest until paid; *pro-*  
31 *vided, however,* that the board of commissioners shall have the  
32 power any year, by resolution, to extend the time that such tax  
33 tickets may remain in the city clerk's hands and to be paid to  
34 him, before adding the interest, for a period not to exceed ninety  
35 days. The board of commissioners may by ordinance allow a  
36 discount for prompt payment of taxes. The city clerk and com-  
37 missioner of public accounts and finances shall have the power  
38 to collect said taxes so placed in his hands together with the in-  
39 terest thereon, heretofore provided, to be added thereto. The  
40 commissioner of public accounts and finances shall be charged  
41 with the gross amount of all tax tickets delivered to him for col-  
42 lection, and no deduction therefrom shall be allowed, unless on  
43 or before the first day of June of each year he makes out and pub-  
44 lishes at least once in two newspapers of opposite politics in said  
45 city, and returns to the board of commissioners a delinquent list  
46 of the taxes uncollected for the year previous, with his oath at-  
47 tached thereto, stating that such delinquent list is correct and  
48 just, that he has received no part of the taxes mentioned thereon,  
49 that he has used due diligence to find the property to distress for  
50 said taxes and has found none, and that same are uncollectable.  
51 Interest, provided for in this section, to be added to such taxes,  
52 shall not be deemed or considered any part of the limitation in  
53 this act hereinbefore prescribed, restricting the annual city levy to  
54 fifty-five cents on each one hundred dollars valuation. The com-  
55 missioner of public accounts and finances shall not take or col-  
56 lect anything but money for the payment of taxes and city reve-  
57 nues.

Sec. 47. There shall be a lien upon all real estate within  
2 said city for the city' taxes assessed thereon, including such pen-  
3 alties and interest added thereto for non-payment thereof as are  
4 prescribed by this act, from the first day of January of the year  
5 in which said taxes are assessed. Said liens may be enforced in

6 any court of record in Roane county by appropriate suit; *provided*,  
7 such suit be entered within five years from the time said liens at-  
8 tached as herein provided, and such suit may be either by and in  
9 the name of the city of Spencer as plaintiff, or said city may in-  
10 tervene by petition in any suit pending to sell or enforce liens  
11 against real estate which are subject to such liens for said taxes.  
12 Said liens for city taxes and attendant penalties, as well as for im-  
13 provement assessments, may also be enforced by certifying the  
14 same to the clerk of the county court of Roane county for certifi-  
15 cation to the state auditor, and the same may be certified down  
16 by the state auditor and sold for taxes, interest and penalties and  
17 commissions thereon, in the same manner, at the same time and  
18 by the same officer as real estate is sold for taxes, interest, dam-  
19 ages, costs and commissions due the state thereon, which officer  
20 shall account therefor on settlement with the board of commis-  
21 sioners and pay the same over to the commissioner of public ac-  
22 counts and finances of the city of Spencer.

Sec. 48. The board of commissioners may, by ordinance,  
2 provide that all revenues of the city, other than those belonging  
3 to the sinking fund, may be placed in one general fund, or in  
4 such funds as may be deemed expedient, and may provide, if there  
5 be more than one of such funds, for the transferring of money  
6 from one of such funds to another fund by unanimous vote of the  
7 board.

#### *General Provisions.*

Sec. 49. All contracts pertaining to public improvements,  
2 maintenance of public property, public printing, purchase of sup-  
4 plies and all other contracts of whatsoever character, involving  
4 an outlay of as much as five hundred dollars, shall be made by the  
5 board of commissioners and shall be based upon specifications pro-  
6 vided for the said board. Such contracts shall be entered into  
7 only after inviting competitive bids. Such competitive bids shall  
8 be sealed and one copy of each bid shall be filed with the clerk of  
9 the board. Each bidder shall accompany his bid with a sworn  
10 statement, in writing, that the bidder has not directly, nor in-  
11 directly, entered into any agreement, express or implied, with  
12 any other bidder, or bidders, having for its object the control of  
13 the price and amount of such bids, or limiting of the bids or bid-  
14 ders, parceling or farming out to any bidder or bidders or other  
15 persons, of any part of the contract or any part of the subject

16 matter of the bid, or the parts thereof. No bidder shall divulge  
17 said sealed bid to any person whatever except those having a part-  
18 nership or other financial interest with him in said bid, until  
19 after the said sealed bids are opened. The violation of any of  
20 the foregoing provisions on the part of the bidder shall make void  
21 any contract made by him with said city based upon such bid.  
22 The awarding of a contract upon a successful bid shall give the  
23 bidder no right of action or claim against the city upon such con-  
24 tract until the same shall have been reduced to writing and duly  
25 signed by the contracting parties. All bids filed with the clerk of  
26 the board shall be opened in the presence of the board of com-  
27 missioners, two days before any contract shall be entered into,  
28 based upon said bid. The board of commissioners shall consider  
29 the bids and may reject all and ask other bids or may enter into  
30 a contract with the party offering the lowest and best bid, or may  
31 have such work done under the supervision of the proper depart-  
32 ment and keep account of the expenses thereof. Pending ac-  
33 ceptance of bids, the plans and specifications and profiles shall  
34 remain on file in the office of the clerk of the board, subject to the  
35 inspection of any person. For the safeguarding of the interests  
36 of the city, the board of commissioners shall make such regula-  
37 tions providing for the filing of the estimates of cost furnished  
38 them by the city engineer as they deem best. The board of com-  
39 missioners shall have power to require all bidders to make such  
40 bonds or cash deposits as they may deem proper to secure the  
41 performance of the contract.

Sec. 50. In so far as practicable, home labor and home ma-  
2 terial, when equal to other labor and material at the same cost,  
3 shall be given preference on all public works in the city of Spencer  
4 whether done by the city or any contractor or sub-contractor.

Sec. 51. All printed ordinances or codes of ordinances pub-  
2 lished by the authority of the board of commissioners, shall, in  
3 all judicial proceedings in all courts, be admitted as *prima facie*  
4 evidence, and in any such proceedings it shall not be necessary to  
5 plead the entire ordinance or section but only such parts thereof  
6 as are admitted in evidence.

Sec. 52. Every claim against the city must be approved by  
2 the commissioner in whose department it originated, and be filed  
3 with the clerk of the board in writing, with a full account of all  
4 items thereof and must be subscribed by the claimant or his agent

5 or attorney, who, on oath, shall declare that the same is correct,  
6 just, due and unpaid, and no claim or demand shall be allowed  
7 or suit filed thereon unless so prepared and filed, and unless suit  
8 shall be filed upon such claim within twelve months after the  
9 same shall have been filed with the clerk of the board, in writ-  
10 ing, as above provided, such claims shall be forever barred.

*Removal Under General Laws.*

Sec. 53. Any commissioner shall be subject to removal from  
2 office in the manner and for the same cause or causes as provided  
3 by the laws of the state of West Virginia, for removal of county  
4 offices.

Sec. 54. Each commissioner shall have power to administer  
2 oaths.

Sec. 55. Every officer who shall knowingly prove, allow or  
2 pay any demand on the treasury of the city, not authorized by law,  
3 ordinance or this act, shall be liable to the city individually and  
4 on his official bond, for the amount of the demand so illegally ap-  
5 proved, allowed or paid.

Sec. 56. Each commissioner of the city of Spencer shall be  
2 a public conservator of the peace, and said commissioners and  
3 each member of the police department, in addition to the power  
4 of enforcing ordinances of the city and in aid of said powers, shall  
5 have the same police powers as are given to a constable in mak-  
6 ing arrests, and in preserving the peace and safety within the  
6-a city; *provided*, that such officer shall have power over territory  
7 outside of the city, but under its control, as may be conferred by the  
8 laws of the state and the other provisions of this act; and, *pro-*  
9 *vided further*, that all regular police officers of the city of Spencer,  
10 except extra policemen serving less than one week at a time, ap-  
11 pointed under the provisions of this act, shall give bond payable  
12 to the city of Spencer for the faithful performance of their duties  
13 in such amount as may be fixed by the board of commissioners;  
14 *provided*, that said bond shall be in the penalty of not less than  
15 one thousand dollars.

Sec. 57. The fiscal year of the city shall commence on the  
2 first day of July each year and shall end on the thirtieth day of  
3 June next following.

Sec. 58. The office of the mayor, recorder and councilmen of  
2 the town of Spencer and the town of Alvord shall be terminated

3 and be and become vacant upon the election and qualification of  
4 the commissioners provided for in this act. All other officers and  
5 employees of the present corporations of Spencer and Alvord shall  
6 continue in office and to perform their duties until their successors.  
7 are appointed, or until their services are dispensed with by the  
8 commissioner having charge of the department in which they are  
9 employed.

Sec. 59. The first board of commissioners elected under the  
2 provisions of this act shall divide the city into two wards, making  
3 said wards as nearly equal in area and voting population as pos-  
4 sible, and shall designate convenient and proper voting places  
5 therein, (one in each ward), where city elections shall be held.  
6 The board of commissioners may at any time by unanimous vote  
7 change said voting places to suit the needs and requirements of  
8 the city. After the division of this city into two wards not more  
9 than two of the commissioners elected under this charter shall  
10 be residents of any one of said two wards at the time of their  
11 election.

Sec. 60. This act shall not become effective unless the same  
2 shall first be submitted to the qualified voters residing within the  
3 proposed city of Spencer, as shown by the boundaries thereof set  
4 out in section two of this act, and having received a majority of all  
5 votes cast at an election held within said proposed city at which  
6 the question of the ratification or rejection of this charter shall  
7 be voted upon.

8 This act shall be submitted to said voters at an election to  
9 be held within the proposed city of Spencer on the fourth Tues-  
10 day of the month next succeeding the calendar month in which  
11 this act is put into effect by the legislature of West Virginia.

12 This act shall be published at the expense of the town of  
13 Spencer in full once a week for at least two successive weeks im-  
14 mediately preceding the aforesaid election, in two newspapers at  
15 Spencer, West Virginia, or in lieu of said newspaper publication,  
16 the full text of this act may be posted in five conspicuous places  
17 within the boundaries set out in section two hereof, for at least ten  
18 days prior to said election; and if ratified shall take effect im-  
19 mediately and be in effect from the date the vote thereon is can-  
20 vassed by the recorder and council of the town of Spencer.



21 *Form of Ballot.*

22 The ballots at said election shall be in the following form:

23  For ratification of New Charter.

24  Against ratification of New Charter.

Sec. 61. All acts and parts of acts, whether special or general, coming within the purview of this act and inconsistent or in conflict herewith are to the extent of any such conflict or inconsistency hereby repealed.

## CHAPTER 122.

(Senate Bill No. 272.)

AN ACT to amend and re-enact section thirty of chapter one hundred and forty-five of the acts of the legislature of one thousand nine hundred and one, entitled, "An act to amend and re-enact and reduce into one act the several acts incorporating the town of Mannington, in the county of Marion, defining the powers thereof and describing the limits of said town, and incorporating the city of Mannington in Marion county."

[Passed February 19, 1917. In effect ninety days from passage. Approved by the Governor February 23, 1917.]

Sec. 30. The council given authority to purchase for cemetery, etc. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

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

Section 30. The council shall have and hereby are given authority to acquire by purchase, or otherwise, any and all real estate within said city, or adjacent thereto, not to exceed twenty acres, necessary for cemetery purposes; to maintain and keep the same in good condition and repair, and to provide, by taxation or otherwise, sufficient funds necessary to maintain and keep the same in good condition and repair; to regulate the burial of the dead within said city, and to preserve the peace within all the cemeteries acquired by it whether situated within or without the corporate limits of said city, and all other cemeteries within said

11 city; and in general to have such care and control over said ceme-  
 12 teries as will promote the public good.

13 All acts and parts of acts inconsistent with this act are hereby  
 14 repealed.

**CHAPTER 123.**

(Senate Bill No. 292.)

AN ACT to amend and re-enact chapter one hundred and one of the acts of one thousand eight hundred and ninety-seven and chapter seventy of the acts of one thousand nine hundred and three and chapter twelve of the acts of one thousand nine hundred and nine, incorporating the city of Clarksburg, in the county of Harrison, and to reduce said acts to one; to extend the limits of said city and define the powers thereof; and to repeal all acts and parts of acts inconsistent herewith.

[Passed February 19, 1917. In effect ninety days from passage. Became a law without the Governor's approval.]

<p><b>Sec.</b>                  1. City of Clarksburg.                  2. Corporate limits and boundaries.                  3. Indebtedness to be provided for.                  4. By-laws, ordinances and resolutions in force.                  5. Elective officers; terms; election; vacancy.                  6. Candidates how nominated.                  7. City governed by council.                  8. Power of council.                  9. Administration departments.                  10. Department of finance and police.                  11. Department of public service.                  12. Department of public welfare.                  13. }                  14. The city clerk.                  15. The city collector and treasurer.                  16. The city collector.                  17. The city engineer.                  18. The city physician.                  19. The chief of police and chief of the fire service.                  20. Office; salaries and compensation.                  21. Ordinances.                  22. Financial statements and audit.                  23. Supplies, how purchased.                  24. Council shall have right to make estimates.                  25. Streets, etc., and franchises to remain.                  26. Public improvements.                  27. Alterations or modifications.</p>	<p><b>Sec.</b>                  28. Owner of lots for sale shall cause to be made, etc.                  29. Power of eminent domain to condemn, etc.                  30. Duties of water board.                  31. Officer or employee shall give bond before receiving money or funds of city.                  32. Council may cause streets, etc., graded.                  33. What to do in case of special assessment or bond issue.                  34. How certain money is applied.                  35. Bonds.                  36. Council authorized to put down sidewalks, etc.                  37. Release for assessment for sidewalk when paid.                  38. Limit to assessments.                  39. Remedies or right not exclusive, etc.                  40. New assessment may be made, in case one is void.                  41. Time for publishing ordinances, etc.                  42. Officers may be removed.                  43. Inconsistent acts repealed; certificates of incorporation annulled and vacated.                  44. This act not to be effective unless submitted to the voters and adopted by a majority; form of ballot.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. That the inhabitants of so much of the county of  
 2 Harrison as lies within the boundaries prescribed by section two of  
 3 this act shall be and remain, and they are hereby made, a body  
 4 politic and corporate, by the name and style of the "City of Clarks-

5 burg," and as such, and by that name, may contract and be con-  
6 tracted with, sue and be sued, plead and be impleaded, answer and  
7 be answered unto, and may purchase, take, receive, hold and use  
8 goods and chattels, lands and tenements, and choses in action, or  
9 any interest, right or estate therein, either for the proper use of  
10 said city or in trust for the benefit of any person, association or  
11 corporation therein, and the same may grant, sell, convey and  
12 assign, let, pledge, mortgage, charge and encumber, in any case and  
13 in any manner in which it would be lawful for a private individual  
14 so to do, except where such power may be limited by law; and may  
15 have and use a common seal, and alter and renew the same at pleas-  
16 ure; and generally shall have all the rights, franchises, capacities  
17 and powers conferred herein, and by the laws of this state upon  
18 municipal corporations not inconsistent with the provisions of this  
19 act.

Sec. 2. The corporate limits and boundaries of said city shall  
2 be as follows: Beginning at the junction of Murphy's run with  
3 Elk creek and running thence with Elk creek up said stream to the  
4 boundary line of the Clarksburg Industrial Company's addition;  
5 thence with the northern and eastern lines of said addition to the  
6 line of the lands of the Union Land Company; thence in a south-  
7 western direction with the line between the lands of the Union  
8 Land Company and of said addition to Elk creek; thence down Elk  
9 creek to a point opposite the southeastern corner of the town of  
10 Broad Oaks; thence crossing Elk creek to said corner of the town  
11 of Broad Oaks and with the corporation line of the town of Broad  
12 Oaks to the southwestern corner of Alta Vista addition; thence in  
13 a straight line to the corner of lands of L. D. Jarvis' heirs, John J.  
14 Davis' heirs and R. T. Lowndes in the low gap at the head of  
15 Second street extended; thence southwesterly with the eastern lines  
16 of said John J. Davis' heirs and Maud Duncan land, to the north-  
17 ern bank of Arnold's Run; thence down the north bank of said run  
18 to the west side of the Clarksburg and Weston turnpike; thence  
19 with the western side of same to the southern limits of the Clarks-  
20 burg water works pump station property; thence with same by the  
21 most direct line to the western bank of the West Fork river; thence  
22 with the western bank of same up the river to a point opposite the  
23 southwestern corner of Hartland; thence with the western line of  
24 Hartland to the West Milford turnpike; thence a straight line  
25 northeasterly to the northeast corner of the eastern abutment of the  
26 bridge across Limestone creek on the northwestern turnpike; thence

27 with the northern line of said turnpike to the southwestern corner  
28 of Glenwood; thence with the western line of same to the north-  
29 western corner thereof; thence with the northern line of said Glen-  
30 wood to the northeastern corner thereof; thence a straight line to  
31 the southeastern corner of the southern abutment of the bridge  
32 across Limestone creek on the Shinnston pike; thence a straight  
33 line to the mouth of Limestone creek; thence across the West  
34 Fork river by the most direct line to the east bank thereof; thence  
35 down the river to the northern limits of the Riverside addition;  
36 thence with the northern line of same to the northeastern corner  
37 thereof; thence a straight line to the northwestern corner of Indiana  
38 and North Sixth streets in Glen Elk addition number two; thence  
39 with the northern line of said addition to the northeastern corner of  
40 Block "A" in said Glen Elk addition number two; thence a straight  
41 line to the northeastern corner of Montpelier addition; thence with  
42 the eastern line of said addition southerly to the northern line of  
43 The Baltimore and Ohio Railway Company's right-of-way; thence  
44 easterly with same to a point in the eastern line of the Northwes-  
45 tern turnpike where same intersects with said right-of-way line,  
46 this point being at the most western of the two crossings known as  
47 the "double crossing;" thence a straight line to the mouth of  
48 Murphy's run, the beginning.

Sec. 3. The entire indebtedness, bonded and otherwise, and  
2 all other liability whatever, liquidated or unliquidated, of each of  
3 the five municipal corporations hereinafter named whose territorial  
4 limits and boundaries are embraced within the corporation limits  
5 and boundaries set forth in section two of this act, shall be provided  
6 for and paid out of levies and assessments upon the property and  
7 the taxable subjects within the boundaries of said five municipal-  
8 ities, respectively, as existent at the time this act becomes effective;  
9 and for the purpose of providing for and discharging such indebt-  
10 edness and liabilities, the several territories and boundaries con-  
11 stituting and embracing at the time this act becomes effective the  
12 several municipal corporations known as the City of Clarksburg,  
13 The Town of Adamston, The Town of Stealey Heights, The Town  
14 of North View and the Town of Broad Oaks shall constitute and  
15 be, and each is hereby made a separate special levy district, and  
16 in each thereof a special levy shall annually be laid by the city  
17 council to pay the interest upon such bonded indebtedness, create  
18 a sinking fund for the payment of said bonds and to otherwise  
19 provide for the discharge of such prior indebtedness and liability

20 of such special levy district in all respects in the manner and to the  
21 extent legally incumbent upon said several municipalities at the  
22 time this act becomes effective. When and as the prior indebtedness  
23 of each shall have been fully discharged, such special levy district  
24 shall be abolished: *provided, however*, that the city of Clarksburg  
25 hereby created is hereby granted the authority to assume the pay-  
26 ment of and discharge all of said indebtedness, if and when all  
27 questions connected with such assumption and discharge thereof  
28 shall have been first submitted to a vote of the people and have  
29 received three-fifths of all votes cast for and against the same.  
30 And, *provided, further*, that this section in so far as it applies to  
31 the indebtedness of the several municipalities above mentioned,  
31-a which was created for the construction and improvement of water  
32 work systems or plants, shall be subject to the provisions con-  
33 tained herein in section thirty relating to the Clarksburg water  
34 board.

Sec. 4. All by-laws, ordinances and resolutions lawfully  
2 passed and in force in the now existing City of Clarksburg, The  
3 Town of Adamston, The Town of Stealey Heights, The Town of  
4 Northview and The Town of Broad Oaks, respectively, and not  
5 inconsistent with this act, shall remain in force until altered or  
6 repealed by the council elected under the provisions hereof. And  
7 no right or liability, either in favor of or against any of said five  
8 now existing municipal corporations, nor any pending suit or  
9 prosecution, shall be affected by this act, unless otherwise pro-  
10 vided for in this act.

Sec. 5. The elective officers for the city of Clarksburg shall  
2 consist of a mayor, who shall *ex-officio* be a member of the city  
3 council, and two additional city councilmen, and of a water board  
4 composed of three members. The members of the water board shall  
5 hold their respective offices for the term of three years, and the  
6 members of the city council shall hold their respective offices  
7 for the term of three years, except as herein otherwise provided.  
8 The regular election of officers under this act shall be held on the  
9 Tuesday next following the first Monday in April in the year  
10 nineteen hundred and eighteen and annually thereafter on the  
11 same day in each year. At the regular election to be held in the  
12 year nineteen hundred and eighteen, there shall be elected a  
13 mayor, who shall *ex-officio* be a member of the city council, and  
14 two members of the city council. The mayor so elected shall hold  
15 his office for a term of three years, beginning on the second Mon-

16 day after the election. The member of the city council so elected  
17 receiving the highest number of votes shall serve for the term  
18 of two years and the remaining member for the term of  
18-a one year from the second Monday after such election. At  
19 each regular election following there shall be elected a mayor or a  
20 member of the council for the term of three years, which term  
21 shall begin on the second Monday following the election.

22 The members of the water works and sewerage board in  
23 office in the existing city of Clarksburg at the time this act goes  
24 into effect shall serve out the remainder of their respective terms  
25 as members of the water board for the city of Clarksburg cre-  
26 ated by this act. At each regular election there shall be elected  
37 make up the city of Clarksburg as herein created shall hold their  
28 three years, beginning on the second Monday after the election.

29 Any vacancy in the office of mayor or councilman shall be  
30 filled by appointment by the remaining members of the city  
31 council for the unexpired term and any vacancy on the water  
32 board shall be filled by appointment by the remaining members  
33 of the water board for the unexpired term.

34 The respective mayors, members of the city council, and other  
35 elective officers, or their respective successors in office at the time  
36 this act goes into effect, in the existing several municipalities which  
37 make up the City of Clarksburg as herein created shall hold their  
38 respective offices until the second Monday following the first reg-  
39 ular election herein provided to be held, *provided, however*, the  
40 members of the water works and sewerage board of the existing  
41 city of Clarksburg shall become and be members of the water  
42 board for the city herein created as hereinbefore provided. All  
43 elective officers for said city shall be nominated and elected at  
44 large and shall hold their respective offices until their successors  
45 are elected and qualified; and all appointive employees of said  
46 now existing municipality, or their successors in employment,  
47 shall hold their respective employments until the council to be  
48 elected under this act shall, by resolution, declare the same ter-  
49 minated.

Sec. 6. Candidates to be voted for at all general municipal  
2 elections at which a mayor and councilman or councilmen and a  
3 member of the water board are to be elected under the provisions  
4 of this act shall be nominated by a primary election, and no other  
5 names shall be printed upon the general ballot, except those select-  
6 ed in the manner hereinafter prescribed. The primary election

7 for such nominations shall be held on the second Tuesday pre-  
 8 ceding the general municipal election. The judges of election  
 9 shall be appointed by council for the general municipal election,  
 10 who shall be the judges of the primary election, and it shall be  
 11 held at the same place, so far as possible, and the polls shall be  
 12 opened and closed at the same hours, with the same clerks as are  
 13 required for said general municipal election. The council of the  
 14 existing city of Clarksburg, as constituted at the passage of this  
 15 act, shall appoint the judges for the first primary and general  
 16 elections to be held hereunder, and said council and the city clerk  
 17 of said now existing city of Clarksburg shall perform all such  
 18 duties and exercise all such powers, in respect of said first primary  
 19 and general elections, throughout the whole city of Clarksburg  
 20 hereby created as the council and clerk of the city of Clarksburg  
 21 hereby created would be required or authorized to do, under this  
 22 act and the other laws of this state, at subsequent primaries and  
 23 general elections in said city, hereby created.

24 Any person desiring to become a candidate for mayor or  
 25 councilman or member of the water board, shall, at least ten days  
 26 prior to said primary election, file with the city clerk a statement  
 27 of such candidacy, in substantially the following form.

28 "State of West Virginia, Harrison county, ss:

29 "I, ....., being first duly sworn,  
 30 say that I reside at ..... street, city of Clarksburg,  
 31 county of Harrison, state of West Virginia; that I am a qualified  
 32 voter therein; that I am a candidate for nomination to the office  
 33 of (mayor, or councilman, or member of water board) to be voted  
 34 for at the primary election to be held on .....  
 35 Tuesday of ....., 19...., and I hereby re-  
 36 quest that my name be printed upon the official primary ballot  
 37 for nomination by such primary election for such office.

38 "Signed ....."

39 "Subscribed and sworn to (or affirmed) before me by  
 40 ....., on this ..... day of .....,  
 41 19.....

42 "Signed ....."

43 And shall at the same time file therewith the petition of at least  
 44 twenty-five qualified voters requesting such candidacy. Each pe-  
 45 tition shall be verified by one or more persons as to the qualifica-  
 46 tions and residence, with street number, of each of the persons so

47 signing the said petition, and the said petition shall be in sub-  
48 stantially the following form:

49 *Petition Accompanying Nominating Statement.*

50 The undersigned, duly qualified electors of the city of  
51 Clarksburg, and residing at the places set opposite our respective  
52 names hereto, do hereby request that the name of, (name of can-  
53 didate), be placed on the ballot as a candidate for nomination  
54 for, (name of office), at the primary election to be held in such  
55 city on the ..... Tuesday of ....., 19.....  
56 We further state that we know him to be a qualified elector of  
57 said city and a man of good moral character, and qualified, in our  
58 judgment, for the duties of such office.

59 *Names of Qualified Electors. Number. Street.*

60 (Signatures) .....

61 Immediately upon the expiration of the time for filing the  
62 statements and petitions for candidates, the said city clerk shall  
63 cause to be published for three successive days, in proper form,  
64 the names of the persons as they are to appear upon the primary  
65 ballots to be printed. Upon the said ballot the names of the  
66 candidates for mayor, arranged alphabetically, shall first be placed,  
67 with a square at the left of each name and immediately below the  
68 words "Vote for one." Following these names, likewise arranged  
69 in alphabetical order, shall appear the names of the candidates for  
70 councilmen, with a square at the left of each name, and below the  
71 names of such candidates shall appear the words "Vote for one;"  
72 except that at the first regular election to be held hereunder shall  
73-4 appear the words "Vote for two." Following these names, like-  
75 wise arranged in alphabetical order, shall appear the names of the  
76 candidates for members of the water board, with a square at the  
77 left of each name and below the names of such candidates shall  
78 appear the words "Vote for one." The ballots shall be printed up-  
79 on plain substantial white paper, and shall be headed:

80 "Candidates for Nomination for Mayor and Councilmen  
81 and Members of the Water Board of the city of Clarksburg, at  
82 the Primary Election;"

83 but shall have no party designation or mark whatever. The  
84 ballots shall be in substantially the following form:



85 (Place a cross in the square preceding the names of the  
86 parties you favor as candidates for the respective offices.)

87 Official Primary Ballot

88 Candidates for Nomination for Mayor and Council-  
89 men and Members of the Water Board of the  
90 City of Clarksburg, at the Primary  
91 Election.

92 For Mayor.

93 (Name of Candidate.)   
94 (Vote for one.)

95 For Councilman.

96 (Name of Candidate.)   
97 (Vote for one.)

98 For Member of Water Board.

99 (Name of Candidate.)   
100 (Vote for one.)

101 Official ballot, attest:

102 Signature ....., City Clerk.

103 Having caused said ballot to be printed, the said city clerk  
104 shall cause to be delivered at each polling place a number of said  
105 ballots equal to twice the number of votes cast in such polling  
106 precinct at the last general municipal election for mayor. The  
107 persons who are qualified to vote at the general municipal elec-  
108 tion shall be qualified to vote at such primary election, and chal-  
109 lenges can be made by not more than two persons, to be appointed  
110 at the time of opening the polls by the judges of elections; and  
111 the law applicable to challenges at a general municipal election  
112 shall be applicable to challenges made at such primary election.  
113 Judges of election shall, immediately upon the closing of the polls,  
114 count the ballots and ascertain the number of votes cast in such  
115 precinct for each of the candidates, and make return thereof to  
116 the city clerk, as soon as practicable after the closing of the polls.  
117 On the day following the said primary election the said city  
118 clerk shall canvass said returns so received from all the polling  
119 precincts, and shall make and publish in all the newspapers of  
120 said city at least once, the result thereof. Said canvas by the city  
121 clerk shall be publicly made. The two candidates receiving the high-  
122 est number of votes for mayor shall be the candidates and the only  
123 candidates whose names shall be placed upon the ballot for mayor  
124 at the next succeeding general municipal election, and the two can-  
125 didates receiving the highest number of votes for councilman, shall

126 be the candidates and the only candidates whose names shall be  
127 placed upon the ballot for councilmen, except that at the first regu-  
128 lar election held hereunder the four candidates receiving the high-  
129 est number of votes for councilman, or all such candidates, if less in  
130 number than four, shall be the candidates and the only candidates  
131 whose names shall be placed upon the ballot for councilmen; and  
132 the two candidates receiving the highest number of votes for mem-  
133 ber of the water board shall be the candidates and the only can-  
134 didates whose names shall be placed upon the ballot for member  
135 of the water board, at such municipal election. In the event of the  
136 death or resignation of a nominee before the election, the candi-  
137 date receiving the next highest number of votes at the primary  
138 shall be placed on the ticket in his stead; if no other persons were  
139 voted for for such office at the primary election, the vacancy on  
140 the ticket shall be filled by the city council.

141 The ballot at such general municipal election shall be in  
142 the same general form as for such primary election, so far as ap-  
143 plicable, and in all elections in such city the election precincts,  
144 voting places and announcing of results, shall be the same as by  
145 law provided for election of officers in said city, so far as the  
146 same are applicable to and not inconsistent with the provisions of  
147 this act.

Sec. 7. Said city shall be governed by the council, consisting  
2 of the mayor and two councilmen chosen as provided in this act,  
3 each of whom shall have the right to vote on all ques-  
4 tions coming before the council. Two members of the council  
5 shall constitute a quorum, and the affirmative vote of two mem-  
6 bers shall be necessary to adopt any motion, resolution or ordi-  
7 nance or pass any measure. Upon every vote the yeas and nays  
8 shall be called and recorded, and every motion, resolution or ordi-  
9 nance shall be reduced to writing and read before the vote is ta-  
10 ken thereon. The mayor, when present, shall preside at all  
11 meetings of the council; he shall have no power to veto any meas-  
12 ure, but every resolution or ordinance passed by the council must  
13 be signed by the mayor, or by two councilmen, published and be  
14 recorded before the same shall be in force; *provided, however,*  
15 that this section shall be subject to the rights, duties and powers  
16 hereinafter in section thirty conferred upon the water board.

Sec. 8. The council of said city shall have and are hereby  
2 granted power to have said city surveyed; to open, vacate, broaden,  
3 change grade of, grade and pave streets, sidewalks and gutters

4 for public use, and to alter, improve, embellish and ornament and  
5 light the same, and to construct and maintain public sewers and  
6 laterals, and shall in all cases except as to lighting have power  
7 and authority to assess upon and collect from the property bene-  
8 fitted thereby all, or such part of the expense thereof, as shall be  
9 fixed by ordinance, except as hereinafter provided; to have con-  
10 trol of all streets, avenues, roads, alleys and grounds for public  
11 use in said city, and to regulate the use thereof and driving  
12 thereon, and to have the same kept in good order and free from  
13 obstruction, pollution or litter on or over them; to have the right  
14 to control all bridges within said city, and the traffic passing there-  
15 over; to change the name of any street, avenue or road within said  
16 city, and to cause the re-numbering of houses on any street, ave-  
17 nue or road therein; to regulate and determine the width of streets,  
18 sidewalks, roads and alleys; to order and direct the curbing and  
19 paving of sidewalks and footways for public use in said city to be  
20 done and kept clean and in good order by the owners of adjacent  
21 property; to enter into a contract with any internal improve-  
22 ment company for the joint ownership of any bridge by the city  
23 and such company, upon such terms as may be prescribed in the  
24 contract, but such bridge shall be a public highway; to prohibit  
25 and punish the abuse of animals; to restrain and punish vagrants,  
26 mendicants, beggars, tramps, prostitutes, drunken or disorderly  
27 persons within the city, and to provide for their arrest and manner  
28 of punishment; to prohibit by ordinance the bringing into the city  
29 of any person or animal afflicted with contagious or infectious  
30 disease, and to punish any violator of said ordinance who knows  
31 or has reason to believe such person or animal to be so afflicted;  
32 to control and suppress disorderly houses of prostitution or ill-  
33 fame, houses of assignation, and gaming houses or any part  
34 thereof, and to punish gaming; to prohibit within said city or  
35 within three miles thereof slaughter houses, soap or glue facto-  
36 ries and houses of like kind; to control the construction and re-  
37 pair of all houses, basements, walls, bridges, culverts and sewers,  
38 and to prescribe and enforce all reasonable regulations affecting  
39 the construction of the same, and to require permits to be obtained  
40 for such buildings and structures, and plans and specifications  
41 thereof to be first submitted to the city council; to con-  
42 trol the opening and construction of ditches, drains, sewers,  
43 cess-pools and guttters, and to deepen, widen and clear the  
44 same of stagnant water or filth, and to prevent obstructions there-

45 in, and to determine at whose expense the same shall be done; and  
46 to build and maintain fire station houses, police stations and po-  
47 lice courts, and to regulate the management thereof; to acquire,  
48 lay off, appropriate and control public grounds, squares and parks,  
49 either within or without the city limits as herein defined; to  
50 purchase, sell, lease or contract for and take care of all public  
51 buildings, and structures and real estate, including libraries and  
52 hospitals, deemed proper for use of such city; and, for the protec-  
53 tion of the public, to cause the removal of unsafe walls or build-  
54 ings, and the filling of excavations; to prevent injury or annoy-  
55 ance to the business of individuals from anything dangerous,  
56 offensive or unwholesome; to define, prohibit, abate, suppress and  
57 prevent all things detrimental to the health, morals, comfort,  
58 safety, convenience and welfare of the inhabitants of the city,  
59 and all nuisances and causes thereof, and to that end and there-  
60 about to summon witnesses and hear testimony; to declare and  
61 enforce quarantine against the introduction of any contagious or  
62 infectious disease prevailing in any other state, county or place,  
63 and of any and all persons and things likely to spread such con-  
64 tagion or infection; to regulate the keeping of gunpowder and  
65 other combustible or dangerous articles; to regulate, restrain or  
66 prohibit the use of firecrackers, or other explosives, or fireworks,  
67 and all noises or performances which may be dangerous, annoy-  
68 ing to persons or tend to frighten horses or other animals; to  
69 provide and maintain proper places for the burial of the dead and  
70 to regulate interments therein upon such terms and conditions  
71 as to price and otherwise as may be determined; to provide for  
72 shade and ornamental trees and the protection of the same; to  
73 provide for the making of division fences; to make proper regu-  
74 lation for guarding against danger or damage from fires; to pro-  
75 vide for the poor of the city, and to that end may contract with  
76 the proper authorities of Harrison county to keep and maintain  
77 the poor, or any number thereof, upon terms to be agreed upon;  
78 to make suitable and proper regulations in regard to the use of  
79 the streets and alleys for street cars, railroad engines and cars,  
80 and to regulate the running and operation of the same so as to  
81 prevent injury, inconvenience or annoyance to the public; to pro-  
82 hibit prize fighting, cock and dog fighting; to license, tax, regu-  
83 late or prohibit theaters, circuses, the exhibition of showmen and  
84 shows of any kind and the exhibition of natural or artificial curi-  
85 osities, caravans, menageries, pictures, motion pictures and mu-

86 sical exhibitions and performances; to regulate the construc-  
87 tion, height and material used in all buildings, and the mainte-  
88 nance and occupancy thereof; to regulate and control the use for  
89 whatever purpose, of the streets and other public places; to create,  
90 establish, abolish and organize employments and fix the com-  
91 pensation of all employees, (except the employees of the water  
92 board); to organize and maintain fire companies and to pro-  
93 vide necessary apparatus, engines and implements for the  
94 same; to regulate and control the kind and manner of plumbing  
95 and electric wiring for the protection of the health and safety  
96 of said city; to levy taxes on persons, property and licenses; to  
97 license and tax dogs and other animals, and regulate, restrain and  
98 prohibit them and all other animals and fowls from running at  
99 large; to assess, levy and collect taxes for general and special  
100 purposes upon all the subjects or objects which the city may law-  
101 fully tax; to levy and collect assessments for local improvements;  
102 to borrow money on the faith and credit of the city by the issue  
103 and sale of bonds in the manner prescribed by law; to appropri-  
104 ate the money of the city for all lawful purposes; to create, pro-  
105 vide for, regulate and maintain all things in the nature of pub-  
106 lic works and improvements; to adopt rules for the transac-  
107 tion of business and for its own regulation and government; to  
108 promote the general welfare of the city and to protect the per-  
109 sons and property of citizens therein; to regulate and provide for  
110 the weighing of produce and other articles sold in said city and  
111 to regulate the transportation thereof, and other things through  
112 the streets; to have the sole and exclusive right to grant, refuse  
113 or revoke any and all licenses for the carrying on of any business  
114 within said city on which the state exacts a license tax; to es-  
115 tablish and regulate markets and to prescribe the time for hold-  
116 ing the same, and what shall be sold in such market, and to  
117 acquire and hold property for market purposes; to regulate or  
118 prohibit the placing of signs, bill-boards, posters and advertise-  
119 ments in, on or over the streets, alleys, sidewalks and public  
120-121 grounds of said city; to preserve and protect the peace,  
122 order and safety and health of the city and its inhabitants, in-  
123 cluding the right to regulate the sale and use of cocaine, morphine,  
124 opium and poisonous drugs; to make, enforce and provide local  
125 police, sanitary and other regulations, and fully exercise all law-  
126 ful police powers; to appoint and fix the places of holding city  
127 elections; to erect, own, lease, authorize or prohibit the erec-

128 tion of gas works, telephone plant or electric light works in or  
129 near the city, and to operate the same and sell the products or  
130 services thereof, and to do any and all things necessary and inci-  
131 dental to the conduct of such business; to provide for the purity  
132 of milk, meats and provisions offered for sale in said city, and  
133 to that end provide for a system of inspecting the same and  
134 making and enforcing rules for the regulation of their sale,  
135 and to prohibit the sale of any unwholesome or tainted milk,  
136 meats, fish, fruit, vegetables, or the sale of milk containing water  
137 or other things not constituting a part of pure milk; to provide  
138 for inspecting dairies and slaughter houses, whether in or out-  
139 side of the city, where the milk and meat therefrom are offered  
140 for sale within said city; to prescribe and enforce ordinances and  
141 rules for the purpose of protecting the health, property, lives,  
142 decency, morality and good order of the city and its inhabitants,  
143 and to protect places of divine worship in and about the prem-  
144 ises where held, and to punish violations of such ordinances even  
145 if the offense under and against the same shall constitute offenses  
146 under the law of the state of West Virginia or the common law;  
147 to provide for the employment and safe keeping of persons who  
148 may be committed in default of the payment of fines, penalties  
149 or costs under this act, who are otherwise unable or fail to dis-  
150 charge the same, by putting them to work for the benefit of the  
151 city upon the streets or other places provided by said city, and to  
152 use such means to prevent their escape while at work as the  
153 council may deem expedient; and the council may fix a reason-  
154 able rate per day as wages to be allowed such person until the  
155 fine and costs against him are thereby discharged; to compel  
156 the attendance at public meetings of the members of the coun-  
157 cil; to prevent any person, association or corporation from pol-  
158 luting in any manner any pond, lake, basin, reservoir, stream,  
159 spring, creek, or other body of water from which the city shall  
160 take water to be used for domestic purposes by the inhabitants  
161 thereof, or from casting into any such body of water, or on the  
162 bank thereof or in such proximity thereto that the same may  
163 enter therein, any filthy, unwholesome, or obnoxious substance,  
164 object, or liquid, or anything whatsoever, injurious to the health  
165 of the people of the city; to exercise all other powers that now  
166 are or hereafter may be granted to municipalities by the constitu-  
167 tion or the laws of the state of West Virginia; and all such pow-  
168 ers, whether expressed or implied, shall be exercised and enforced

169 in the manner prescribed by this charter, or when not pre-  
170 scribed herein, in such manner as shall be provided by the ordi-  
171 nances or resolutions of the council.

172 The enumeration of particular powers of this charter shall  
173 not be held or deemed to be exclusive, but in addition to the  
174 powers enumerated herein, impliedly thereby, or appropriate to  
175 the exercise thereof, the council shall have and exercise all other  
176 powers, which, under the constitution and laws of the state of  
177 West Virginia it would be competent for this charter specifically  
178 to enumerate.

179 The council shall provide for the enforcement of all ordi-  
180 nances by reasonable and proper penalties, consisting of fines or  
181 imprisonment, or fines and imprisonment, with suitable rules  
182 and regulations for the enforcement of such penalties. For all  
183 such purposes the jurisdiction of the city shall, when neces-  
184 sary, extend for one mile beyond the corporate limits of said  
185 city, excepting any other municipal corporation, or part thereof,  
186 within said one mile limit. In order to prevent the pollution  
187 of the waters from which the people of the city take  
187-a water for domestic uses, the jurisdiction of the city shall be  
188 co-extensive with the location and extent of the waters from  
189 which such supply is taken, except that in no event shall such  
190 jurisdiction of the city of Clarksburg exist within any other  
191 incorporated city or town; *provided, however*, that in no event  
192 shall imprisonment for a longer period than sixty days or a  
193 greater fine than one hundred dollars, or both, be imposed for  
194 any one offense.

Sec. 9. For the administration of the government of the  
2 city of Clarksburg, the following departments are hereby estab-  
3 lished:

- 4 1. Department of Finance and Police.
- 5 2. Department of Public Service.
- 6 3. Department of Public Welfare.
- 7 4. Department of Water Works to be administered by the  
8 Water Board.

9 The mayor shall be police judge and, unless otherwise desig-  
10 nated by a majority vote of the council, superintendent of the de-  
11 partment of finance and police. The council shall, at the first  
12 regular meeting after the election of its members, or of a new  
13 member, designate by a majority vote, one councilman to be su-  
14 perintendent of the department of public service, and one to be

15 superintendent of the department of public welfare; but any  
16 such designation may be changed whenever it shall appear that  
17 the public service will be benefitted thereby.

*Department of Finance and Police.*

Sec. 10. Subject to the supervision and control of the council in all matters, the duties of the superintendent of the department of finance and police shall include the supervision of the collection, custody and disbursement of all moneys of the city, including among other things, all taxes, special assessments, license fees and fines; supervision of all accounts, and, except where otherwise provided, of all public records; the charge of all public property, except such as is committed to the charge of other departments of the city; the supervision of the police force of the city; the enforcement of all ordinances and the preservation of peace and good order; and such other duties as the council may from time to time require.

*Department of Public Service.*

Sec. 11. Subject to the supervision and control of the council in all matters, the superintendent of the department of public service shall manage and have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, and other public highways; sewers, drains, ditches, culverts, canals, streams and water courses; boulevards, squares and public places and grounds. He shall manage market houses, farms and sewage disposal plants; he shall have charge of the enforcement of all the obligations of privately owned or operated public utilities enforcible by the city. He shall have charge of the city engineer and of all surveys, maps, plats, drawings, estimates and contracts for public work; the cleaning, sprinkling and lighting of streets and public places; and shall perform such other duties as the council may by ordinance require.

*Department of Public Welfare.*

Sec. 12. Subject to the supervision and control of the city council in all matters, the superintendent of public welfare shall manage all charitable, correctional and reformatory institutions and agencies belonging to the city and all parks and public playgrounds and all public entertainments and amusements. He shall



6 have charge of, and enforce all laws, ordinances and regulations  
7 relative to the preservation and promotion of the public health,  
8 sanitation, the prevention and restriction of disease, the prevention,  
9 abatement and supervision of nuisances (except such nuisances  
10 as pertain to the water supply for the city); the direction of the  
11 health officer and city physician; the sanitary inspection and super-  
12 vision of the production, transportation, storage and sale of food  
13 and food stuffs; regulation and inspection of weights and measures;  
14 the collection and disposal of all waste and garbage. He shall have  
15 supervision of the fire department, the prevention of fires, and of  
16 all matters affecting the inspection and regulation of the erection,  
17 maintenance, repair and occupancy of buildings. He shall see that  
18 all property and premises within the city are kept clean and free  
19 from unsightly or obnoxious rubbish, and in a sanitary condition.  
20 He shall cause a complete and accurate system of vital statistics  
21 to be kept. In time of epidemic or threatened epidemic, he shall  
22 enforce such quarantine and isolation regulations as are appro-  
23 priate to the emergency. He shall provide for the study and re-  
24 search into cases of poverty, delinquencies, crime and disease, and  
25 other social problems in the community, and shall, by means of  
26 lectures, promote the education of the community in those matters  
27 which affect the public welfare. He shall perform such other  
28 duties as the council may from time to time require.

Sec. 13. The council may from time to time, when in its  
2 judgment the public welfare will be benefitted thereby, assign to  
3 any one department the performance of any duty herein conferred  
4 upon any other department and may re-assign the same and may  
5 make such other rules and regulations as may be necessary or  
6 proper for the efficient and economical administration of the busi-  
7 ness of the city.

8 The council shall at its first meeting, or as soon as practicable  
9 thereafter, appoint by a majority vote, a city clerk, a city collector  
10 and treasurer, a city solicitor, a city engineer, a city physician, a  
11 chief of police, a chief of the fire service, and such other employees  
12 as shall be provided for by ordinance and as shall be necessary to  
13 the proper and efficient administration of the affairs of the city.  
14 The same person may hold more than one employment. Any per-  
15 son employed by the council may be removed at any time by a vote  
16 of the majority of the members of the council under such regula-  
17 tions as the council may prescribe. The council shall have power  
18 from time to time to create, fill and discontinue employments other

19 than herein specified, when in their judgment the needs of the city  
20 may require such additional services, and shall prescribe the duties,  
21 fix, limit, and change the compensation which shall be paid to any  
22 and all employees.

*The City Clerk.*

Sec. 14. The city clerk shall keep a complete record of all  
2 ordinances, resolutions and acts of the city council. He shall enter  
3 in a separate volume all ordinances of a general nature, a violation  
4 of which shall subject any person to any penalty, and carefully  
5 index the same. All ordinances providing for the issuing of bonds,  
6 the creation of a debt, the construction of any public improvement,  
7 or of any local or temporary nature shall be entered in a separate  
8 volume by the city clerk, and carefully indexed. Under the direc-  
9 tion of the superintendent of the department of finance and police,  
10 he shall keep complete books of account showing all financial trans-  
11 actions of the city and of each department, all receipts and expen-  
12 ditures made by the city, the sources of all income and the purpose  
13 of all expenditures. He shall enter in the municipal assessment  
14 docket all special assessments made for public improvements, show-  
15 ing the name of the owner of the property, the particular property  
16 on which the assessment is levied, the date of the entry, and the  
17 minute book and page showing the entry of the ordinance or resolu-  
18 tion creating the assessment, and the maturing time of the assess-  
19 ment. When and as the installments upon principal and interest  
20 on each assessment shall be paid, he shall enter such payments  
21 showing the amount paid upon principal, the amount of interest,  
22 under the heading and in the account of such special assessment.  
23 When the special assessment, principal and interest, shall have  
24 been paid in full, he shall make an entry in red ink on the face of  
25 the account showing that the special assessment is fully satisfied  
26 and paid. He shall make out all vouchers and pay-rolls of the city,  
27 and shall do and perform all other duties which may be required of  
28 him by the council by any ordinance or resolution, or by the head  
29 of any department, and shall be subject to the supervision and con-  
30 trol of the council in all matters. He shall devote his entire time  
31 to the public service and shall keep his office open each secular day  
32 except holidays, from nine A. M. until five P. M., unless other hours  
33 shall be fixed and prescribed by an ordinance or resolution of the  
34 council.

*The City Collector and Treasurer.*

Sec. 15. The city collector and treasurer, under the supervision of the superintendent of the department of finance, shall have custody of all public moneys of the city; shall keep and preserve such moneys as provided by ordinance or by any law applicable thereto; and shall collect and receive, and shall disburse, upon warrants issued by the proper authority, all public moneys. He shall keep an accurate account of all moneys in his custody, or collected, received or paid out by him, showing the sources from which the same were received and the purposes for which disbursed. The council may prescribe by ordinance or resolution the manner in which a warrant for the payment of money shall be issued, executed and authenticated. He shall be subjected to the supervision and control of the council in all things, and perform all duties prescribed by the council or the superintendent of finance and police.

*The City Solicitor.*

Sec. 16. The city solicitor shall be an attorney-at-law admitted to practice in the state of West Virginia. He shall be the legal adviser and counsel for the council of said city and for the department of finance and police, the department of public service and the department of public welfare. He shall prosecute and defend all suits for and against the city. He shall prepare all contracts, bonds and other instruments in writing required by the council, or by any of said departments, and shall indorse on each his approval of the form and correctness thereof. He shall furnish to the council and the heads of said departments an opinion on any question involving their respective powers and duties, whenever required. He shall apply in the name of the city to a court of competent jurisdiction for an order of injunction to restrain the misapplication of funds of the city, or the abuse of its corporate powers, or the execution or performance of any contract made by the city in contravention of law, or which is procured by fraud or corruption. He shall prepare an ordinance covering any matter whenever required by the council, and he shall do and perform any and all other duties which the council may by ordinance or resolution require. The council may, in its discretion, employ and pay special counsel, in any matter.

*The City Engineer.*

Sec. 17. The city engineer shall be a competent civil and  
2 mechanical engineer, and, under the superintendent of the de-  
3 partment of public service, shall make all surveys and grades  
4 required by the city or by any department, shall prepare plats  
5 and plans and specifications of any and all public improvements  
6 which may be undertaken; shall inspect all work done by any  
7 contractor for the city while such work is being done; shall  
8 supervise the construction of all buildings, the erection of which  
9 is controlled or regulated by the city; shall furnish any street  
10 or sewer grade to any resident whenever required, on such terms  
11 as the council may prescribe. He shall make complete maps  
12 of all streets, alleys, lanes, parks, and public property owned by  
13 the city. He shall recommend to the city council and the super-  
14 intendent of the department of public service the particular kind  
15 of improvements required or suitable for any street, alley or  
16 lane in the city, and the requirements of each separate locality  
17 in the way of public improvements. He shall do and perform  
18 any and all other duties required of him by the city council by  
19 ordinance, resolution, or by the head of the department of pub-  
20 lic service.

*The City Physician.*

Sec. 18. The city physician shall, under the direction of  
2 the superintendent of the department of public welfare, do and  
3 perform all duties required of him by any resolution or ordinance  
4 passed by the council, or by any law now in force, or hereafter  
5 passed by the legislature of the state of West Virginia, and shall  
6 perform all duties required of him by the superintendent of the  
7 department of public welfare. His services shall also be at the  
8 disposal of the water board, whenever they may require the same.

*The Chief of Police and Chief of the Fire Service.*

Sec. 19. The chief of police and chief of the fire service  
2 shall perform such duties as may be required of them by ordinance  
3 or resolutions of the council, or by the heads of the departments  
4 of finance and police, public service, and public welfare.

Sec. 20. The mayor and councilmen shall have an office or  
2 offices at the city hall, shall devote their entire time to the per-

3 formance of the duties of their offices, and their total com-  
4 pensation shall be as follows: The annual salary of the mayor  
5 shall be three thousand dollars, and of each councilman two  
6 thousand seven hundred dollars. Such salaries shall be pay-  
7 able in equal monthly installments.

8 Every employee (except employees of the water board) shall  
9 receive such salary or compensation as the council shall by ordi-  
10 nance or resolution provide, payable in equal monthly install-  
11 ments.

12 The salaries of the members of the water board and of the  
13 employees of said board shall be as provided in section thirty of  
14 this act.

Sec. 21. Every ordinance or resolution appropriating money  
2 or ordering any street improvement or sewer, or making or au-  
3 thORIZING the making of any contract, or granting any franchise  
4 or right to occupy or use the streets, highways, bridges or public  
5 places in the city for any purpose, shall be complete in the form  
6 in which it is finally passed, and remain on file with the city clerk  
7 for public inspection at least one week before the final passage or  
8 adoption thereof. No franchise or right to occupy or use the  
9 streets, highways, bridges or public places in said city shall be  
10 granted, renewed or extended, except by ordinance. No fran-  
11 chise shall be granted for a period exceeding thirty years, and  
12 no amendment or addition thereto shall extend beyond the termi-  
13 nation of the original franchise.

Sec. 22. The council shall, each six months, print in pam-  
2 phlet form a detailed itemized statement of all receipts and ex-  
3 penses of the city and a summary of its proceedings during the  
4 preceding six months, and furnish printed copies thereof to the  
5 daily newspapers of the city, and to persons who shall apply there-  
6 for at the office of the city clerk. At the end of each year the  
7 council shall cause a full and complete audit of all the books  
8 and accounts of the city to be made by the state tax commissioner,  
9 and shall make public the result of such examination in the man-  
10 ner above provided for publication of statements of expenditures.  
11 At the end of the year there shall be published a financial state-  
12 ment of the city covering the transactions of the preceding fiscal  
13 year, in the manner required by law.

Sec. 23. All supplies used by the city and all material for  
2 the construction of any public improvement, except such as may  
3 be purchased for emergencies, shall be purchased on competitive

4 bids. Dealers in supplies and materials of the kind required shall  
5 be notified by letter of the requirements of the city, and asked to  
6 submit propositions for furnishing the same and the offer most  
7 advantageous to the city, taking into consideration the quality,  
8 time of delivery, and all other conditions, shall be accepted.

Sec. 24. The council shall have the right to make up an esti-  
2 mate of the proposed improvements for any year and a budget  
3 covering the same, at such time as may be deemed most suitable  
4 without regard to the requirements of a general statute, and it  
5 may from time to time prepare and adopt additional estimates  
6 and budgets during the current year whenever in the judgment  
7 of the council the public interests will be promoted thereby.

Sec. 25. When this act becomes effective, all streets, lanes,  
2 alleys, water lines and plants, sewer lines, and other prop-  
3 erty of every nature and description owned by each of the now  
4 existing municipalities which are included in the city of Clarks-  
5 burg created by this act, shall become the property of, and the  
6 title thereto shall be vested in, the said city of Clarksburg here-  
7 by created. No franchise heretofore granted by either or any of  
8 the existing municipalities, included in the city of Clarksburg  
9 herein created, shall, by anything herein contained, be in any  
10 manner enlarged or added to, or caused to embrace and cover or  
11 include any territory not covered by the original franchise at  
12 the time that the same was granted. Nothing herein contained  
13 shall be held to limit or impair in any manner any franchise  
14 heretofore granted by either or any of said existing municipalities.

Sec. 26. Public improvements of all kinds may be made by  
2 the appropriate department, either by direct employment of the  
3 necessary labor and the purchase of the necessary supplies and  
4 materials, with separate accounting as to each improvement so  
5 made, or by contract duly let after competitive bidding, either  
6 for a gross price, or upon a unit basis for the improvement, or  
7 by contract containing a guaranteed maximum and stipulating  
8 that the city shall pay within such maximum the cost of labor  
9 and materials, plus a fixed percentage of profit to the contractor.  
10 The council, by resolution, shall determine by which of the fore-  
11 going methods any improvement shall be made. Contracts may  
12 provide a bonus per day for completion of the contract prior to  
13 a specified date, and liquidated damages to the city to be exacted  
14 in like sum for every day of delay beyond a specified date.

Sec. 27. When it becomes necessary in the prosecution of

2 any work, or improvement under contract, to make alterations or  
3 modifications in such contract, such alterations or modifications  
4 shall be made only upon resolution of the council. No such order  
5 shall be effective until the price to be paid for the work and ma-  
6 terial, or both, under the altered or modified contract, shall have  
7 been agreed upon in writing and signed by the contractor and the  
8 mayor upon authority of the council.

Sec. 28. An owner of lots or grounds within the city who  
2 sub-divides or lays them out for sale, shall cause to be made an  
3 accurate map or plat of such sub-division, describing with cer-  
4 tainty all grounds laid out, or granted for streets, alleys, ways,  
5 commons, or other public uses. Lots sold or intended for sale  
6 shall be numbered by progressive number, or described by the  
7 squares in which situated, and the precise length and width shall  
8 be given of each lot sold or intended for sale. Such map or plat  
9 shall be subscribed by the owner and lien holders, acknowledged  
10 before an officer authorized to take the acknowledgment of deeds,  
11 approved by the superintendent of public service, and recorded  
12 in the office of the clerk of the county court.

13 The map or plat so recorded shall thereupon be sufficient  
14 conveyance to vest in the city the fee of the parcel of land des-  
15 ignated or intended for streets, alleys, ways, commons, or other  
16 public uses, to be held in the corporate name in trust to and for  
17 the uses and purposes in the instrument set forth, expressed,  
18 designated, or intended.

19 The city, however, shall not be required to open or improve  
20 any street or alley shown on such plat until the public need  
21 requires the same to be opened and improved, and it shall not be  
22 liable to any person in any manner whatever who may or shall  
23 use any of such streets or alleys before the same shall have been  
24 formally accepted by the council on the part of the city and order-  
25 ed to be opened and improved.

26 No such plat sub-dividing lands within the corporate limits  
27 of the city shall be recorded by the clerk of the county court in  
28 his office until the same shall have been approved by the superin-  
29 tendent of public service and his approval in writing endorsed  
30 on such plat.

Sec. 29. The city of Clarksburg as herein created shall  
2 have the right under the power of eminent domain to condemn,  
3 acquire, and appropriate any property and acquire the fee simple  
4 title or any lesser estate or easement therein for any public use,

5 whether said property be located within or outside of the corpor-  
6 ate limits of said city, including the right to acquire property  
7 for opening and widening streets, alleys and public places, and  
8 for the construction and maintenance of sewer lines, sewage dis-  
9 posal plants, water lines and mains, pump stations, reservoirs or  
10 resevoir sites, dams for storing water, and the right to create  
11 storage resevoirs by flooding adjacent properties, and for every  
12 other purpose required in the construction, maintenance and  
13 operation of water systems and plants for the purpose of sup-  
14 plying water to the public. The proceedings to acquire such  
15 lands, estates, or easements shall be the same as provided by  
16 general laws of the state of West Virginia for condemning and  
17 appropriating private property for a public use.

Sec. 30. The water board herein created when this act goes  
2 into effect shall supersede the water works and sewerage board  
3 created by chapter twelve of the acts of the West Virginia legisla-  
4 ture, session one thousand nine hundred and nine. The water  
5 board shall at its first meeting, or as soon as practicable  
6 thereafter, appoint a general manager for the water works plant  
7 and system of the city. The general manager shall act as sec-  
8 retary for the water board, and shall be treasurer of the water  
9 board. Said board shall have the power to employ such  
10 hydraulic engineers, mechanical engineers, and other  
10-a technical experts, attorneys, assistants and agents, or other  
11 employees, as they shall at any time deem necessary for the good  
12 of the public service. They may create, fill and discontinue em-  
13 ployments other than those herein prescribed, according to their  
14 judgment of the needs of the department. They shall fix, pre-  
15 scribe and limit the compensation to be paid to the general man-  
16 ager, and to all other employees, and the manner of payment of  
17 such compensation.

18 The regular meetings of the board shall be held monthly on  
19 such day in each month as the board by resolution may fix, and  
20 special meetings may be called at any time by any member of  
21 the board, or by the secretary. It shall require at least two  
22 members of the board to constitute a quorum or to transact any  
23 business.

24 The members of the water board shall receive such compen-  
25 sation as they may from time to time fix, which shall not exceed  
26 three hundred dollars each per year, the same to be pay-  
27 able in such manner as the board by resolutioin may require.  
28 The board shall provide by resolution for the election of one of



29 its members as president of the board and the term of the presi-  
30 dency shall be fixed by a resolution of the board.

31 (a) The water board is empowered to fix, regulate and  
32 change rates and charges for water supplied to all consumers,  
33 and to adopt and prescribe reasonable rules and regulations which  
34 shall be observed and obeyed by all consumers in reference to  
35 the use and consumption of water taken from the city mains; the  
36 terms and conditions upon which connections to the said mains  
37 shall be permitted, and the place and manner of making the same;  
38 to fix penalties by way of additional charges for failure to pay  
39 water rents promptly, and to this end may discontinue the sup-  
40 ply of water of any consumer who fails to pay for the same as  
41 required; to require all users of water for temporary purposes to  
42 pay for the privilege in advance; to refuse to furnish water to  
43 any building or habitation in the city unless the owner thereof  
44 shall assume liability for the payment of the charges for the water  
45 so furnished; to charge the cost of installing water service lines  
46 from the curb line to the mains against the land owner, and to  
47 require the payment in advance for installing such line and mak-  
48 ing connection with the water main; whenever the city council  
49 shall determine to pave or re-pave any street in the city, the  
50 water board is authorized to make a proper connection and lay  
51 a water service line from the main to the curb for each and  
52 every lot or for any part of a lot under separate ownership, al-  
53 though no water service may at the time be necessary or required  
54 for any such lot or part of lot, and to charge the cost of making  
55 such connection and laying such water service line against the  
56 owner of the property, and the cost of laying such water service  
57 lines and making such connections shall in every instance be a  
58 lien upon the lot or part of lot to be benefitted thereby, and the  
59 water board shall have the right in the name of the city to institute  
60 and prosecute any proper suit in the circuit court of Harrison  
61 county, West Virginia, for the collection of such charges by a  
62 sale of the property on which the same constitutes a lien.

63 The board shall have power from time to time to repair, ex-  
64 tend and amplify the water works' plant and system, and to make  
65 such additions to the pumping station, filtration plant and water  
66 mains and lines as may at any time and from time to time be  
67 deemed necessary for the proper operation of this system:  
68 *provided, however,* that no expenditures shall be made by the  
69 water board for any such purposes in excess of the current reve-

70 nucs arising from the operation of the water works plant, unless  
71 and until such further expenditures shall have been authorized  
72 and approved by the city council.

73 Whenever in the opinion of the water board, it shall be deem-  
74 ed advisable to make any improvements, extensions, or additions  
75 to the water plant and system, they shall cause to be prepared  
76 maps, plans and specifications for the work proposed, which shall  
77 be submitted for approval to the city council, and when approved  
78 by the city council, the water board shall proceed to make or con-  
79 tract for making, such improvements, extensions, or additions.

80 Whenever the water board shall desire to make any changes  
81 in the existing rates or schedule for water and water service to  
82 the people of the city of Clarksburg, it shall cause to be made out  
83 a schedule of the existing rates and a schedule showing the pro-  
84 posed rates, and submit the same to the city council, and no  
85 change in the existing rates shall be made or become effective  
86 until the same shall have been approved by the city council.

87 The water board shall require the general manager to ex-  
88 amine the sources of water supply for the city of Clarksburg, and  
89 to report to the water board from time to time whether the  
90 waters are being polluted in violation of the provisions contained  
91 in this act, and the water board may, in the name of the city of  
92 Clarksburg, institute and prosecute in any court having jurisdic-  
93 tion, any suits or proceedings necessary to prohibit any and all  
94 persons, firms, or corporations from polluting said waters in any  
95 manner in violation of the provisions of this act and in violation  
96 of any ordinance which the council of the city of Clarksburg  
97 may, pursuant to any authority contained in this act, hereafter  
98 adopt.

99 (b) Subject at all times to the control of the water board,  
100 the general manager shall have charge of all of the water works  
101 plant and system, and shall exercise supervision and control  
102 over all of the employees of the water board. He shall enforce  
103 all ordinances, rules and regulations heretofore adopted, or  
104 which may hereafter be adopted by the water board, and all laws  
105 of the state of West Virginia applicable to the water works  
106 system or plant, except that any ordinances or laws subjecting  
107 any person to a fine or imprisonment for the violation thereof  
108 shall be enforced by the mayor of the city who is *ex-officio* police  
109 judge within and throughout the jurisdiction of the city of  
110 Clarksburg; he shall have general supervision of the pumping

111 plants and stations and filtration plant, and shall collect and  
112 preserve all monies payable to the water board, and shall pay  
113 the same out only upon the order of the water board in such  
114 manner as it may by rules and resolutions prescribe. He shall  
115 attend all meetings of the water board and shall keep in a well-  
116 bound book a complete record of all proceedings of said board,  
117 and shall, with the president of the board, authenticate with his  
118 signature the record of the proceedings of each meeting. He  
119 shall keep, or cause to be kept, full and accurate books of account  
120 covering all the business and transactions of the water works  
121 department of the city, charging the water board with all monies  
122 received from every source, and crediting the same with all ex-  
123 penditures and disbursements.

124 (c) The water board is herein specifically authorized to  
125 pay the interest upon, and by payments into the sinking fund,  
126 to pay and discharge, all of the bonds heretofore issued by each  
127 of the several municipalities included in the city of Clarks-  
128 burg hereby created, the proceeds of which were expended by  
129 said municipality in the construction and installation of water  
130 works systems and plants therein.

131 Whenever the council of the city, and the requisite ma-  
132 jority of the voters thereof, shall authorize in the manner pro-  
133 vided by law, the issuance of bonds for the purpose of repairing,  
134 improving, enlarging or extending the water works system of said  
135 city, or for refunding any outstanding bonds, the proceeds from  
136 which were applied to any of said purposes, by the city of Clarks-  
137 burg, or any of the existing municipalities which are hereby in-  
138 eluded in the city of Clarksburg herein created, said bonds  
139 shall be issued and delivered to the water board to be by them  
140 sold in the manner provided by law, and the proceeds paid into  
141 the treasury of the water board, and the same shall be applied  
142 and utilized by the water board for the purposes prescribed by  
143 the ordinance authorizing the issuance of such bonds. In any  
144 ordinance for the issuance of bonds for such purpose, it shall  
145 be a sufficient statement of the purposes for creating the debt,  
146 to specify that the same is for the purpose of improving, ex-  
147 tending, repairing, or adding to, the water works system or  
148 plant of the city of Clarksburg, without specifying the particu-  
149 lar improvements, enlargements or extensions contemplated, or  
150 designating generally the particular bonds which it is proposed  
151 to refund.

152       (d) All revenues derived from the operation of said water  
153 works system or plant, or from the sale of bonds issued for re-  
154 pairing, improving, enlarging, extending or adding to said water  
155 works plant shall be applied to the payment of the cost of opera-  
156 tion and of making such improvements, to the payment of in-  
157 terest upon any bonds and the sinking fund to pay off and dis-  
158 charge the same, which the water board is herein authorized to  
159 assume and pay, whether said bonds were heretofore or may be  
160 hereafter issued. Out of the revenues derived from the opera-  
161 tion of said water works, the board is authorized to pay all  
162 salaries and expenses which may be incurred by it in the ex-  
163 ercise of any power herein conferred or the performance of any  
164 duty herein imposed, or by general law conferred or imposed,  
165 upon the water board. No part of said revenues shall be de-  
166 voted for any other purpose.

167       (e) The board shall cause to be prepared accurate and  
168 complete maps, plans and specifications of any improvements,  
169 extensions or additions to the water system, which they may de-  
170 sire to make, and they shall have the authority to cause said work  
171 to be done either by the employment of labor and the furnish-  
172 ing of material, or by entering into a contract for the perform-  
173 ance of the labor and for the material. All contracts for fur-  
174 nishing material or the performance of any work shall be let on  
175 competitive bids in the manner provided by the laws of the state  
176 of West Virginia. Any change or alteration in a contract after  
177 it is entered into shall be made only upon resolution passed by  
178 the water board, and shall not be effective until the price to be  
179 paid for the work and material, or both, under the altered or  
180 modified contract, shall have been agreed upon in writing and  
181 such agreement signed by the contractor, the president of the  
182 water board and the general manager.

183       (f) The treasurer of the water board shall be responsible  
184 for the safe keeping of all monies, property, books and records of  
185 the water board, and shall pay out such monies only upon vouch-  
186 ers drawn by him and countersigned by the president and at  
187 least one other member of the water board.

188       (g) The water board shall cause to be made and kept on  
189 file for public information at the office of the board, complete  
190 maps, plans and details showing the dams, pumping stations,  
191 reservoirs, tanks, pipes, valves, connections, water lines, fire hy-  
192 drants, and all other data necessary for a complete exhibition of  
193 the physical properties of the water works plant or system,

194 which maps or plats shall be from time to time revised and ex-  
195 tended.

196 (h) The general manager shall be the purchasing agent  
197 for the water board, and he shall purchase all material for  
198 the construction, improvement, or repair of the water system  
199 and all supplies needed in the operation of the water plant or  
200 system, and except in cases of emergency, all such purchases  
201 shall be upon competitive bids. Dealers in supplies and mater-  
202 ials of the kind required shall be notified by him by letter of  
203 the requirements of the city and asked to submit propositions  
204 for furnishing the same, and the offer most advantageous to the  
205 city, taking into consideration the quality, time of delivery, and  
206 all other conditions, shall be accepted.

207 He shall also recommend to the board from time to time  
208 the additions, changes, repairs and improvements to the water  
209 works system or plant that he may deem necessary; and shall  
210 keep the board fully advised as to the financial condition and the  
211 needs of the department. He shall perform all other duties that  
212 may from time to time be required of him by the board, or by  
213 any law of the state of West Virginia.

214 The general manager shall, at the close of any fiscal year,  
215 cause a complete audit to be made of all the books and records  
216 of the department for the preceding year, by the state tax com-  
217 missioner or supervisor of public accounting for the state of  
218 West Virginia, and he shall cause to be published in pamphlet  
219 form and delivered to all water consumers who may call for the  
220 same, the report made by the auditor, together with such other  
221 report and information concerning the operation of the depart-  
222 ment as may be deemed necessary for the information of the  
223 public. A report of the auditor shall be published once in the  
224 two principal newspapers of opposite politics published in the  
225 city of Clarksburg, and the same shall constitute the financial  
226 statement of the department, the publication of which is re-  
227 quired by general law.

228 (i) The sheriff of the county of Harrison, the mayor of  
229 the city of Clarksburg, and the treasurer of the water board of  
230 the city of Clarksburg at the time holding said respective offices  
231 and employments, are hereby created trustees for the sinking  
232 fund or sinking funds payable by the city of Clarksburg and by  
233 the water board of said city for the discharge of any bonds

234 heretofore issued by the city of Clarksburg, or which may here-  
235 after be issued by the city of Clarksburg as herein created, the  
236 bonds heretofore issued by the town of Broad Oaks, the town  
237 of Adamston and the town of North View. Said trustees shall  
238 have control of all sums which have heretofore been paid into  
239 the sinking fund for the discharge of any such bonds issued  
240 by the city of Clarksburg, or either of the existing municipalities  
241 which are included in the city of Clarksburg created by this  
242 act, as well as all payments which shall be made into the sink-  
243 ing fund hereafter by the city of Clarksburg as hereby created.  
244 The trustees shall invest, preserve, keep, apply and account  
245 for the monies constituting such sinking fund or sinking funds  
246 in the manner now or hereafter provided by law. The trus-  
247 tees of the sinking fund for the city of Clarksburg are author-  
248 ized and empowered to designate as a city depository or deposit-  
249 aries of public monies any bank, banks, trust company or trust  
250 companies, located in the city of Clarksburg, which might  
251 qualify as a county depository under the provisions of chapter  
252 eighty-four of the acts of the West Virginia legislature, regu-  
253 lar session nineteen hundred and fifteen. Any bank, banks,  
254 trust company or trust companies designated as a depository  
255 for the city of Clarksburg shall give bond or deposit securities  
256 and qualify in all respects before receiving any city deposits  
257 as a county depository is required to qualify under the provis-  
258 ions of the act of the said legislature, chapter eighty-four,  
259 regular session nineteen hundred and fifteen: *provided, how-*  
260 *ever,* no city depository shall be required to pay interest upon  
261 city monies deposited with it subject to check or upon checking  
262 accounts at a rate greater than two per centum upon the  
263 daily cash balances, the rate to be paid to be agreed upon by and  
264 between the depository and the said trustees from time to time.  
265 Any duty required to be performed by the county court by the  
266 provisions of said chapter eighty-four of the acts of the said  
267 legislature, session nineteen hundred and fifteen, shall be per-  
268 formed by the city council, and any duties required of the  
269 clerk of the county court, or prosecuting attorney of said coun-  
270 ty, by the terms of said act, shall be performed by the city clerk  
271 and the city attorney for the city of Clarksburg in carrying out  
272 the provisions of this present act. Any interest paid upon any

273 fund by any depositary shall be credited to the particular fund  
274 upon which the same accrues, by the city clerk and treasurer.

275 When a city depositary or depositaries shall have been  
276 designated and shall have qualified under this act, all public  
277 monies belonging to the city of Clarksburg, no matter from what  
278 source derived, shall be deposited and kept on deposit until ex-  
279 pended by the said city of Clarksburg, in the depositary or one  
280 or more of the depositaries authorized to receive deposits and  
281 designated as aforesaid.

282 . (j) The city may require all persons who engage in the  
283 business of plumbing to pass an examination and obtain a  
284 license or certificate for such purpose. For this purpose there is  
285 hereby created a board of examiners of four persons to consist  
286 of the superintendent of public welfare and the general manager  
287 of the water board and of two other persons selected by them,  
288 one of whom shall be a master plumber and the other a journey-  
289 man plumber. The license shall be for such term or period as  
290 may be prescribed by the examining board. The superinten-  
291 dent of the department of public welfare and the general man-  
292 ager of the water board shall not receive any compensation for  
293 serving on the board of examiners, but the additional members  
294 shall be entitled to a sum not exceeding five dollars per day  
295 for each day of actual service, to be paid out of the funds of  
296 the water board. The general manager of the water board shall  
297 be *ex-officio* secretary of the board of examiners, and he shall  
298 make out and certify, and the superintendent of the department  
299 of public welfare shall countersign, all certificates or licenses,  
300 and said secretary shall keep and preserve all papers and records  
301 relating to the work of said board. The board shall be govern-  
302 ed by any ordinance in force in the existing city of Clarksburg  
303 when this act goes into effect, or which may be passed by the  
304 council of the city of Clarksburg hereby created.

Sec. 31. Each officer and employee of the city in each and  
2 all of the departments of the city government into whose custody  
3 or control shall come any of the monies or funds belonging to  
4 the city shall before receiving any such money or funds enter into  
5 bond conditioned for the faithful discharge of his duties and  
6 for the faithful accounting for all monies coming into his hands,  
7 custody or control, by reason of his office or employment, and  
8 otherwise conditioned according to law. Such bond shall be

9 in the penalty sufficient to secure the city against any loss, the  
10 amount thereof to be fixed by ordinance of the city council, or  
11 if required in the water works department, by resolution of the  
12 water board. All such bonds shall be payable to the city of  
13 Clarksburg, a municipal corporation, and all suits for the enforce-  
14 ment of the penalty of any bond shall be in the name of the  
15 city of Clarksburg. All bonds required shall be of the form  
16 and tenor prescribed by the city attorney and shall be approved  
17 by the city attorney as to the sufficiency of the sureties thereon,  
18 and such approval as to the form and tenor of the bond and  
19 the sufficiency of the sureties shall be endorsed on each bond and  
20 certified and signed by the city attorney. All such bonds when  
21 executed and approved shall be recorded in a book kept for that  
22 purpose by the city clerk, and the original bonds shall then be  
23 delivered to the city attorney who is hereby made custodian of  
24 all such bonds. At the annual audit required to be made by  
25 the state tax commissioner or supervisor of public accounting for  
26 the state of West Virginia, the auditor shall report to the city  
27 council and to the water board respectively whether or not the  
28 bonds required and taken by said city council and said water  
29 board are in any respect insufficient, or not properly executed,  
30 and may require of any official or employee of the city a new  
31 bond or additional bond, and any new or additional bond so  
32 required by the auditor of any official or employee shall be given  
33 within thirty days after notice of such requirement, and a failure  
34 to give such bond shall at the expiration of thirty days forfeit  
35 the office or employment of the official or employee failing to  
36 give the same.

Sec. 32. The council may cause any public street or alley  
2 or part thereof to be graded, paved, curbed, sewerred, or other-  
3 wise improved in a permanent manner with brick, concrete,  
4 asphalt, wooden blocks, macadam, sewer pipe, or other suitable  
5 material, or may cause any one or more of such improvements  
6 to be made, under such regulations not inconsistent with the  
7 provisions of this section as shall be fixed by council, upon the  
8 lowest and best terms obtainable by advertising for bids or  
9 proposals therefor; and the entire cost thereof (which cost shall  
10 include the cost and expense of the preliminary and other survey,  
11 of printing and publishing of notices, ordinances and resolutions  
12 required to be published in relation thereto, and the cost of  
13 construction), shall be assessed against the lots or fractional



14 parts of lots abutting on that part of the streets and alleys so  
15 graded, paved, curbed, sewered or otherwise improved, in pro-  
16 portion to the number of feet frontage thereon; *provided*, that  
17 the cost of grading, paving, sewerage or otherwise improving  
18 intersections of streets and alleys, (except such part thereof as  
19 may be assessable to a street car or other railway company as  
20 hereinafter set forth), and the proportion for lots or parts of  
21 lots or property against which no assessment can legally be  
22 made shall be paid by the city out of the general fund; and,  
23 *provided, further*, in case of a street or alley occupied by street  
24 car tracks or other railway, the cost of paving the space between  
25 the rails and for two feet additional outside each rail, shall be  
26 assessed to and paid by the street car or other railway company,  
27 (unless otherwise provided in the franchise of such street car  
28 or other railway company which was granted prior to the  
29 passage of this act, in which case the cost of that part of the  
30 pavement or other improvement which can lawfully be charged  
31 against such street or other railway company under its franchise  
32 shall be assessed against and paid by it).

33 (a) The amounts so assessed against such abutting lots or  
34 fractional parts of lots to the said abutting property owners, the  
35 city and the street car or other railway company as aforesaid,  
36 respectively, shall bear interest at the rate of six per centum  
37 per annum from and after the date of the acceptance of the work  
38 by the city, and shall become and be due and payable in the one  
39 or the other of the following two ways, according to the method  
40 which the council may have adopted for the doing of and the pay-  
41 ment for the particular work of improvement to which said as-  
42 sessments relate, namely: (1) In the event the method so  
43 adopted is by an appropriation out of funds in the city treasury  
44 not otherwise appropriated in anticipation of the collection of  
45 said special assessments, then the said assessments shall become  
46 due and payable when declared final as hereinafter provided,  
47 and to each assessment which shall remain unpaid thirty days  
48 from and after the same has been so declared final, a penalty of  
49 five per centum of said assessment shall be added and collected  
50 by the city; or, (2) In the event the method so adopted is by  
51 the issue and sale of bonds in anticipation of the collection of  
52 said special assessments as hereinafter provided, then said assess-  
53 ments shall be due and payable in ten payments as follows, that  
54 is to say: One-tenth of said amount, together with interest at

55 the rate of six per centum per annum from the acceptance of the  
56 work by the city on the whole assessment, shall be paid to the city  
57 on or before the first day of May next after the work is accepted,  
58 and a like one-tenth, together with interest for one year upon the  
59 whole amount remaining unpaid, on or before the first day of  
60 May in each succeeding year thereafter until all has been paid,  
61 and each installment shall bear interest at the rate aforesaid  
62 from the date of its maturity, and, moreover, to each installment  
63 remaining unpaid on the days herein specified for the  
64 payment thereof a penalty of ten per centum of  
65 said installment shall be added and collected by the  
66 city; and *provided, further*, that any abutting property owner,  
67 the city or the street car or other railway company against whose  
68 property said assessments have been made, shall have the right at  
69 any time after such assessments shall have been certified to the  
70 superintendent of the department of finance for collection, as  
71 hereinafter provided, to anticipate any or all of such assessments,  
72 and shall be allowed to pay the face of said assessments, with  
73 interest only to the time of payment.

74 (b) The sum or sums of money so assessed, together with  
75 the interest and penalties aforesaid, for grading, paving, curbing,  
76 sewerage or other of said improvements, shall be a lien upon the  
77 lots or fractional parts of lots, and in the case of a street car  
78 or other railway company upon its tracks and franchises for  
79 the distance of said improvement, from the date of acceptance  
80 of said work by the city, and said lien shall have priority over  
81 all other liens except those for taxes due to the state, and shall  
82 be on a parity with the taxes and assessments due the city;  
83 *provided, however*, such assessments shall, after six months  
84 from the date of the acceptance of said work, cease to constitute  
85 liens against said property as against creditors of the owners  
86 thereof, or purchasers thereof for value without actual notice  
87 of such liens, unless within said period of six months a state-  
88 ment of said liens shall be filed for record in the office of the  
89 clerk of the county court of Harrison county. Said statement  
90 shall be made up and certified before the expiration of said  
91 six months period by the city clerk to the clerk of said county  
92 court as to all assessments which shall remain unpaid four  
93 months after the acceptance of the work, and said statement  
94 shall describe the assessments generally as for street improve-  
95 ments, give the names of the property owners assessed, the loca-

96 tion of the real estate affected, date of acceptance of the work  
97 by the city, and the amount of each assessment; and it shall  
98 be a sufficient description of the location of said real estate  
99 to describe it as abutting upon the particular street or alley  
100 so improved included between the termini of the improvement,  
101 or by the description whereby said real estate appears upon the  
102 land books of Harrison county. The county clerk shall record  
103 said statement in the trust deed books in his office, and index  
104 the same in the name of the city and also in the name of each  
105 person against whose property said assessments appear therein,  
106 and for such recordation the county clerk shall be paid at the  
107 same rate for each one hundred words as provided by law for  
108 recording deeds of trust.

109 (c) The city clerk shall also, so soon as such assessments  
110 have been declared final by the council, enter the same of record  
111 in the "municipal assessment docket", and make out bills there-  
112 for against the property owners assessed, and certify the same  
113 for collection to the superintendent of the department of finance  
114 and police, who shall thereupon be charged with said accounts.  
115 And upon default being made in the payment of any assessment  
116 or installment thereof aforesaid, the same shall be immediately  
117 reported to the council by the superintendent of the department  
118 of finance and police, and the council shall forthwith refer the  
119 same to such officer as it may deem expedient for collection;  
120 and payment of said delinquent assessments or installments,  
121 with the interest and penalties aforesaid, may be enforced in  
122 all respects as provided for the collection of city taxes, or the  
123 lien aforesaid may be enforced by a suit in equity in the name  
124 of the city in any court having jurisdiction thereof, and the  
125 said delinquent assessments or any installment thereof, may be  
126 collected from the person against whom the same were assessed  
127 by action at law before any court or a justice of the peace having  
128 jurisdiction thereof. In addition to all other remedies for the  
129 collection of said delinquent assessments or installments, the  
130 city may cause a certified copy of the assessment to be filed  
131 in the office of the clerk of the circuit court of Harrison county,  
132 West Virginia, and after ten days' notice by personal service, or  
133 after two weeks' publication of a notice in all cases in which  
134 personal service cannot be had, upon the owner of any lot on  
135 which said assessment constitutes a lien, said court shall, on  
136 motion of the city of Clarksburg, order the sale of the lots

137 or property on which the assessment or installment constitutes  
138 a lien to be made by the city treasurer at the front door of the  
139 court house of Harrison county on such terms as to payment  
140 as the court in its order may prescribe. The city treasurer  
141 shall advertise the time, terms and place of such sale by a  
142 notice published once a week for two successive weeks in some  
143 newspaper published and of general circulation in the city of  
144 Clarksburg, and by posting a copy of such notice at the front  
145 door of the council chamber for at least two weeks before the  
146 day fixed for such sale.

147 The city treasurer shall report any sale made hereunder to  
148 said court for confirmation, and upon the confirmation of the  
149 sale, the court shall authorize the city treasurer to execute and  
150 deliver to the purchaser a deed for the property so sold, which  
151 shall divest all the estate and interest therein of the former  
152 owner and of all persons claiming under him and of all lien-  
153 holders against the property, and vest all such estate and interest  
154 in the purchaser thereof. Out of the proceeds of any such  
155 sale the court shall allow to the city treasurer all costs and  
156 expenses incurred in making the sale and reasonable compen-  
157 sation for his services and a fee of five dollars for making the  
158 deed to the purchaser, and shall order to be paid out of the  
159 proceeds, if sufficient, all unpaid assessments or installments  
160 of assessments against said property theretofore made by the  
161 city of Clarksburg, with all accrued interest thereon and costs  
162 and expenses of the proceeding, including an attorney's fee of  
163 ten dollars. The residue of the purchase money shall be paid  
164 to the former owner of the lot, his personal representative,  
165 heirs or assigns.

166 Before making any sale of real estate in any such proceed-  
167 ing, the city treasurer shall execute a bond in like manner as  
168 required by the laws of the state of West Virginia of a special  
169 commissioner.

170 (d) Immediately upon the completion and acceptance of  
171 any of the work aforesaid constructed by virtue of this section,  
172 the council shall direct the clerk to prepare and publish a  
173 notice which shall name and describe the location of the street  
174 or alley upon which said work shall have been constructed, give  
175 the names of the owners of each lot or fractional part of lot  
176 abutting upon said street or alley, if known, and also the name  
177 of any street car or other railway company having tracks thereon,

178 and if the name or names of any such owners be unknown, such  
179 lot or fractional part of lot shall be described with reasonable  
180 certainty so that the same may be identified; and said notice  
181 shall also state the number of feet that each lot or fractional  
182 part of lot abuts upon said street or alley, so graded, paved,  
183 sewerred or otherwise improved, and the street or alley inter-  
184 sections, and all abutting city property and property not liable  
185 to assessments, and the number of square feet or yards to be  
186 paid for by such street car or other railway company, and also  
187 the respective amounts assessed against each lot or fractional  
188 part of lot and against the city and against any street car or  
189 other railway company, and when said assessments or install-  
190 ments thereof shall be payable. Said notice shall cite all said  
191 property owners and also such street car or other railway company  
192 to appear before the council at a regular meeting thereof within  
193 thirty days following the first publication thereof and show  
194 cause, if any they can, why the assessments aforesaid shall not  
195 be declared final. The council shall, upon request of any one  
196 or more of the property owners so assessed who shall appear  
197 and protest within the time aforesaid, appoint a day for hearing  
198 the grievances of said protestants and may correct or amend any  
199 assessment made against them, or any of them, for good cause  
200 shown; which meeting shall be held within ten days after the  
201 expiration of the thirty days mentioned in said notice. The  
202 council may adjourn the hearing from time to time. In case  
203 any property owner or railway company assessed as aforesaid  
204 shall fail to protest within said period of thirty days, the assess-  
205 ments as to them shall by ordinance be declared final as laid,  
206 and protested assessments shall become and be declared final  
207 when and to the extent found proper by the city council, and  
208 the finding in all such cases shall be entered of record upon  
209 the minutes of the meeting. The findings of the council shall  
210 be conclusive.

Sec. 33. Whenever it is deemed expedient by the council to  
2 provide for the grading, paving, curbing, sewerred or other im-  
3 provement of any of the streets, or alleys, or parts thereof, to be  
4 paid for by special assessments, as hereinbefore provided, the  
5 council shall first, having on file in the city clerk's office, plans,  
6 specifications, profiles and estimates of the proposed improve-  
7 ments showing the proposed grade of the street or alley after  
8 completion with reference to the abutting property, declare by

9 resolution the expediency of the work and whether payment  
10 therefor shall be made by an appropriation from funds in the treas-  
11 ury not otherwise appropriated in anticipation of special assess-  
12 ments payable when declared final, or by the issue and sale of  
13 bonds theretofore authorized as hereinafter in section thirty-  
14 five provided; and said plans, specifications, profiles and estimates  
15 shall be open to public inspection. Said resolution shall declare  
16 the general nature of the work and refer for details to said plans,  
17 specifications, estimates and profiles: and said resolution shall  
18 remain on file with the city clerk for public inspection one week be-  
19 fore the final passage or adoption thereof, and shall be published  
20 once in each of the two newspapers mentioned in section forty  
21 hereof as soon as filed with the clerk. Until said resolution is  
22 finally passed, the council shall hear all persons interested in  
23 relation thereto at any regular or special meeting, and after it  
24 decides to proceed with the improvement, it shall pass said reso-  
25 lution, or the council may correct or amend said resolution, plans,  
26 specifications, profiles and estimates and approve and adopt them  
27 as corrected or amended; and said plans, specifications, profiles  
28 and estimates shall be forthwith filed with the city clerk, and be  
29 by him preserved as a part of the records of his office.

30 (a) The council may then adopt and pass ordinances for  
31 said purposes which shall provide generally the character of the  
32 work, make appropriation for the payment therefor, and provide  
33 for advertisement for proposals or bids for said work; and shall  
34 also set forth the streets and alleys upon which the property is  
35 to be assessed for said improvements, the general character of  
36 materials which may be bid upon therefor, the mode of payment,  
37 and a reference to the resolutions theretofore passed for said im-  
38 provements, (giving the date of passage), and a statement of the  
39 intention of council to proceed with said work in accordance with  
40 said resolution and in accordance with the plans, specifications,  
41 estimates and profiles providing therefor.

42 In any case where the council has determined to pay for  
43 any of such improvements out of funds in the city treasury not  
44 otherwise appropriated, in anticipation of the collection of said  
45 special assessments, said ordinance shall further provide for the  
46 payment of said special assessments by the property owners  
47 respectively when and as the same become final, and said ordi-  
48 nance shall then be passed and become and be effective as pro-

49 vided in section twenty-one of this act; but when it has been  
50 determined to issue and sell bonds for the payment thereof, the  
51 said ordinance shall fix the time of payments in installments as  
52 hereinabove in section thirty-two provided, and said ordinance  
53 shall not be effective so as to permit any contract to be made or  
54 work to be done thereunder until, in addition to the compliance  
55 with the provisions of said section twenty-one, the fact that the  
56 proceeds of the sale of said bonds have been received by the city  
57 shall be certified by the superintendent of the department of  
58 finance and police, and such certificate entered upon the minutes  
59 of the council.

Sec. 34. Where such work is provided to be paid out of  
2 funds in the treasury not otherwise appropriated in anticipation  
3 of collection of special assessments, all said assessments and in-  
4 terest and penalties collected therefor from the abutting prop-  
5 erty owners, the city and the street car or other railway com-  
6 pany shall be applied and paid on account of the cost of such  
7 improvement, (either to the contractor, if he be unpaid, or to  
8 the city in repayment of said appropriation, or such part thereof  
9 as may have been paid by it thereon, as the case may be), until the  
10 whole cost of said improvement and interest has been paid in  
11 full. Said assessments shall be applied to no other purpose,  
12 but if, by reason of penalties collected, any balance shall remain  
13 after such full payment, said balance shall be turned into the city  
14 treasury to the credit of the fund for street improvements and  
15 used for no other purpose.

Sec. 35. Where such work is provided to be paid by the issue  
2 and sale of bonds in anticipation of the collection of special  
3 assessments, the issuance and sale of said bonds must have  
4 been theretofore authorized in the manner and form and subject  
5 to the restrictions following: Whenever it is deemed expedient  
6 by the council to provide for such grading, paving, curbing,  
7 sewerage or other improvement, by the issue and sale of the bonds  
8 of the city, it shall, by resolution entered of record upon the  
9 minutes of its proceedings, so declare, and thereupon the city  
10 shall be and is hereby authorized to issue its bonds for said  
11 purposes in anticipation of special assessments to be assessed and  
12 paid as hereinabove in section thirty-two provided, which bonds  
13 shall be in such amount as shall be sufficient to pay the entire  
14 cost and expense of said improvements for which such special  
15 assessments are levied, and the city is also authorized to sell

16 said bonds: *provided*, that the price for which said bonds are  
17 sold shall not be below the par value thereof, and said bonds  
18 shall be made payable in two, six, eight and ten years from  
19 the date of the issue thereof, and shall bear interest at not to ex-  
20 ceed six per centum per annum, payable annually or semi-an-  
21 nually, as council may provide, and in the issuance and sale of  
22 said bonds the city shall be governed by all the restrictions and  
23 limitations of the constitution of this state, and, so far as not  
24 in conflict with the provisions of this section, by the restric-  
25 tions and limitations of the laws of this state, with respect to  
26 the issuance and sale of bonds; and all said assessments,  
27 (which shall be made payable in ten annual installments as pro-  
28 vided in section thirty-two hereof) shall be applied to the liquida-  
29 tion of said bonds and the interest thereon, and to that end paid  
30 to the city treasurer to the credit of the sinking fund of the city  
31 and invested for the best advantage of the city in the manner  
32 provided by law; and if by reason of penalties collected with the  
33 delinquent installments there shall be any balance after the  
34 payment of said bonds and all accrued interest and costs, said  
35 balance shall be turned into the city treasury to the credit of  
36 fund for street improvements and used for no other pur-  
37 pose: *provided*, that the city shall not by the sale or issue of  
38 said bonds cause the aggregate of its debts of every kind what-  
39 soever to exceed five per centum of the value of the taxable prop-  
40 erty therein; and provided, further, that nothing herein contain-  
41 ed shall be construed as authorizing the city to become indebted  
42 in any other manner or for any other purpose to an amount,  
43 including the existing indebtedness in the aggregate, exceeding  
44 two and one-half per centum of the value of the taxable prop-  
45 erty therein, except for the purpose of grading, paving, curbing,  
46 and otherwise improving the streets and alleys of the city,  
47 and constructing sewers and sidewalks along, upon and under  
48 the same; and extending and improving the water plant  
49 or system; nor shall said city make such issue and sale of bonds  
50 without at the same time providing for the levying of a direct  
51 annual tax sufficient to pay annually the interest on such debt and  
52 the principal thereof within and not exceeding ten years, if said  
53 bonds are issued against assessments for local improvements to be  
54 liquidated by such assessment, and not to exceed thirty-four years  
54-a if for any other purpose.

55 (a) All of the assessments, interest and penalties collected



56 under the provisions of this section shall annually be applied to  
 57 the annual tax required to pay the interest on any debt created  
 58 for a local improvement, and such principal, within and not  
 58 exceeding ten years; and in the event that the assessments, inte-  
 59 rest and penalties so collected shall not amount to a sum sufficient  
 60 therefor, then the council shall collect so much of said authorized  
 61 levy as will pay annually the interest on such debt and the prin-  
 62 cipal thereof within and not exceeding ten years.

63 (b) It is especially provided that no bonds shall be issued  
 64 under the provisions of this section, unless and until the question  
 65 of issuing said bonds shall have first been submitted to a vote  
 66 of the people of the city and shall have received three-fifths of all  
 67 votes cast at said election for or against the same. The council  
 68 may provide by ordinance for an election in any year, at which  
 69 the question shall be submitted to the people as to whether the city  
 70 shall be authorized to issue bonds for the purpose and under the  
 71 provisions of this section, to an amount not to exceed in the year  
 72 next following the date of said election, the amount recommended  
 73 by said ordinance for said ensuing year; but the ordinance pro-  
 74 viding for said election need not specify in detail the location of  
 75 the improvements contemplated to be paid for during the ensuing  
 76 year out of said aggregate issue authorized for said year, and  
 77 notwithstanding the provisions of sections two, three and six of  
 78 chapter forty-seven-a of the code, A. D., one thousand nine hun-  
 79 dred and sixteen, it shall be a sufficient description of the pur-  
 80 pose for which said election is held if the ordinance calling the  
 81 same shall recite that it authorizes the council to issue bonds for  
 82 the purpose of grading, paving, curbing, sewerage, or otherwise  
 83 improving the streets and alleys of said city, or extending and im-  
 84 proving the water works plant, at such times as the council or the  
 85 water board, as the case may be, shall see fit during the ensuing  
 86 year ending on the ..... day of .....,  
 87 19...., to an amount not exceeding in the aggregate during  
 88 said year the sum of \$.....; and when the  
 89 council shall have once been authorized by a vote of the people  
 90 to issue bonds for said purpose and in a sum not to exceed the  
 91 amount set forth in the ordinance calling the said election, no  
 92 further election shall be necessary for the issuing of such bonds  
 93 during said ensuing year up to the amount stipulated in said  
 94 ordinance calling said election, but the council shall from time  
 95 to time during said ensuing year by ordinance authorize the issue

96 of said bonds, in such sums, and for the improvement of such  
97 streets and alleys as to it may seem best, subject to the provisions  
98 of sections thirty-two, thirty-three and thirty-four of this act.  
99 Any bonds authorized for the extension and improvement of the  
100 water works or plant shall be issued and delivered to the water  
101 board, and by said board sold as provided by law, and the pro-  
102 ceeds of such bonds shall be expended only for the purpose for  
103 which such indebtedness was authorized.

104 The aggregate amount of bonds authorized by said annual  
105 election shall not be exceeded during said year, unless and ex-  
106 cept the same be authorized by a special election held at a sub-  
107 sequent time in said year and duly called as provided for the  
108 calling of the annual bond election.

109 The provisions of chapter forty-seven-a of the code concern-  
110 ing bond elections, shall, so far as they are not in conflict with  
111 the provisions of this section, apply to the annual bond elections  
112 and special bond elections herein provided for.

Sec. 36. The city council is hereby authorized and em-  
2 powered to cause to be put down a suitable curb of brick, stone  
3 or other material along and for the footways and sidewalks of the  
4 public streets and alleys of said city, and to order and cause the  
5 grading, laying or relaying or repair of sidewalks and gutters,  
6 of such material and width as the council may determine; and  
7 to require the owners or occupiers of the lot or lots or parts of  
8 lots facing upon said streets and alleys to keep such sidewalks  
9 clean and in good repair. The owners or occupiers of the lots  
10 or fractional parts of lots abutting upon such streets and alleys  
11 shall not grade or lay any such sidewalk, curb or gutter, unless  
12 specially requested to do so by resolution adopted by the council,  
13 and then only of the kind prescribed by the council; but the city  
14 may lay such sidewalk, curb or gutter and grade therefor, or  
15 may let said work by contract, and in either case the total cost  
16 of said work shall be charged upon and assessed against the lots  
17 or fractional parts of lots abutting upon the streets and alleys  
18 so improved, in proportion to the number of feet frontage thereon  
19 of each such lot or part of lot, and shall be and remain a lien  
20 thereon from the date of the acceptance of the work by the city,  
21 and said lien shall have priority over all other liens except those  
22 for taxes due to the state, and shall be on a parity with the taxes  
23 and assessments due the city, and shall bear interest from the  
24 date of acceptance of the work by the city, or from the completion

25 thereof when done by the city, and shall become due and payable  
26 when declared final by the council; and to each such assessment re-  
27 maining unpaid thirty days after maturity there shall be added and  
28 collected by the city a penalty of ten per centum of the amount of  
29 such assessment in addition to the interest. The amount so  
30 assessed against any lot, or fractional part of lot, together with  
31 the interest and penalty aforesaid, shall also be a debt against the  
32 owner of such lot or part of lot. Immediately upon completion  
33 of the work, if done by the city, or upon acceptance of the work  
34 if done by contract, the council shall cause the city clerk to pub-  
35 lish a notice which shall give the names of the owners of each  
36 lot or fractional part of lots over which such sidewalks are graded,  
37 paved, curbed or laid, if such names be known, and if unknown,  
38 shall describe such lot or part of lot with reasonable certainty suf-  
39 ficient to identify the same, and shall also state the number of  
40 feet over each lot or part of lot so graded, curbed or laid with  
41 sidewalk, together with the amount assessed against each  
42 owner; which notice shall be published as provided for the publi-  
43 cation of notice of street assessments hereinabove and shall cite  
44 all said owners to appear before the council at a regular meeting  
45 to be held within thirty days following the first publication there-  
46 of and show cause, if any they can, why such assessments should  
47 not become final. Protests against said assessments shall be  
48 heard and determined and said assessments shall become final  
49 and be recorded by the city clerk, certified for collection, charged  
50 to the superintendent of the department of finance and police,  
51 collection thereof enforced against the property assessed and  
52 against the owner thereof, and a certificate of said assessments  
53 certified to the clerk of the county court for recordation, and rec-  
54 orded in all respects in the same manner and with the same  
55 legal effect as provided in the case of assessments for street pav-  
56 ing or other local improvements in this act provided. And all  
57 of the assessments, interest and penalties thereon so collected  
58 from the abutting lot owners on account of the grading and curb-  
59 ing and laying of said sidewalks shall be applied to the cost of  
60 making the improvement for which said assessments were laid,  
61 and for no other purpose; but if by reason of the penalties col-  
62 lected on delinquent assessments there shall be any balance over  
63 and above the cost of such improvement, such excess shall be  
64 paid into the city treasury to the credit of the fund for street  
65 improvements and shall be used for no other purpose.

Sec. 37. Whenever any assessments for sidewalks, street  
2 paving, grading, sewerage or other improvements hereinabove  
3 provided for shall have been paid in full, the city treasurer shall  
4 execute on behalf of the city and deliver to the party paying the  
5 same a proper release on the lien of such assessment, which re-  
6 lease shall be substantially in the form prescribed by section two  
7 of chapter seventy-six of the one thousand nine hundred and  
8 thirteen code of this state, (serial section number three thousand  
9 eight hundred and fifty-nine) for the release of the lien of judg-  
10 ments and decrees.

Sec. 38. No assessment herein authorized against or upon  
2 any property for any local improvement shall, in the first instance  
3 exceed in amount twenty-five per centum of the value of such  
4 property after the improvement is completed. And all assess-  
5 ments for local improvements which may be made against any  
6 property during the fifteen years next ensuing after the first  
7 assessment shall have been made, including the first assessment,  
8 shall not exceed at any time in the aggregate one-third of the  
9 value of such property.

Sec. 39. The remedies herein provided for the enforcement  
2 of any power, right or authority by this charter conferred upon  
3 said city of Clarksburg shall not be exclusive or in derogation of  
4 any other right or remedy which it does or shall possess under any  
5 law or under the constitution of the state to enforce in any court  
6 of law or equity any such power, right or authority.

Sec. 40. If in any case any special assessment shall be illegal  
2 or void, either in whole or in part, a new assessment may be made  
3 in the same manner, as nearly as may be, as other special assess-  
4 ments are authorized by this act to be made, to pay for the im-  
5 provement, the former assessment for which was or is illegal or  
6 void as aforesaid.

Sec. 41. All ordinances, resolutions and notices of every  
2 kind, the publication of which is required by any provision of  
3 this act, shall be published for the period of time in each par-  
4 ticular instance specified, but in all cases in which the time the  
5 publication is to run is not specially provided, such publication  
6 shall be once a week for two consecutive weeks. In all cases the  
7 manner of publication shall be by causing the same to be inserted  
8 in the two principal newspapers published in the city of Clarks-  
9 burg of opposite political opinions and affiliations; if the owner  
10 of either of such newspapers will not publish such notices in any

11 instance at the rate herein provided to be paid, or if only one  
12 such newspaper for any period be published in the city of Clarks-  
13 burg, then, by inserting such notice in the paper that will publish  
14 the same at the rate hereinafter provided, or in any newspaper  
15 published in the city of Clarksburg. If no newspaper published  
16 in said city will in any instance publish any notice required, at  
17 the rate of compensation hereinafter provided, then and in every  
18 such case it shall be sufficient publication thereof to post a copy  
19 of such notice at the front door of the building in which the  
20 city council holds its meetings, for a period of two weeks. Every  
21 such publication or posting shall be held and deemed to be  
22 equivalent to personal service in every case. The certificate of  
23 the printer or manager of the paper publishing any notice herein  
24 required, or the affidavit of the party posting any notice that  
25 may be served by posting, shall be accepted as *prima facie* evi-  
26 dence of the publication of the notice. Such certificate and  
27 affidavit shall be filed with the city clerk and preserved as a part  
28 of the records of his office.

29 The rates charged for the publication of any notice herein  
30 required to be given shall not exceed the rate prescribed by the  
31 laws of the state of West Virginia for the publication of notices  
32 required to be published in suits in chancery in the circuit courts  
33 of the state.

Sec. 42. The holder of any elective office may be removed  
2 at any time by the electors qualified to vote for a successor of  
3 such incumbent. The procedure to effect the removal of an  
4 incumbent of an elective office shall be as follows: A petition  
5 signed by electors entitled to vote for a successor to the incumbent  
5 sought to be removed, equal in number to at least twenty-five  
6 per centum of the entire vote for all candidates for the office of  
7 mayor at the last preceding municipal election, demanding an  
8 election of a successor of the person sought to be removed shall  
9 be filed with the city clerk, which petition shall contain a general  
10 statement of the grounds upon which the removal is sought.  
11 The signatures to the petition need not all be appended to one  
12 paper, but each signer shall add to his signature his place of  
13 residence, giving the street and number. One of the signers of  
14 each such paper shall make oath before an officer competent to  
15 administer oaths, that the statements therein made are true as  
16 he believes, and that each signature to the paper appended is the  
17 genuine signature of the person whose name it purports to be.

18 Within ten days from the date of filing such petition, the city  
 19 clerk shall examine said petition and ascertain whether or not  
 20 the same is signed by the requisite number of qualified electors,  
 21 and if necessary, the council shall allow him extra help for that  
 22 purpose, and he shall attach to said petition his certificate showing  
 23 the result of his examination. If by the clerk's certificate the  
 24 petition is shown to be insufficient, it may be amended within  
 25 ten days from the date of said certificate, and the clerk shall,  
 26 within ten days after such amendment, make like examination  
 27 of the amended certificate and if his certificate shall show the  
 28 same to be insufficient, it shall be returned to the person filing  
 29 the same; without prejudice, however, to the filing of a new  
 30 petition to the same effect. If the petition shall be deemed suffi-  
 31 cient, the clerk shall submit the same to the council without delay  
 32 and the council, if it shall find the petition sufficient, shall order  
 33 and fix a date for the holding of said election not less than thirty  
 34 days nor more than forty days from the date of the clerk's  
 35 certificate to the council that a sufficient petition is filed.

36 The council shall then provide for publication of notice and  
 37 make all arrangements for holding such election, and the same  
 38 shall be conducted and returned and the result thereof declared  
 39 in all respects as are other city elections. So far as applicable,  
 40 except as otherwise herein provided, nominations hereunder shall  
 41 be made without the intervention of a primary election by filing  
 42 with the clerk at least ten days prior to said special election, a  
 43 statement of candidacy accompanied by a petition by electors  
 44 entitled to vote at said special election equal in number to at  
 45 least ten per centum of the entire vote for all candidates for the  
 46 office of mayor at the last preceding general municipal election,  
 47 which said statement of candidacy and petition shall be substan-  
 48 tially in the form set out in section six of this act, so far as the  
 49 same is applicable, substituting the word "special" for the word  
 50 "primary" in such statement and petition and stating therein  
 51 that such person is a candidate for election instead of nomina-  
 52 tion. The ballot for such special election shall be in substan-  
 53 tially the following form:

54 OFFICIAL BALLOT.

55 "Special election for the balance of the unexpired term  
 56 of ..... as .....  
 57 For .....  
 58 (Vote for only one.)

59 (Name of candidates.)

60  .....

61  .....

62 (Name of present incumbent.)

63 (Official ballot, attest:)

64 .....

65 City Clerk.

66 The successor of any officer so removed shall hold office
67 during the unexpired term of his predecessor. Any person sought
68 to be removed may be a candidate to succeed himself, and unless
69 he requests otherwise in writing, the clerk shall place his name
70 on the official ballot without nomination. In any such removal
71 election the candidate receiving the highest number of votes
72 shall be declared elected. At such election, if some person other
73 than the incumbent receives the highest number of votes, the
74 incumbent shall thereupon be deemed removed from the office
75 upon the qualification of his successor. In case the party who
76 received the highest number of votes shall fail to qualify within
77 ten days after receiving notification of election, the office shall
78 be deemed vacant. If the incumbent receives the highest number
79 of votes, he shall continue in office. The said method of removal
80 shall be cumulative and additional to the methods heretofore
81 provided by law. But there shall be no election under this sec-
82 tion within ninety days before any general election.

Sec. 43. Chapter one hundred and one of the acts of the
2 legislature, regular session, one thousand eight hundred and nine-
3 ty-seven, entitled "An act to amend and re-enact and to reduce
4 into one act the several acts incorporating the town of Clarksburg,
5 in the county of Harrison," and chapter seventy of the acts of
6 one thousand nine hundred and three amending said chapter one
6-a hundred and one of the acts of one thousand eight
7 hundred and ninety-seven, and chapter thirteen of the acts of
8 one thousand nine hundred and seven regular session, amending
9 said chapter one hundred and one of the acts of one thousand
10 eight hundred and ninety-seven as amended, and chapter twelve
11 of the acts of the West Virginia legislature regular session one

12 thousand nine hundred and nine, further amending said chapter  
13 one hundred and one as amended be, and all other acts and parts  
14 of acts amendatory of said chapter one hundred and one of the  
15 acts of one thousand eight hundred and ninety-seven, and all acts  
16 and parts of acts inconsistent and in conflict with this act, in  
17 so far as they are inconsistent and in conflict with this act, are  
18 hereby repealed; and the several certificates of incorporation  
19 heretofore issued by the circuit court of Harrison county, West  
20 Virginia, or by the clerk thereof, pursuant to an order of said  
21 court, incorporating the said The Town of Adamston, The Town  
22 of Stealey Heights, The Town of North View and The Town of  
23 Broad Oaks, are each hereby annulled and vacated.

Sec. 44. This act shall not be effective unless the same shall  
2 first be submitted to the voters of the territory included in the  
3 boundaries as herein described, at a special election called for  
4 that purpose, and adopted by a majority of the votes cast at said  
5 election. Said special election shall be held on the first Tuesday  
6 after the first Monday in November, 1917, after publication of  
7 the act one time not less than ten days immediately preceding  
8 said special election, in two daily newspapers published in said city.  
9 Said special election shall be conducted in the regular manner  
10 of holding municipal elections in said city. The council of the now  
11 existing city of Clarksburg shall designate the voting places for  
12 such election, appoint the commissioners and poll clerks to con-  
13 duct the same and pay the expenses thereof out of the treasury of  
14 said now existing city.

15 The ballot to be voted at said election shall be printed upon  
16 plain white paper and in the following form:

17 CITY OF CLARKSBURG.

18 Charter Election.

19 Indicate how you desire to vote by a cross in the square.

20  For adoption of new charter

21  Against adoption of new charter.



## SENATE JOINT RESOLUTION NO. 8.

(Adopted February 6, 1917.)

Instructing the Finance Committees of the two houses to report the appropriation bills within a time specified.

WHEREAS, Among the important measures to come before this session of the legislature are the bills appropriating moneys to carry on the government of the state and its several institutions; and,

WHEREAS, In order that each member of the legislature may vote intelligently on said bills, it is necessary that a reasonable time be given for their discussion on the floor of the Senate and House of Delegates; therefore, be it

*Resolved*, That the Committee on Taxation and Finance of the House, and the Committee on Finance of the Senate—the two committees having charge of the preparation of such bills—be and they are hereby instructed to report the same to the Senate and House of Delegates not later than the fifteenth day of February, one thousand nine hundred and seventeen.

## SENATE JOINT RESOLUTION NO. 9.

(Adopted January 31, 1917.)

Adopting joint rules for the government of the two Houses of the Legislature during the present session, or until otherwise ordered.

*Resolved by the Legislature of West Virginia:*

That the joint rules of the Senate and House of Delegates as they appear in the Legislative Manual of 1915, be and they are hereby adopted for the government of the two houses during the present session, or until otherwise ordered.

## SENATE JOINT RESOLUTION NO. 16.

(Adopted February 23, 1917.)

Authorizing Dr. J. V. Johnson to practice medicine in the state of West Virginia:

WHEREAS, The said Dr. J. V. Johnson has, prior to the act of the Legislature of one thousand nine hundred and fifteen, practiced medicine in the said state for more than thirty years;

*Therefore be it Resolved by the Legislature of West Virginia:*

That the public health council constituted by section eight-a, chapter 150 of Barnes' code be, and the said board is hereby authorized, empowered and directed to register the said Dr. J. V. Johnson as a physician, and issue to him a certificate, without examination, authorizing him to practice medicine in the state of West Virginia upon his filing an affidavit showing his name, age and place of residence, and that he has practiced medicine for more than thirty years prior to the time said act took effect; *provided*, said application shall be made within six months from the date of the adoption of this resolution.

## SENATE JOINT RESOLUTION NO. 20.

(Adopted February 22, 1917.)

WHEREAS, the Supreme Court of the United States at the suit of the Commonwealth of Virginia vs. the State of West Virginia, on June 14, 1915, entered a judgment in favor of the Commonwealth of Virginia against the State of West Virginia for \$12,393,929.50, with interest thereon from July 1, 1915, until paid, at the rate of 5% per annum; and

WHEREAS, the Senate and the House of Delegates has each for itself, at the first regular session of the Legislature which convened after the rendition of said judgment, appointed a committee with authority to hear arguments, pass upon resolutions and recommend appropriate measures looking to a settlement of the judgment aforesaid; and

WHEREAS, the Commonwealth of Virginia, not content to await the action of the Legislature in the premises, has seen fit to appear before the Supreme Court and sue out a rule in mandamus directed

to the entire membership of each branch of the Legislature, requiring the members thereof forthwith and at the present session, to assess and levy a tax upon the property within the State of West Virginia sufficient to provide for the payment of said judgment, with interest thereon until paid, or make provision for the payment thereof by an issue of bonds, or else to appear at the bar of the Supreme Court on the 6th day of March next, and show cause why such action should not be taken; and

WHEREAS, this Legislature upon the challenge of its constitutional rights thus made by the Commonwealth of Virginia and upon the advice of the Attorney General and special counsel duly appointed by the new Virginia Debt Commission, authorized and empowered so to do, feels that it should suspend further action and leave the further consideration of the Virginia debt in abeyance until the Supreme Court shall have disposed of said mandamus proceeding, and that it should defend against said rule.

*Be it therefore resolved by the Senate, the House of Delegates concurring therein:*

*First*—That the attorney general of the state, with the assistance of special counsel retained by the new Virginia Debt Commission, for the purpose, be authorized and directed to appear to and make appropriate defense against said rule for and on behalf of the State of West Virginia, the Legislature thereof, and the several senators and delegates constituting the membership of its respective bodies.

*Second*—That in the event the Legislature should not be in session at the time of the rendition of the court's judgment upon the mandamus, the governor is requested, whether that judgment be for or against the State of West Virginia, to convene the Legislature in special session, as soon as may be, for the purpose of doing without delay what should be done in the premises.

### SENATE CONCURRENT RESOLUTION NO. 1.

(Adopted January 31, 1917.)

Authorizing the janitor of the capitol to employ, under the statute, additional help during the present session of the Legislature.

*Resolved by the Senate of West Virginia, the House of Delegates concurring therein:*

That the janitor of the capitol appoint not to exceed nine additional helpers during the present session of the Legislature, who, together with the chief janitor, shall receive three dollars per day, as provided by law, one-half of which shall be paid out of the contingent fund of the Senate and one-half out of the contingent fund of the House of Delegates, upon proper warrants drawn upon the auditor by the clerk of the Senate and the sergeant-at-arms of the House of Delegates, respectively; also, that the janitor appoint two charwomen who shall receive a like compensation, payable as hereinbefore provided for the payment of the janitor's assistants.

## SENATE CONCURRENT RESOLUTION NO. 2.

(Adopted February 8, 1917.)

Adopting a Legislative Hand Book and Manual and Official Register of the State.

WHEREAS, In recent years there has been an urgent demand for an official manual of this State; and

WHEREAS, After the legislative session of one thousand nine hundred and fifteen Mr. John T. Harris, for many years clerk of the senate, compiled, edited and published a "West Virginia Legislative Hand Book and Manual and Official Register," which, under a senate resolution, was furnished not only to members of the legislature of 1915, but to members of the present legislature as well, and also to the various departments of the state government, to county officials, to public libraries, to the newspapers throughout the State, and to others; and

WHEREAS, A work of this character is especially valuable to professional men, bankers, and to West Virginia business men generally; and

WHEREAS, While the publication was intended primarily as a book of reference for members of the legislature, state and county officials, newspaper editors and publishers, and political committeemen, yet a wider field has been opened to it through requests from educators and professional and business men throughout the State, and elsewhere; and

WHEREAS, The hand book and manual referred to is now being used in many of the state educational institutions, and in the public schools,

in connection with the teaching of civics and the current history of West Virginia, and the scope of its usefulness may be greatly enlarged by encouraging its further use in said schools; therefore be it *Resolved by the Senate, the House of Delegates concurring therein:*

That the "Legislative Hand Book and Manual and Official Register" hereinbefore referred to, be and the same is hereby adopted as an official publication of the State, to be issued under the direction of and in accordance with provisions hereafter to be made by the legislature in respect thereto.

### SENATE CONCURRENT RESOLUTION NO. 3.

(Adopted February 8, 1917.)

Respecting the death of Frank Bliss Enslow, Sr.

WHEREAS, Frank Bliss Enslow, Sr., of Huntington, died unexpectedly in this city last night; and,

WHEREAS, Mr. Enslow was one of West Virginia's prominent citizens, a leader in his profession as a lawyer, prominent in the business and social life of his state, warmly loved and admired by his many friends and associates, and a man whose death will be an inestimable loss to the state as a whole; therefore, be it

*Resolved*, By the legislature of West Virginia, that the sympathy of this body be and is hereby extended to his family and associates.

### SENATE CONCURRENT RESOLUTION NO. 4.

(Adopted February 13, 1917.)

Providing for printing and distributing the legislative handbook and manual and official register.

*Resolved by the Senate, the House of Delegates concurring therein:*

That the Legislative Handbook and Manual and Official Register of West Virginia, recently adopted as a state publication, shall contain in its revised editions a complete list of the membership and standing committees of the legislature, together with the rules of the senate and house, and joint rules of the two bodies, and brief illustrated biographical sketches of the members; a complete revision of the official register division covering state officials and employes,

and county officers, boards, political committees, etc.; the Declaration of Independence, constitution of the United States and constitution of the State of West Virginia; descriptive and statistical information relating to all state institutions and to all departments of the government, brought down to the time of publication; a complete list of the judiciary of the state, with the rules of the supreme court, and the terms and times of holding the various courts of the state; biographical sketches of the officers of the state government and judges; the political platforms of 1916, with tables covering the election returns of 1912 and 1916; a corrected list of all postoffices in the state, and any other matter bearing upon the past or current history of West Virginia deemed pertinent by the editor and compiler.

The cost of printing and binding the handbook, including any maps or cuts therefor, and circular matter necessary in connection with the work of preparing and distributing the same, shall be paid out of the appropriations for public printing and binding.

Under the supervision of the editor and compiler, the following distribution of the handbook shall be made:

Fifty copies to each member of the legislature.

Two copies to each senator and representative in the congress of the United States from this state.

Two copies to the congressional library at Washington.

Ten copies to judges and clerk of the supreme court of appeals.

Five copies to the state law library.

One copy each to the judges of the circuit, criminal and intermediate courts.

One hundred copies to the chief executive.

Two hundred copies to the department of archives and history for exchange with other states and libraries outside the state.

Fifty copies to the state board of control for use of the board and for supplying various state institutions.

Twenty-five copies to the state university.

Ten copies to each of the branches of the university and the state normal schools.

Twenty-five copies to the state auditor.

Ten copies to the state treasurer.

Fifty copies to the tax commissioner.

Twenty-five copies to the workmen's compensation department.

Sixty copies to the public health council.

Twenty-five copies to the public service commission.

Ten copies to the department of banking.

Twenty copies to the department of mines.

Four hundred copies to the department of free schools for supplying county superintendents, district supervisors and principals of high schools.

Ten copies to the department of labor.

Ten copies to the department of agriculture.

Five copies to the attorney general.

Five copies to the adjutant general.

Twenty copies to the state geological survey.

Twenty copies to the state road bureau.

Ten copies to the department of forestry, game and fish.

One copy each to the county and circuit court clerks, sheriffs and prosecuting attorneys throughout the state.

One copy each to all officers and members of state political committees and to the chairmen of county political committees.

Three hundred copies to the editor and compiler of the hand book for supplying public libraries and the libraries of private and denominational schools of the state and the members of the next succeeding legislature.

To the secretary of state the remainder of the edition to be hereafter fixed and authorized, the same to be available for supplying the members of the legislature with extra copies, if called for, educators throughout the state not already herein provided for, and for general distribution; and the secretary of state shall fix a price upon the hand book covering the cost of publication, with a reasonable profit added as is done with the acts of the legislature, and charge the same in all proper cases, the money derived from sales to be accounted for in the same manner as proceeds from sales of the acts and the West Virginia reports.

#### SENATE CONCURRENT RESOLUTION NO. 5.

(Adopted February 23, 1917.)

Providing for the printing and distribution of advance copies of the acts of the regular session of one thousand nine hundred and seventeen.

*Resolved by the Senate, the House of Delegates concurring therein:*

That the clerks of the two houses are hereby directed to have

printed by the public printer, two thousand five hundred advance copies of the acts of this session exclusive of municipal charters, properly headnoted, and with a full table of contents, and in paper binding, for distribution among the members of the legislature, judges of the supreme court of appeals, and of the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two Houses as soon as possible after the adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates at least ten of said advance copies, and one copy to each of the officials hereinbefore enumerated, and ten copies to each of the state officials. The said clerks are also authorized and directed to have printed in signature form or advance sheets, any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of two hundred dollars out of the contingent fund of the House and one hundred dollars out of the contingent fund of the Senate or so much thereof as is actually used for the purpose, is hereby directed to be paid by the auditor upon proper warrants drawn by the clerk of the Senate and sergeant-at-arms of the House, respectively, to pay the postage or expressage on said advance copies.

For the extra work provided for in this resolution, the time of said clerks and one assistant clerk from each House is extended for sixty days, the per diem to be paid out of the contingent fund of the Senate and House, respectively, upon proper warrants being drawn therefor by the clerk of the Senate and sergeant-at-arms of the House, and the auditor is hereby authorized and directed to pay the same.

#### SENATE CONCURRENT RESOLUTION NO. 6.

(Adopted February 23, 1917.)

Providing for the printing and distribution of advance copies of the new road law.

WHEREAS, Senate Bill No. 284 revises all of the road laws and will effect all officials connected with road improvements of the state; therefore be it



*Resolved by the Senate of West Virginia, the House of Delegates concurring therein:*

That the clerk of the House and the clerk of the Senate have five thousand copies of Senate Bill No. 284 printed, bound in paper binding and delivered to the secretary of state, who shall mail ten copies to the home address of each member of the House and Senate, thirty copies to the clerk of each county court, one copy to each newspaper in the state, one hundred and fifty copies to the state road bureau at Morgantown and shall deliver the residue to the state road commission for distribution.

HOUSE JOINT RESOLUTION NO. 11.

(Adopted February 6, 1917.)

Requesting the Senators and Representatives of this state in the Congress of the United States to assist in expediting the passage of Senate Bill 5126, now pending in the Congress of the United States, 'giving the consent of the United States for the bringing of certain suits in the Supreme Court of the United States, and for other purposes.'

*Resolved, by the Legislature of West Virginia, a majority of the members of each house agreeing thereto:*

That the Senators and Representatives of this state in the Congress of the United States are hereby requested to assist in every possible way in expediting the passage of Senate Bill 5126, a bill introduced by Hon. W. E. Chilton and now pending in said Congress, 'giving the consent of the United States for the bringing of certain suits in the Supreme Court of the United States, and for other purposes;' and be it further

*Resolved,* That these resolutions be certified by the Clerk of the Senate and the Clerk of the House of Delegates and that copies thereof be transmitted by the Secretary of State to each member of the Senate and House of Representatives from West Virginia with the request that they be recorded on the journals of their respective bodies.'

## HOUSE JOINT RESOLUTION NO. 13.

(Adopted February 5, 1917.)

Endorsing the course of the President of the United States in severing diplomatic relations with the Imperial German Government.

*Be it Resolved by the House of Delegates of West Virginia, the Senate concurring therein:*

First: That we, the Legislature of West Virginia, deeply deploring the international crisis that has called it forth, hereby express our hearty approval of the course pursued by President Wilson and the Department of State at Washington, in severing diplomatic relations with the Imperial German Government, following its note of January thirty-first, repudiating the pledges heretofore given to respect the lives and property of American citizens, and to insure the freedom of the seas. Believing that to submit to a violation of the fundamental rights involved would bring lasting humiliation and a loss of self-respect, we endorse the clear and patriotic declaration by the President of a fixed purpose to invoke the power of the nation to maintain our honor and independence as a sovereign people. In an hour like the present, our usual personal and party differences are leveled before an exalted patriotism; and to maintain its rights and sacred honor among the nations of the earth, we pledge to our government the united support of the people of West Virginia.

Second: That a copy of this resolution, duly authenticated, be sent to the President of the United States, and a copy to each of our representatives in the Congress of the United States, with the request that they communicate the same to their respective Houses.

## HOUSE JOINT RESOLUTION NO. 14.

(Adopted February 8, 1917.)

Authorizing Thaddeus C. Jones to practice veterinary surgery and veterinary medicine in the state of West Virginia:

WHEREAS, Dr. Thaddeus C. Jones has, prior to the act of the legislature of West Virginia of nineteen hundred and fifteen, practiced

veterinary surgery and veterinary medicine in said state for more than ten years; and

WHEREAS, section two of said act provides for the registration of all persons practicing as such veterinarian in said state for ten years or more, upon the payment of the regulation fee of five dollars, without the examination required by said act, provided the application for said registration be made within sixty days after the organization of the examining board constituted by said act; and

WHEREAS, the said Thaddeus C. Jones was not advised of the provisions of said act until after the expiration of said sixty days, therefore,

*Be it Resolved by the Legislature of West Virginia:*

That the Veterinary Examining Board constituted by chapter thirty-three, of the acts of the legislature of West Virginia of nineteen hundred and fifteen, be, and said board is hereby authorized, empowered and directed to register said Thaddeus C. Jones as a veterinarian, and issue to him without examination, a certificate authorizing him to practice veterinary surgery and veterinary medicine in the state of West Virginia, upon his filing his affidavit showing his name, age, residence, and that he has practiced veterinary surgery and veterinary medicine in the state of West Virginia for more than ten years prior to the date said act took effect, and upon his paying the regulation fee of five dollars. *Provided*, said application for registration and certificate shall be made within six months from the date of the adoption of this resolution.

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#### HOUSE JOINT RESOLUTION NO. 16.

(Adopted February 16, 1917.)

WHEREAS; The National Association of Vicksburg Veterans are now planning to hold a National Memorial Reunion and Peace Jubilee of the Union and Confederate survivors of the armies and navies, irrespective of campaign or line of service in which they participated, on the Government domain within the Vicksburg National Military Park, October sixteenth, seventeenth, eighteenth and nineteenth, one thousand nine hundred and seventeen, and

WHEREAS; The State of West Virginia is distinctively the child of the civil war, and now holds her place in the galaxy of states forming the union on account of the now historic events that found consummation by adding a new star to our nation's flag, and

WHEREAS; It is a fact of which all citizens are justly proud that when there came a call to arms, no part of the union responded more promptly or more loyally on both sides than did the territory that now is known as the commonwealth of West Virginia, and

WHEREAS; during the half century that has passed since the ending of the civil war, the spirit of bitterness engendered thereby has been softened by the tender influences of fraternal and patriotic associations, and

WHEREAS; We, as citizens of this prosperous state, have with us many of the loyal men and true, who following the dictates of their consciences nobly did their duty, as they saw it, and have given to our generation and the generations of Americans to follow us the noble example that sacrifice of self for the general good is the fittest work that man can do, and

WHEREAS; Many of these veterans, both blue and gray, are desirous of attending the said National Memorial Reunion and Peace Jubilee but on account of the necessary expense connected therewith will be prohibited from so doing, and

WHEREAS; It should be the pleasure as well as the duty of the state to add at least this one happy occasion to the life of each one of the "boys," who is yet with us: Therefore, be it

*Resolved, by the House of Delegates, the Senate concurring therein:*

That there be appropriated to pay the transportation expenses of ex-union and ex-confederate soldiers within this state to and from the said National Memorial Reunion and Peace Jubilee to be held on the government domain within the Vicksburg National Military Park, October sixteenth, seventeenth, eighteenth and nineteenth, one thousand nine hundred and seventeen, the sum of \$7,500.00, or so much thereof as may be necessary, such fund to be administered by the chief executive of this state, or such other officer as he may by official order designate, and a report of all acts hereunder to be made to the next regular session of the legislature of this state.

## HOUSE JOINT RESOLUTION NO. 18.

(Adopted February 23, 1917.)

Expressing gratitude of the legislature in behalf of the people of West Virginia to the trustees of the Lawrence A. Reyman estate for a valuable gift of lands and other property situated in Hardy county.

*Be it resolved, by the House of Delegates of West Virginia, the Senate concurring therein:*

That we, the legislature of West Virginia, in behalf of the people of this state, do hereby express to the trustees of the Lawrence A. Reyman estate our gratitude for the generous gift of farm lands and farm equipment and the valuable herd of Ayer-shire cattle, recently conveyed by deed of gift to the West Virginia Agricultural Experiment Station by said trustees, the purpose of which gift is to carry out the wishes of the late Lawrence A. Reymann for the promotion, development and advancement of the science of agriculture in its most comprehensive scope in the state of West Virginia. As representatives of said state and its people, the legislature hereby records its appreciation and approval of the patriotic purposes and public spirit of the man who planned to render this splendid service to his state, and of the far-sighted generosity of his heirs and the trustees of his estate in making that service continuous through the gift of the aforesaid lands and other property to the state of West Virginia; and be it further

*Resolved,* That copies of this resolution be certified by the clerks of both houses of the legislature and transmitted under the seal of the state by the secretary to the heirs of the late Lawrence A. Reyman and to the trustees of his estate.

## HOUSE CONCURRENT RESOLUTION NO. 1.

(Adopted January 10, 1917.)

Raising a joint committee to wait upon the Governor.

*Resolved,* that a joint committee be appointed, three by the speaker of the house and two by the president of the senate, to wait upon the governor and to inform him that the legislature is organized

with a quorum of each house present, and is prepared to receive any communication he is pleased to make, and to proceed with the business of the session.

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HOUSE CONCURRENT RESOLUTION NO. 3.

(Adopted January 22, 1917.)

Authorizing the Auditor to issue warrants for mileage and per diem of members, officers and attaches.

*Resolved, by the Legislature of West Virginia:*

That the Auditor is hereby authorized to issue his warrants upon the Treasurer in advance of the passage of the legislative appropriation bill, 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 and mileage, upon the proper requisition of the clerk of the Senate and the sergeant-at-arms of the House, respectively.

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HOUSE CONCURRENT RESOLUTION NO. 4.

(Adopted February 23, 1917.)

Raising a joint committee to wait upon the governor:

*Resolved, by the House of Delegates, the Senate concurring therein:*

That a joint committee of five, consisting of three on the part of the House, to be appointed by the Speaker, and two on the part of the Senate, to be appointed by the President, be appointed to notify the Governor that the Legislature is ready to adjourn by reason of the expiration of the constitutional limit of forty-five days.



**ACTS**  
**OF**  
**THE LEGISLATURE**  
**OF**  
**WEST VIRGINIA**

---

**EXTRAORDINARY SESSION 1917**





# ACTS 1917

## EXTRAORDINARY SESSION

### CHAPTER 1.

(Senate Bill No. 3.)

AN ACT making appropriations of public money on account of the contingent expenses of the regular and extraordinary sessions of the legislature of one thousand nine hundred and seventeen.

[Passed March 3, 1917. In effect from passage. Became a law without the Governor's approval.]

<p>SEC. 1. Appropriation for contingent expenses of regular and extraordinary sessions of the legislature.</p>	<p>SEC. 2. Orders for supplies. 3. Auditor authorized to issue warrants.</p>
--	--

*Be it enacted by the legislature of West Virginia:*

Sec. 1. That there is hereby appropriated out of the public treasury the following sums of money on account of the contingent expenses of the regular and extraordinary sessions of the legislature of one thousand nine hundred and seventeen.

For contingent expenses of the senate, ten thousand dollars, or so much thereof as may be necessary for said purposes.

For contingent expenses of the house of delegates, ten thousand and dollars, or so much thereof as may be necessary for said purposes.

Sec. 2. No supplies shall be purchased for either house, except upon resolution or upon an order signed by the president of the senate and the clerk thereof, or by the speaker of the house and the clerk thereof.

Sec. 3. The auditor is hereby authorized and directed to issue his warrants upon the treasurer for such amounts as may be authorized by the resolution of either house to be paid.

## CHAPTER 2.

(House Bill No. 6.)

AN ACT making appropriation of public moneys to pay the per diem of the members of the legislature for the extraordinary session of one thousand, nine hundred and seventeen, and for salaries of the officers and attaches thereof.

[Passed March 3, 1917. In effect from passage. Became a law without the Governor's approval.]

### SEC.

1. Appropriations; per diem and mileage of delegates; per diem and compensation of officers, assistant clerks and other employes of the house of delegates; per diem and mileage of senators; per diem and compensation of offi-

### SEC.

cers, assistant clerks and other employes of the senate; per diem of janitor, assistants and charwoman.  
2. Authorizing auditor to issue warrants.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there be and are hereby appropriated out of the public treasury for the payment of the per diem of the members of the legislature for the extraordinary session of one thousand nine hundred and seventeen and the per diem of the officers and attaches thereof the following sums of money:

*House of Delegates.*

To pay the per diem of the members, three thousand and twenty-four dollars.

To pay the per diem of the Clerk of the House, for services rendered during this session, and to be rendered in the completion of the work at the end of the session, two hundred dollars.

To pay the per diem of the sergeant-at-arms for services rendered during this session, and to be rendered in the completion of the work at the end of the session, ninety dollars.

To pay the per diem of the assistant sergeant-at-arms, thirty-two dollars.

To pay the per diem of the doorkeeper, thirty-two dollars.

To pay the per diem of the assistant doorkeeper, thirty-two dollars.

To pay the per diem of the gallery doorkeeper, thirty-two dollars.

To pay the per diem of three cloak room keepers, eighteen dollars each, seventy-two dollars.

To pay the per diem of the day watchman, thirty-two dollars.

- 25 To pay the per diem of the night watchman, thirty-two dol-  
26 lars.
- 27 To pay the per diem of the clerk of the special committee forty-  
28 eight dollars.
- 29 To pay the per diem of seven floor pages, one hundred and  
30 twelve dollars.
- 31 To pay the per diem of the mailing and banking page, twenty-  
32 four dollars.
- 33 To pay the per diem of five floor stenographers, two hundred  
34 and forty dollars.
- 35 To pay the per diem of the five journal clerks, one hundred  
36 and sixty dollars.
- 37 To pay the per diem of the stenographer of the special com-  
38 mittee, forty-eight dollars.
- 39 To pay the per diem of the stenographer to the speaker, forty-  
40 eight dollars.
- 41 To pay the per diem of five printing clerks, two hundred and  
42 forty dollars.
- 43 To pay the per diem of four stenographers to the clerk, one  
44 hundred and ninety-two dollars.
- 45 To pay the per diem of bill record clerk, forty-eight dollars.
- 46 To pay the per diem of assistant bill record clerk, forty-eight  
47 dollars.
- 48 To pay the per diem of one desk clerk, forty-eight dollars.
- 49 To pay the per diem of three assistant clerks, one hundred and  
50 forty-four dollars.
- 51 To pay the per diem of Will A. Strickler, assistant clerk, and  
52 one desk clerk, for services rendered during this session, and to be  
53 rendered in the completion of the work at the end of the session,  
54 three hundred dollars.
- 55 To pay the per diem of two reading clerks, ninety-six dollars.
- 56 To pay the per diem of the clerk of the committee on engrossed  
57 bills, forty-eight dollars.
- 58 To pay the per diem of five assistant janitors, one hundred  
59 and twenty dollars.
- 60 To pay the per diem of the charwoman, twenty-four dollars.
- 61 To pay the per diem of the toilet room keeper, twenty-four  
62 dollars.
- 63 To pay the per diem of the chaplain, sixteen dollars.

*Senate.*

2 Section 2. To pay the per diem of the members, nine hun-  
3 dred and seventy-six dollars.

4 To pay the per diem of private secretary to the President,  
5 forty-eight dollars.

6 To pay the per diem of private stenographer to the presi-  
7 dent, forty-eight dollars.

8 To pay the per diem of the clerk of the Senate for services  
9 rendered during this session and to be rendered in the comple-  
10 tion of the work at the end of the session, two hundred dollars.

11 To pay the per diem of the chief assistant and one minute  
12 clerk for services rendered during this session and to be rendered  
13 in the completion of the work at the end of the session, three hun-  
14 dred dollars.

15 To pay the per diem of supervisor of printing of engrossed  
16 and enrolled bills for services rendered during this session and  
17 to be rendered in the completion of the work at the end of the  
18 session, one hundred and fifty dollars.

19 To pay the per diem of reading clerk, abstract clerk, roll  
20 clerk, bookkeeper, voucher and warrant clerk, stenographer and  
21 bill record clerk, three hundred and thirty-six dollars.

22 To pay the per diem of two printing clerks, two assistants  
23 and one copy holder, two hundred and forty dollars.

24 To pay the clerk of the committee on the Judiciary, forty-  
25 eight dollars.

26 To pay the per diem of the stenographer on the Judiciary  
27 committee, forty-eight dollars.

28 To pay the per diem of the clerk of the finance committee,  
29 one assistant and one stenographer, one hundred and forty-four  
30 dollars.

31 To pay the per diem of the clerk of the committee on enrolled  
32 bills and one assistant, ninety-six dollars.

33 To pay the per diem of two stenographers reporting hearings  
34 before committee, ninety-six dollars.

35 To pay the per diem of the supervisor and five floor stenog-  
36 raphers, one hundred and ninety-two dollars.

37 To pay the per diem of the sergeant-at-arms and one assist-  
38 ant, eighty dollars.

39 To pay the per diem of doorkeeper and three assistants,  
40 ninety-six dollars.

39 To pay the per diem of five committee clerks, one hundred  
40 and twenty-eight dollars.

41 To pay the per diem of four general assistants, one hundred  
42 and ninety-two dollars.

43 To pay the per diem of one day and one night watchman,  
44 forty-eight dollars.

45 To pay the per diem of one mailing and banking page and  
46 three journal pages, ninety-six dollars.

47 To pay the per diem of one page to the clerk and messenger  
48 to the clerk, forty-eight dollars.

49 To pay the per diem of seven floor pages, one hundred and  
50 twelve dollars.

51 To pay the per diem of three cloak room keepers and one  
52 toilet room keeper, ninety-six dollars.

53 To pay the per diem of messenger and door keeper of finance  
54 committee, thirty-two dollars.

55 To pay the per diem of the janitor, extra compensation dur-  
56 ing this extraordinary session, twenty-four dollars.

57 To pay the per diem of four assistant janitors, ninety-six dol-  
58 lars.

59 To pay the per diem of one charwoman, twenty-four dollars.

Section 3. The auditor of this state is authorized and direct-  
2 ed to issue his warrants upon the treasury for such amounts as are  
3 or may become due to the several members, officers and attaches  
4 of the Senate and the House of Delegates, upon the proper requisi-  
5 tion of the clerk of the Senate and the sergeant-at-arms of the  
6 house of delegates respectively.

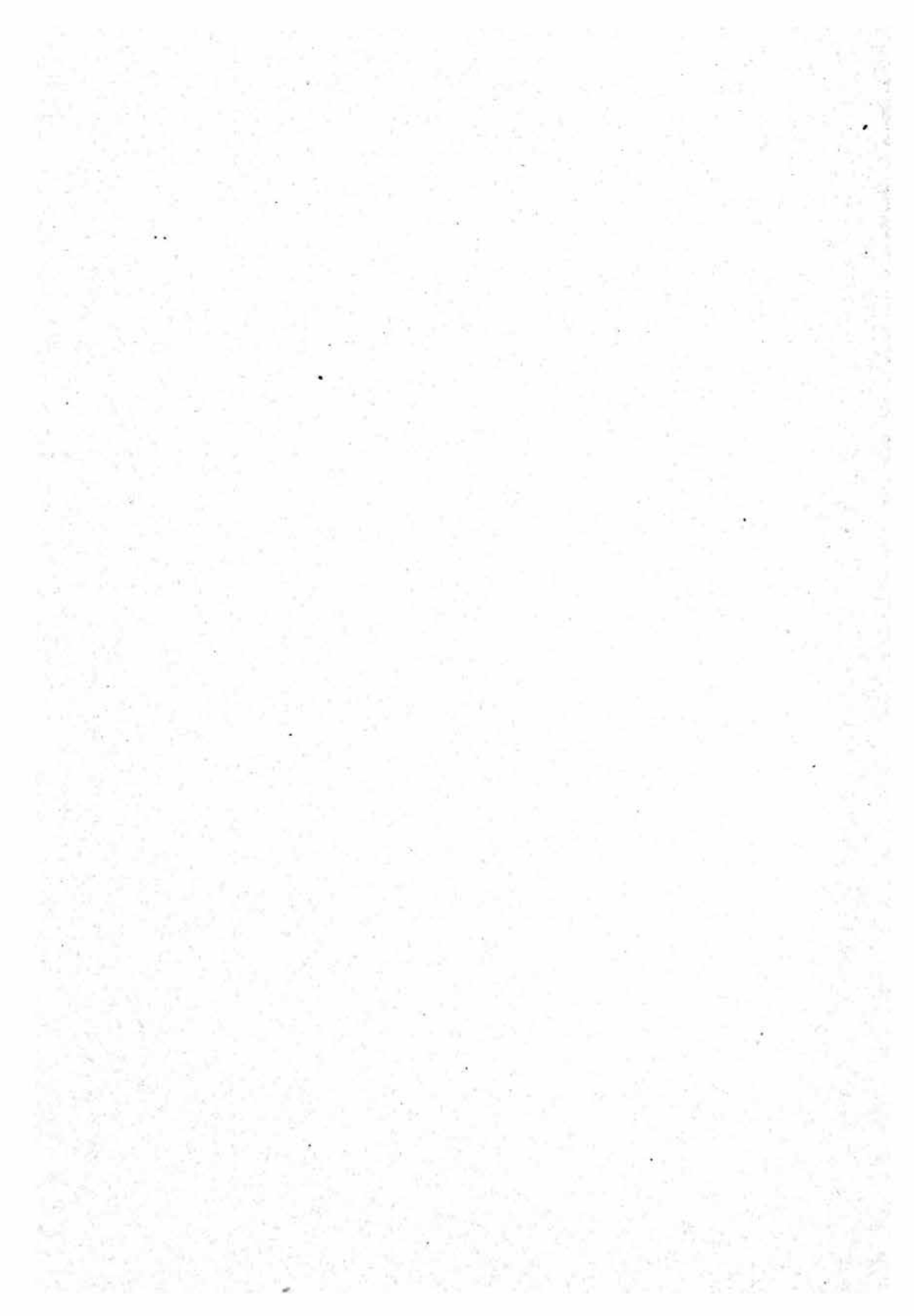
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## HOUSE CONCURRENT RESOLUTION NO. 1.

(Adopted March 3, 1917.)

Raising a Joint Committee to wait upon the Governor:

*Resolved*, by the House of Delegates, the Senate concurring there-  
in, That a Joint Committee of five, consisting of three on the part  
of the House to be appointed by the speaker thereof, and two on the  
part of the Senate to be appointed by the president thereof, be ap-  
pointed for the purpose of notifying the Governor that the Legisla-  
ture is ready to adjourn, *sine die*.



**A C T S**  
OF  
**THE LEGISLATURE**  
OF  
**WEST VIRGINIA**

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**SECOND EXTRAORDINARY SESSION**

**MAY 14-26, 1917.**





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#### HOUSE CONCURRENT RESOLUTIONS.

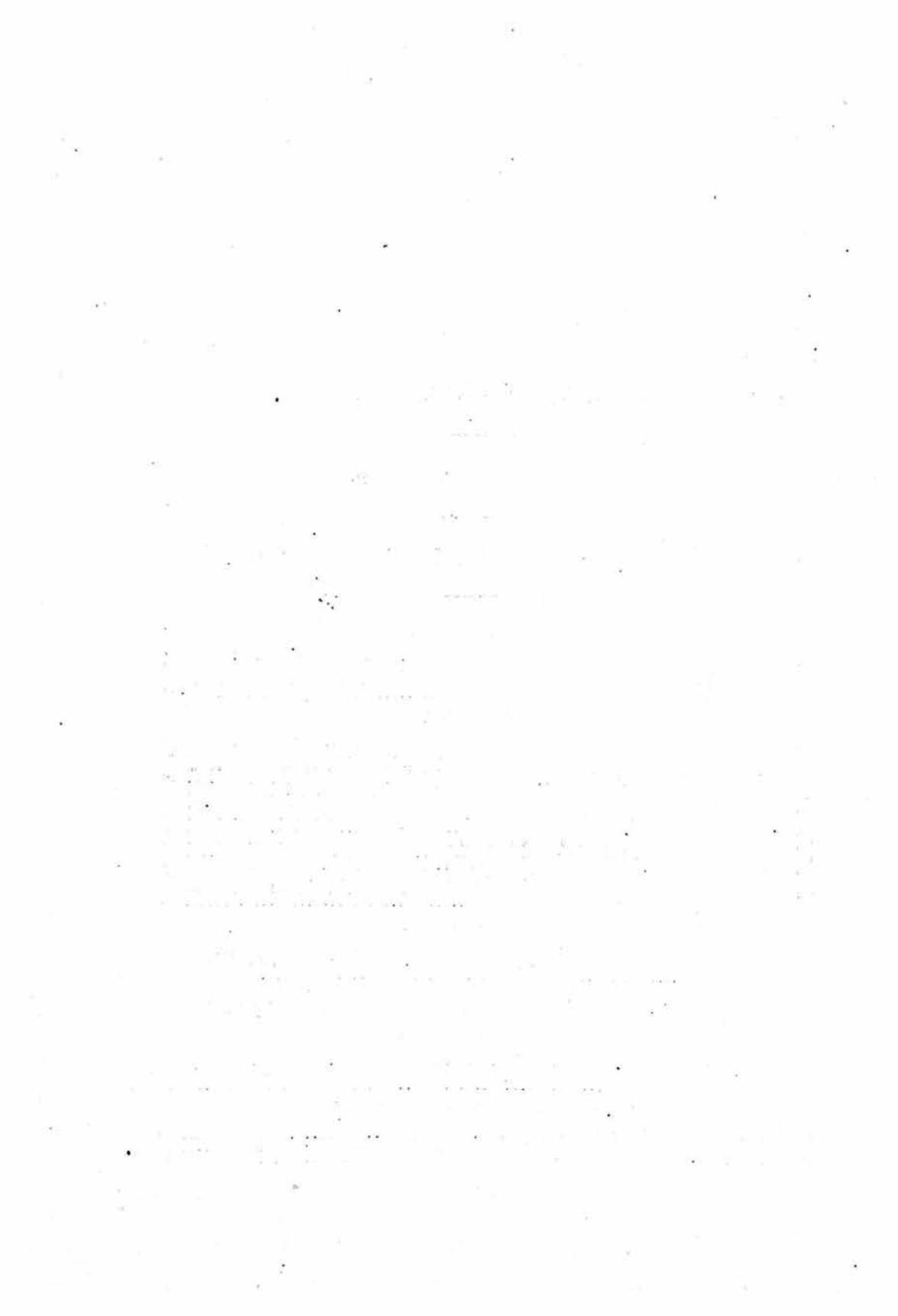
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# WEST VIRGINIA LEGISLATURE

## ACTS 1917

### SECOND EXTRAORDINARY SESSION

#### CHAPTER 1.

(House Bill No. 28.)

AN ACT making appropriations of public money on account of the contingent expenses of the second extraordinary session of the Legislature of one thousand, nine hundred and seventeen.

[Passed May 19, 1917. In effect from passage. Approved by the Governor  
May 21, 1917.]

Sec.

1. Appropriation for contingent expenses of legislature.
2. Provision as to purchase of supplies.

Sec.

3. Auditor authorized to issue warrants.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there is hereby appropriated out of the public treasury the following sums of money on account of the contingent expenses of the present session of the legislature:

For contingent expenses of the senate, one thousand five hundred dollars, or so much thereof as may be necessary for said purposes.

For contingent expenses of the house of delegates, two thousand five hundred dollars, or so much thereof as may be necessary for said purposes.

Sec. 2. No supplies shall be purchased for either house, except upon resolution or upon an order signed by the president of the senate and the clerk thereof, or by the speaker of the house and the clerk thereof.

Sec. 3. The auditor is hereby authorized and directed to issue his warrants upon the treasurer for such amounts as may be authorized by the resolution of either house to be paid.

## CHAPTER 2.

(House Bill No. 31.)

AN ACT making appropriation of public moneys to pay general charges upon the treasury.

[Passed May 26, 1917. In effect from passage. Approved by the Governor May 26, 1917.]

- |  |   |
|--|---|
| <p><b>Sec.</b><br/> 1. Appropriation to pay general charges upon the treasury.<br/> 2. Governor's office.<br/> 3. Governor's mansion and grounds.<br/> 4. Capitol buildings and grounds.<br/> 5. Labor fund, capitol building.<br/> 6. Contingent legislative expenses.<br/> 7. Secretary of state's office.<br/> 8. Department of schools.<br/> 9. Auditor's office.<br/> 10. State treasurer's office.<br/> 11. Attorney general's office.<br/> 12. Department of agriculture.<br/> 13. State board of control.<br/> 14. Printing, binding and stationery.<br/> 15. Department of mining.<br/> 16. Bureau of labor.<br/> 17. Commissioners of pharmacy.<br/> 18. State tax commissioner's office.<br/> 19. Commissioner of banking.<br/> 20. State librarian.<br/> 21. Department of archives and history.<br/> 22. Forestry, game and fish.<br/> 23. Department of health.<br/> 25. State geological and economic survey.<br/> 26. Legislative hand book and manual and official register.<br/> 27. State road commission.<br/> 28. Public service commission.<br/> 29. Workmen's compensation.<br/> 30. Insurance on public buildings.<br/> 31. State hotel inspector.<br/> 32. Berkeley Springs board.<br/> 33. Board of optometry.<br/> 34. Rumseyan society.<br/> 35. Florence Crittenden home.<br/> 36. Criminal charges.<br/> 37. Point Pleasant monument.<br/> 38. West Virginia university.<br/> 39. Agricultural experiment station.<br/> 40. Preparatory branch, West Virginia university, Montgomery.<br/> 41. Preparatory branch, West Virginia university, Keyser.<br/> 42. Marshall college.<br/> 43. Fairmont state normal school.<br/> 44. Shepherd college state normal school.<br/> 45. West Liberty state normal school.<br/> 46. Glenville state normal school.</p> | <p>47. Concord state normal school.<br/> <b>Sec.</b><br/> 48. West Virginia collegiate institute.<br/> 49. Bluefield colored institute.<br/> 50. Storer college.<br/> 51. Huntington state hospital.<br/> 52. Spencer state hospital.<br/> 53. Weston state hospital.<br/> 54. Welch hospital No. 1.<br/> 55. McKendree hospital No. 2.<br/> 56. Fairmont hospital No. 3.<br/> 57. State tuberculosis sanitarium.<br/> 58. State colored tuberculosis sanitarium.<br/> 59. West Virginia school for deaf and blind.<br/> 60. King's daughters hospital and city hospital.<br/> 61. Barnett hospital.<br/> 62. Ohio valley general hospital.<br/> 63. The Wheeling hospital.<br/> 64. St. Joseph's hospital, Parkersburg.<br/> 65. West Virginia industrial school for boys.<br/> 66. West Virginia industrial home for girls.<br/> 67. West Virginia colored orphan home.<br/> 68. West Virginia children's home.<br/> 69. Humane society.<br/> 70. Peace jubilee at Vicksburg.<br/> 71. Supreme court of appeals.<br/> 71-a. Circuit courts.<br/> 72. Commissioner of immigration.<br/> 73. Miscellaneous appropriations.<br/> 74. Provisions as to refunding overpayments into treasury.<br/> 75. Directions as to foregoing appropriations.<br/> 76. How appropriations may be drawn from treasury; requisition upon auditor; provision as to per diem and traveling expenses of state boards; itemized statement required; penalty for over charge for services.<br/> 77. Provision as to printing, binding and stationery; further provision as to annual or biennial reports.<br/> 78. No sum to be paid beyond amounts hereby appropriated.<br/> 79. Directions to clerk of house and clerk of the senate.</p> |
|--|---|

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there be and are hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred and eighteen, and for the fiscal year

4 ending June thirtieth, one thousand nine hundred and nineteen,  
5 the following sums of money for the following purposes:

*Governor's Office.*

	1918	1919
2 Sec. 2. For civil contingent		
3 fund, to be expended upon the		
4 order of the Governor,		
5 no part of which, however,		
6 is to be used for clerk hire in any		
7 of the state offices or institutions		
8 other than the Governor's office	\$20,000.00	\$20,000.00
9 For salary of private secretary		
10 to the governor .....	4,000.00	4,000.00
11 For stenographers and other		
12 clerk hire .....	3,700.00	3,700.00
13 For salary of pardon attorney...	3,000.00	3,000.00
14 For stenographer to pardon at-		
15 torney .....	1,200.00	1,200.00
16 For contingent expenses of par-		
don attorney .....	250.00	250.00

*Governor's Mansion and Grounds.*

2 Sec. 3. To pay for necessary		
3 repairs and improvements ....	2,000.00	.....
4 For furniture, furnishing, reno-		
5 vating and decorating interior of		
6 building .....	2,500.00	.....
7 (The above items to be expended		
8 upon the order of the governor		
9 and only after work has been		
10 done and supplies furnished in a		
11 manner satisfactory to him.)		
12 For maintenance .....	1,250.00	1,250.00
For service in mansion .....	1,200.00	1,200.00

*Capitol Buildings and Grounds.*

2 Sec. 4. For water, light,  
3 heat, repairs and contingent  
and current expenses for capi-

4	tol building, annex and		
5	grounds, to be expended only		
6	upon the order of the		
7	board of public works.....	\$15,000.00	15,000.00

*Labor Fund, Capitol Building.*

	Sec. 5. Chief engineer ...	\$1,350.00	\$1,350.00
2	Night engineer .....	990.00	990.00
3	Two night watchmen, capitol and		
4	annex .....	1,980.00	1,980.00
5	One day fireman .....	980.00	980.00
6	Janitor and messenger, board of		
7	control .....	1,000.00	1,000.00
8	Nine janitors at \$75.00 per		
9	month .....	8,100.00	8,100.00
10	Two charwomen .....	960.00	960.00
11	Two elevator men (capitol and		
12	annex) .....	960.00	960.00

*Contingent Legislative Expenses.*

	Sec. 6. For current and con-		
2	tingent expenses of the house		
3	of delegates, or so much there-		
4	of as may be necessary .....	\$10,000.00	.....
5	For current and contingent ex-		
6	penses of the senate, or so		
7	much thereof as may be neces-		
8	sary .....	10,000.00	.....

*Secretary of State's Office.*

	Sec. 7. To reimburse the		
2	contingent fund of the secretary		
3	of state for mailing journals and		
4	bills of the legislature as provid-		
5	ed for in section 386 of the code		
6	of 1913 .....	\$1,500.00	.....
7	To pay salary of chief clerk,		
8	not to exceed .....	2,400.00	2,400.00

8	To pay salary of clerk of		
9	board of public works and clerk		
10	of state auditing board, not to		
11	exceed .....	2,100.00	2,100.00
12	To pay salary of corporation		
13	clerk, not to exceed .....	1,800.00	1,800.00
14	To pay salaries of other clerks		
14	and stenographers, or so much		
15	thereof as may be necessary....	7,700.00	7,700.00
16	To pay necessary contingent		
17	and traveling expenses.....	2,000.00	2,000.00
18	To pay for distribution of		
19	acts and journals .....	500.00	.....

*Department of Schools.*

	Sec. 8. Expenses of mem-		
2	bers and the secretary of the		
3	state board of regents .....	\$ 1,000.00	\$ 1,000.00
4	To pay the salary and traveling		
5	expenses of secretary and field		
6-7	agents .....	1,800.00	1,800.00
8	To pay the salary of the chief		
9	clerk .....	1,800.00	1,800.00
10	To pay the salary of stenogra-		
11	phers .....	1,800.00	1,800.00
12	To pay the salary of other clerks	9,700.00	9,700.00
13	Current and contingent ex-		
14	penses .....	3,000.00	3,000.00
15	Purchase of books.....	50.00	50.00
16	Printing, binding and stationery	15,000.00	15,000.00
17	Expenses to be incurred by the		
18	state superintendent under the		
19	provisions of article twelve, sec-		
20	tion two of the constitution..	500.00	500.00
21	Per diem and expenses of the		
22	state board of education.....	1,200.00	1,200.00
23	Compensation of institute in-		
24	structors .....	9,500.00	9,500.00
25	Expenses of conducting uniform		
26	examinations .....	8,000.00	8,000.00



27	Salaries of county superinten-		
28	dents . . . . .	56,000.00	56,000.00
29	Deficiency; department of schools		
30	printing fund, available during		
31	the current fiscal year. . . . .	12,000.00	.....
32	Supplemental aid for teachers'		
33	fund . . . . .	100,000.00	100,000.00
34	Supplemental aid for building		
35	fund . . . . .	22,500.00	22,500.00
36	State aid for classified high		
37	schools . . . . .	100,000.00	110,000.00
38	School book commission as pro-		
39	vided by chapter 45, section		
40	155-a (1) of the code. . . . .	1,000.00	.....
41	All the appropriations pro-		
42	vided for in this section to be		
43	paid out of the general school		
44	fund.		

*Auditor's Office.*

	Sec. 9. To pay the salary of		
2	the chief clerk . . . . .	\$2,000.00	\$2,000.00
3	To pay the stenographer's salary	1,200.00	1,200.00
4	To pay the salary of the corpora-		
5	tion clerk . . . . .	1,800.00	1,800.00
6	To pay the salary of the land clerk	1,680.00	1,680.00
7	To pay the salaries of other clerks	18,520.00	18,520.00
8	Contingent expenses. . . . .	3,000.00	3,000.00
8-a	To pay the expenses of the in-		
8-b	surance department . . . . .	10,000.00	10,000.00
8-c	For refunding moneys errone-		
9	ously paid into the treasury		
10	such sums are hereby appropri-		
11	ated as may be erroneously so		
12	paid, payable out of the same		
13	fund into which paid. . . . .		
14	For pay of state agents, such		
15	amounts are hereby appropri-		
16	ated as may be necessary to		
17	pay commission of state agents		
18	payable out of the fund col-		

19 lected:—*provided*, that in no  
 20 case shall the amount so paid  
 21 exceed ten per centum of the  
 22 funds collected and paid into  
 23 the treasury by any such agent.

24 For refunding to counties, dis-  
 25 tricts and municipal corpora-  
 26 tions, county, district and mun-  
 27 icipal corporation taxes paid in-  
 27-a to the treasury for the  
 28 redemption of lands, such an  
 29 amount is hereby appropriated  
 30 as will be necessary to refund  
 31 to the counties, districts and  
 32 municipal corporations en-  
 33 titled thereto, the taxes so paid  
 34 into the treasury . . . . .

35 For refunding county, district  
 36 and municipal taxes paid into  
 37 the treasury by railroad and  
 38 other companies, such sum is  
 39 hereby appropriated as will be  
 40 necessary to refund to each  
 41 county, district and municipal  
 42 corporation the amount of such  
 43 taxes as may be paid into the  
 44 treasury to the credit of such  
 45 county, district and municipal  
 46 corporation . . . . .

47 The auditor shall credit all de-  
 48 linquent taxes due the state to  
 49 the fund to which they belong,  
 50 and the cost of certification  
 51 and publication of sale shall  
 52 be paid out of the fund to  
 53 which they are credited, and  
 54 there is hereby appropriated

55 for certification the sum of...  
 56 and for the publication there is  
 57 hereby appropriated so much  
 58 as may be necessary, the cost

3,000.00

3,000.00

- 59 of publication of each tract  
60 not to exceed the sum of sev-  
61 enty-five cents.

*State Treasurer's Office.*

2	Sec. 10. To pay the salary		
3	of the chief clerk not to ex-		
3	ceed . . . . .	\$ 2,000.00	\$ 2,000.00
4	To pay the salary of bookkeeper		
5	not to exceed . . . . .	1,800.00	1,800.00
6	To pay the salary of receipt and		
7	check clerk not to exceed. . . . .	1,500.00	1,500.00
8	To pay the salary of assistant		
9	receipt and check clerk . . . . .	1,320.00	1,320.00
10	To pay salary of assistant receipt		
11	and check clerk to June 30,		
12	1917 . . . . .	440.00	
13	Necessary contingent and travel-		
14	ing expenses . . . . .	1,500.00	1,250.00
15	For installing Burrough system		
16	of keeping accounts . . . . .	890.00	

*Attorney General's Office.*

2	Sec. 11. To pay the salary		
3	of the first assistant to the		
3	attorney general. . . . .	\$ 3,600.00	\$ 3,600.00
4	To pay the salary of the second		
5	assistant to the attorney gen-		
6	eral . . . . .	3,000.00	3,000.00
7	To pay the salary of the third		
8	assistant to the attorney gen-		
9	eral . . . . .	2,500.00	2,500.00
10	To pay the salary of reading		
11	clerk . . . . .	1,200.00	1,200.00
12	To pay the salary of printing		
13	clerk . . . . .	1,800.00	1,800.00
14	To pay the salaries of stenogra-		
15	phers . . . . .	3,000.00	3,000.00
16	Current and contingent expenses	3,500.00	3,500.00



10	To pay salary of bookkeeper not		
11	to exceed . . . . .	1,500.00	1,500.00
12	To pay salary of assistant book-		
13	keeper . . . . .	1,200.00	1,200.00
14	To pay salary of commodity clerk	1,200.00	1,200.00
15	To pay salary of stenographer..	1,000.00	1,000.00
16	To pay salary of stenographer to		
17	president . . . . .	1,000.00	1,000.00
18	To pay salary of second steno-		
19	grapher . . . . .	1,000.00	1,000.00
20	To pay salary of third steno-		
21	grapher . . . . .	1,000.00	1,000.00
22	To pay salary of fourth steno-		
23	grapher . . . . .	1,000.00	1,000.00
24	To pay salary of fifth steno-		
25	grapher . . . . .	1,000.00	1,000.00
26	Traveling expenses . . . . .	1,500.00	1,500.00
27	Current and contingent expenses	4,250.00	4,250.00

*Printing, Binding and Stationery.*

	Sec. 14. For printing,		
2	binding, stationery and stor-		
3	age . . . . .	\$ 80,000.00	\$ 80,000.00
4	To pay the present deficit		
5	in the printing, binding and		
6	stationery fund . . . . .	50,000.00	.....
7	In order to conserve the		
8	printing fund and eliminate the		
9	unnecessary distribution of bi-		
10	ennial reports and bulletins the		
11	superintendent of public print-		
12	ing is hereby given authority to		
13	limit the number of copies of		
14	such reports and bulletins or-		
15	dered to be printed by each de-		
16	partment, subject, however, to		
17	the final approval of the gov-		
18	ernor		

19 *Provided, further,* that no report of the proceedings of any  
20 private organization or association shall be paid for out of the  
21 appropriation for printing, binding and stationery.

*Department of Mining.*

2	Sec. 15. To pay the salary of chief clerk not to exceed.....	\$ 1,800.00	\$ 1,800.00
3	To pay the salary of assistant		
4	clerk .....	1,320.00	1,320.00
5	To pay the salary of chief sten-		
6	ographer .....	1,200.00	1,200.00
7	To pay the salary of assistant		
8	stenographer .....	1,000.00	1,000.00
9	To pay additional clerk hire ....	600.00	600.00
10	To pay the salaries of fifteen in-		
11	spectors .....	\$31,500.00	\$31,500.00
12	To pay the expenses of the in-		
13	spectors for traveling .....	10,000.00	10,000.00
14	Contingent expenses .....	2,000.00	2,000.00
15	For salary of sand and limestone		
16	inspector .....	2,100.00	2,100.00
16-a	To pay expenses of same.....	1,000.00	1,000.00

*Bureau of Labor.*

2	Sec. 16. For contingent and		
3	traveling expenses commissioner		
4	of weights and measures and		
5	inspector not to exceed.....	\$2,000.00	\$2,000.00
6	For salary of one deputy in-		
7	spector .....	1,200.00	1,200.00
8	For free employment bureau	2,700.00	2,700.00
9	Salary clerk and stenograph-		
10	er .....	1,200.00	1,200.00
11	For salary of two factory		
12	inspectors .....	2,400.00	2,400.00
13	For traveling expenses of		
14	same .....	2,000.00	2,000.00
15	For salary of chief clerk....	1,800.00	1,800.00
16	Current and contingent ex-		
17	penses bureau of labor.....	1,000.00	1,000.00

*Commissioners of Pharmacy.*

2	Sec. 17. For salaries and expenses of board.....	2,100.00	2,100.00
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*State Tax Commissioner's Office.*

2	Sec. 18. To pay the salary of assistant to tax commissioner, not to exceed .....	\$3,000.00	\$3,000.00
4	For expenses of state tax commissioner's office, including		
5	5-a compensation of assistants,		
5-b	5-b clerks, stenographers, and all		
5-c	5-c other expenses .....	19,500.00	19,500.00
6	For salary of chief account-		
7	7 ant .....	4,500.00	4,500.00
8	For expenses of uniform system		
9	9 of accounting, including com-		
10	10 pensation of assistants, clerks,		
11	11 stenographers and all other ex-		
12	12 penses .....	5,000.00	5,000.00
13	For expenses auditing state		
14	14 department and compiling fi-		
15	15 nancial reports.....	7,500.00	7,500.00
16	To pay the salary of chief		
17	17 deputy prohibition commis-		
18	18 sioner, not to exceed.....	2,500.00	2,500.00
19	For expenses of office of com-		
20	20 missioner of prohibition, in-		
20-a	20-a cluding compensation of depu-		
20-b	20-b ties, assistants, clerks, stenog-		
20-c	20-c raphers and all other expenses	20,000.00	20,000.00
20-d	20-d For salary of chief clerk in		
20-e	20-e excise department, not to exceed	2,750.00	2,750.00
21	For expenses of carrying		
22	22 out the provisions of Senate		
23	23 Bill No. 1, second extraordi-		
24	24 nary session one thousand nine		
24-a	24-a hundred and fifteen, so far as		
25	25 the same relates to excise taxes		
26	26 on corporations, including com-		
27	27 pensation for assistants, clerks,		
28	28 stenographers and all other ex-		
29	29 penses .....	7,250.00	7,250.00
30	Appropriation for the re-		

31	mainder of the current year		
32	for expense of office of commis-		
33	sioner of prohibition, available		
34	during current fiscal year....	5,000.00	.....

*Commissioner of Banking.*

Sec. 19. To pay salary of			
2	first assistant .....	\$ 2,400.00	\$ 2,400.00
3	To pay salary of second assistant	1,800.00	1,800.00
4	To pay salary of third assistant.	1,800.00	1,800.00
5	To pay salary of stenographer...	1,200.00	1,200.00
6	Traveling expenses of commis-		
7	sioner .....	2,800.00	2,800.00
8	Contingent expenses .....	1,000.00	1,000.00

*State Librarian.*

Sec. 20. Purchase and bind-			
2	ing books for the law library		
3	at Charleston .....	2,500.00	2,500.00
4	For librarian at Charles Town...	500.00	500.00
5	For contingent expenses and clerk		
6	hire .....	1,500.00	1,500.00

*Department of Archives and History.*

Sec. 21. To pay salary of			
2	curator of museum.....	1,800.00	1,800.00
3	To pay salary of the sten-		
4	ographer .....	1,200.00	1,200.00
5	To pay the salary of the mes-		
6	senger and janitor.....	900.00	900.00
7	Current and contingent ex-		
8	penses .....	1,500.00	1,500.00
9	To pay the salary of li-		
10	brarian .....	1,500.00	1,500.00
11	For purchase of books and		
12	periodicals .....	1,000.00	1,000.00
13	To pay salary of chief cata-		
14	loguer .....	1,200.00	1,200.00



*Forestry, Game and Fish.*

Sec. 22. To pay salary of			
2	two chief deputies.....	\$1,800.00	\$1,800.00
3	Contingent expenses of same	500.00	500.00
4	Mileage and traveling expen-		
5	ses of same.....	750.00	750.00
6	Contingent expenses of war-		
7	den .....	750.00	750.00
8	Mileage and traveling expen-		
9	ses of same.....	500.00	500.00
10	For the protection of for-		
11	ests, and the protection and pro-		
12	pagation of fish and game, to be		
13	expended by and upon the ap-		
14	proval of the forest, game and fish		
15	warden, in the manner and for		
16	the purposes provided by section		
17	sixty of the acts of one thousand		
18	nine hundred and nine.....	10,000.00	10,000.00
19	Which last mentioned sums are to be appropriated out of the		
20	sums known as "the forest, game and fish protective fund," which		
21	was created by section thirty-one of chapter sixty of the acts of		
22	one thousand nine hundred and nine and acts amendatory thereof.		

*Department of Health.*

Sec. 23. For current gen-			
2	eral expenses.....	\$30,000.00	\$30,000.00
3	For office rent.....	1,200.00	1,200.00

*State Geological and Economic Survey.*

Sec. 25. For completing, pre-			
2	paring and publication of reports	\$26,000.00	\$26,000.00
<i>Legislative Hand Book and Manual and Official Register.</i>			

Sec. 26. To pay John T.			
2	Harris for editing, compiling and		
3	publishing two editions of the		
4	West Virginia Legislative Hand		
5	Book and Manual and Official		
6	Register of ten thousand copies		

7 each, including all expenses for  
 8 clerical and stenographic services,  
 9 for having digests made of the ed-  
 10 ucational, election and other of  
 11 the more important general laws  
 12 of the state, and for distributing  
 13 the hand book to members of the  
 14 present and the next succeeding  
 15 legislature in accordance with  
 16 senate concurrent resolution num-  
 17 ber four, regular session one  
 17-a thousand nine hundred and  
 17-b seventeen ..... \$8,000.00 \$8,000.00

18 One half of the above amounts to be paid by the auditor to  
 19 the editor and compiler, upon a certificate from the superintendent  
 20 of public printing that the "copy" for the hand book has been  
 21 turned over to the public printer, and the other half upon a similiar  
 22 certificate that the completed editions have been delivered.

*State Road Commission.*

Sec. 27 To pay salaries of

2 two road commissioners.....	\$ 7,000.00	\$ 7,000.00
3 To pay salaries and current ex-		
4 penses of the commissioners		
5 prior to July first, one thousand		
6 nine hundred and seventeen...	3,000.00	.....
7 To pay salary of chief clerk....	2,400.00	2,400.00
8 To pay for automobile tags and		
9 the cost of distribution of same	12,000.00	15,000.00
10 To pay salaries of assistant		
11 engineers, draftsmen, clerks		
12 and stenographers or so much		
13-14 thereof as may be necessary..	20,000.00	20,000.00
15 Office rent .....	1,800.00	1,800.00
16 Office supplies, postage, telegraph,		
17 telephone and contingent ex-		
18 penses .....	4,500.00	4,500.00
19 For collecting, printing and dis-		
20 seminating statistics and publi-		
21 cations or so much thereof as		
22 may be necessary .....	4,500.00	4,500.00

23	Traveling and incidental ex-		
24	penses .....	5,000.00	5,000.00
25	For materials, equipment, labor		
26	and incidental expenses of test-		
27	ing materials for road con-		
28	struction .....	3,500.00	3,500.00
29	All of said sums to be paid out		
30	of the proceeds of automobile		
31	licenses for the state road fund,		
32	as established by the act of leg-		
33	islature of nineteen hundred and		
34	seventeen.		

*Public Service Commission.*

2	Sec. 28. Current general		
2	expenses .....	\$60,000.00	\$60,000.00
3	The appropriation in this section to be paid out of the special		
4	license fees authorized by section fifteen, chapter eight, acts of		
5	one thousand nine hundred fifteen (regular session).		
6	To be paid out of the gen-	} This item was vetoed by the Governor.	
7	eral fund, to be used by the com-		
8	mission in the valuation of the		
9	property of interstate railroads in		
10	connection with the interstate		
11	commerce commission by the act		
12	of congress March first, one thous-		
13	and nine hundred and thirteen..	\$5,000.00	\$5,000.00
14	<i>Provided</i> , that if for any cause such valuation of the railroads		
15	should be suspended by the government, then for such time the		
16	proportionate part of said appropriation for each year shall revert		
17	to the state treasury.		

*Workmen's Compensation.*

2 Sec. 29. For the purpose of  
 3 paying salaries and necessary cur-  
 4 rent and contingent expenses in  
 5 administration of the workmen's  
 6 compensation fund to carry out  
 7 provisions of section two, chapter  
 8 one, of the acts of the legislature  
 of one thousand nine hundred

9 and fifteen (extraordinary ses-		
10 sion), and to be paid out of the		
11 fund created by said act.....	\$80,000.00	\$80,000.00

*Insurance on Public Buildings.*

2     Sec. 30. Insurance on pub-		
lic buildings .....	45,000.00	.....

*State Hotel Inspector.*

2     Sec. 31. To pay salary of		
inspector .....	\$1,500.00	\$1,500.00
3     Contingent and traveling ex-		
4 penses .....	1,500.00	1,500.00
6     (The above items to be paid		
7 out of the fees collected by the		
8 department and not otherwise.)		

*Berkeley Springs Board.*

2     Sec. 32. For current and		
contingent expenses of board...	\$500.00	\$500.00

*Board of Optometry.*

2     Sec. 33. For expenses of		
optometry—To be paid out of		
3 fees collected .....	\$250.00	\$250.00

*Rumseyan Society.*

2     Sec. 34. For Rumseyan So-		
ciety .....	\$500.00	\$500.00

*Florence Crittenden Home.*

2     Sec. 35. For the Florence		
Crittenden Home at Wheeling	\$1,250.00	\$1,250.00

*Criminal Charges.*

2     Sec. 36. For criminal charges	\$60,000.00	\$60,000.00
3     For transportation of pris-		
4     oners and extradition of		
criminals .....	5,000.00	5,000.00

5	For support of lunatics in		
6	jail .....	2,500.00	2,500.00
7	For extradition of fugitives.	3,000.00	3,000.00

*Point Pleasant Monument.*

2	Sec. 37. For improvement		
3	and ornamentation of Tu-En-		
4	Die-Wei park at Pt. Pleasant	1,000.00	1,000.00
5	Said sums to be paid and ex-		
6	pended under the direction of		
	the board of control.		

*West Virginia University.*

	Sec. 38. Salaries of officers,		
2	teachers and employees.....	\$185,000.00	\$185,000.00
3	Current general expenses .	75,000.00	75,000.00
4	Repairs and improvements .	22,500.00	22,500.00
5	Agricultural, horticultural		
6	and home economics extension		
7	work .....	40,000.00	45,000.00
8	To the athletic board ....	5,000.00	5,000.00
9	Mining extension work ...	10,000.00	10,000.00
10	For completing girls dormi-		
10-a	tory and agricultural col-		
10-b	lege buildings.....	46,500.00	46,500.00
11	Emergency fund for agri-		
12	cultural extension to be ex-		
13	pended on approval of gov-		
14	ernor and board of control....	10,000.00	10,000.00

*Agricultural Experiment Station.*

	Sec. 39. Current general ex-		
2	penditures .....	\$35,000.00	\$35,000.00
3	For farm buildings and im-		
4	provements .....	10,000.00	10,000.00
5	Emergency current expenses....	10,000.00	10,000.00

*Preparatory Branch West Virginia University—Montgomery.*

Sec. 40. Salaries of officers,			
2	teachers and employees .....	\$8,000.00	\$8,000.00
3	Current general expenses .....	2,500.00	2,500.00
4	Repairs and improvements.....	1,500.00	1,500.00
5	For vocational and physical edu-		
6	cation .....	6,000.00	6,000.00

*Preparatory Branch West Virginia University—Keyser.*

Sec. 41. Salaries of officers			
2	teachers and employees.....	\$10,000.00	\$10,000.00
3	Current general expenses.....	7,500.00	7,500.00
4	Repairs and improvements ....	7,000.00	7,000.00
5	For vocational and physical edu-		
6	cation .....	6,000.00	6,000.00
7	New buildings in addition to in-		
8	surance collected by recent de-		
9	struction of school building by		
10	fire .....	15,000.00	15,000.00

*Marshall College.*

Sec. 42. Salaries of officers,			
2	teachers and employees.....	\$43,000.00	\$43,000.00
3	For vocational and physical edu-		
4	cation .....	7,000.00	7,000.00
5	Current general expenses.....	10,000.00	10,000.00
	Repairs and improvements....	12,500.00	12,500.00

*Fairmont State Normal School.*

Sec. 43. Salaries of officers,			
2	teachers and employees.....	\$35,000.00	\$35,000.00
3	Current general expenses .....	10,000.00	10,000.00
4	Repairs and improvements.....	10,000.00	10,000.00

*Shepherd College State Normal School.*

Sec. 44. Salaries of officers,			
2	teachers and employees.....	\$17,500.00	\$17,500.00
3	Current general expenses.....	5,000.00	5,000.00
4	Repairs and improvements.....	5,000.00	5,000.00

*West Liberty State Normal School.*

Sec. 45. Salaries of officers,			
2	teachers and employees . . . . .	\$14,500.00	\$14,500.00
3	Current general expenses . . . . .	5,000.00	5,000.00
4	Repairs, improvements and fur-		
5	nishings . . . . .	10,000.00	5,000.00

*Glenville State Normal School.*

Sec. 46. Salaries of officers,			
2	teachers and employees . . . . .	\$19,000.00	\$19,000.00
3	Current general expenses . . . . .	4,500.00	4,500.00
4	Repairs and improvements . . . . .	3,500.00	3,500.00

*Concord State Normal School.*

Sec. 47. Salaries of officers,			
2	teachers and employees' . . . . .	\$20,000.00	\$20,000.00
3	Current general expenses . . . . .	6,000.00	6,000.00
4	Repairs and improvements . . . . .	5,000.00	5,000.00

*West Virginia Collegiate Institute.*

Sec. 48. Salaries of officers,			
2	teachers and employees . . . . .	\$29,850.00	\$29,850.00
3	Current general expenses . . . . .	12,000.00	12,000.00
4	Repairs and improvements . . . . .	10,000.00	10,000.00

*Bluefield Colored Institute.*

Sec. 49. Salaries of officers,			
2	teachers and employees . . . . .	\$13,000.00	\$13,000.00
3	Current general expenses . . . . .	4,000.00	4,000.00
4	Repairs and improvements . . . . .	3,000.00	3,000.00

*Storer College.*

Sec. 50. For salaries of			
2	teachers . . . . .	\$1,200.00	\$1,200.00
3	For industrial department . . . . .	1,500.00	1,500.00

*Huntington State Hospital.*

Sec. 51. Current general ex-			
2	penses .....	\$85,000.00	\$85,000.00
3	Repairs and improvements ....	7,500.00	7,500.00

*Spencer State Hospital.*

Sec. 52. Current general ex-			
2	penses .....	\$85,000.00	\$85,000.00
3	Repairs and improvements .....	10,000.00	10,000.00

*Weston State Hospital.*

Sec. 53. Current general ex-			
2	penses .....	\$150,000.00	\$150,000.00
3	Repairs and improvements .....	17,500.00	17,500.00
4	Sewage disposal plant and land.	22,500.00	22,500.00

*Welch Hospital No. 1.*

Sec. 54. Current general ex-			
2	penses .....	\$35,000.00	\$40,000.00
3	Repairs and improvements.....	5,000.00	5,000.00

*McKendree Hospital No. 2.*

Sec. 55. Current general ex-			
2	penses .....	\$20,000.00	\$20,000.00
3	Repairs and improvements.....	5,000.00	1,500.00

*Fairmont Hospital No. 3.*

Sec. 56. Current general ex-			
2	penses .....	\$20,000.00	\$20,000.00
3	Repairs and improvements.....	1,500.00	1,500.00

*State Tuberculosis Sanitarium.*

Sec. 57. Current general ex-			
2	penses .....	\$50,000.00	\$55,000.00
3	Repairs and improvements.....	10,000.00	10,000.00
4	Buildings and land .....	15,000.00	15,000.00



*State Colored Tuberculosis Sanitarium.*

	Sec. 58. Lands, buildings		
2	and shelter .....	\$15,000.00	\$15,000.00
3	Furniture, equipment and		
4	current expenses .....		10,000.00

*West Virginia School for Deaf and Blind.*

	Sec. 59. Salaries of officers,		
2	teachers and employees .....	\$30,000.00	\$30,000.00
3	Current general expenses .....	40,000.00	40,000.00
4	Repairs and improvements .....	7,500.00	7,500.00

*King's Daughters Hospital and City Hospital.*

	Sec. 60. For treatment of		
2	laborers and others who may be-		
3	come public charge, said		
4	amount to be paid upon ap-		
5	proval of the state board of		
6	control .....	\$10,000.00	\$10,000.00

*Barnett Hospital.*

	Sec. 61. For the treatment		
2	of laborers and others who may		
3	become public charge, said		
4	amount to be paid upon ap-		
5	proval of the state board of		
6	control .....	\$1,250.00	\$1,250.00

*Ohio Valley General Hospital.*

	Sec. 62. For the treat-		
2	ment of laborers and others		
3	who may become public charge,		
4	said amount to be paid upon ap-		
5	proval of the state board of		
6	control .....	\$10,000.00	\$10,000.00

*The Wheeling Hospital.*

	Sec. 63. For the treatment		
2	of laborers and others who may		

3	become public charge, said		
4	amount to be paid upon ap-		
5	proval of the state board of		
6	control .....	\$10,000.00	\$10,000.00

*St. Josephs Hospital, Parkersburg.*

	Sec. 64. For the treat-		
2	ment of laborers and others who		
3	may become a public charge, said		
4	amount to be paid upon approval		
5	of the state board of control....	\$5,000.00	\$5,000.00

*West Virginia Industrial School for Boys.*

	Sec. 65. Current general		
2	expenses .....	\$55,000.00	\$55,000.00
3	Repairs and improvements..	6,500.00	6,500.00

*West Virginia Industrial Home for Girls.*

	Sec. 66. Current general		
2	expenses .....	\$23,000.00	\$23,000.00
3	Repairs and improvements..	5,000.00	5,000.00

*West Virginia Colored Orphans Home.*

	Sec. 67. Current general		
2	expenses .....	\$10,000.00	\$10,000.00
3	Repairs and improvements..	2,500.00	2,500.00
4	To complete buildings.....	5,000.00	5,000.00

*West Virginia Children's Home.*

	Sec. 68. Current general		
2	expenses .....	\$9,000.00	\$9,000.00
3	Repairs and improvements..	1,000.00	1,000.00

*Humane Society.*

	Sec. 69. West Virginia hu-		
2	mane society .....	\$10,000.00	\$10,000.00

*Peace Jubilee at Vicksburg.*

2	portation expenses of ex-union		
3	and ex-confederate soldiers and		
4	sailors, residents of West Vir-		
5	ginia, to the national memorial		
6	reunion and peace jubilee at		
7	Vicksburg, Mississippi, or so		
8	much thereof as may be neces-		
9	sary. Said fund to be adminis-		
10	tered in accordance with House		
11	Joint Resolution No. 16, of the		
12	legislature of one thousand nine		
13	hundred and seventeen.....	\$7,500.00	.....

*Supreme Court of Appeals.*

2	current expenses of the supreme		
3	court, and expenses of conducting		
4	examinations of applicants to		
5	practice law, other than the per		
6	diem of members of the examining		
7	board .....	\$1,000.00	\$1,000.00
8	To pay the salary of the clerk	1,500.00	1,500.00
9	To pay the salaries of the		
10	law clerks, (one for each judge)	9,000.00	9,000.00
11	To pay the salary of the order		
12	clerk and stenographer.....	1,800.00	1,800.00
13	To pay the salary of the as-		
14	sistant clerk .....	1,800.00	1,800.00
15	To pay the salary of crier..	1,000.00	1,000.00
16	To pay salary of court librar-		
16-a	ian and messenger.....	1,800.00	1,800.00
17	To pay the mileage of the su-		
18	preme court judges.....	500.00	500.00
19	To pay printing, and bind-		
20	ing of supreme court records....	8,000.00	6,000.00

*Circuit Courts.*

2	Sec. 71-a. For compensa-		
3	tion of special judges of circuit		
3	courts .....	\$1,500.00	\$1,500.00
4	To pay the mileage of the		
5	judges of the circuit courts....	3,000.00	3,000.00

*Commissioner of Immigration.*

2	Sec. 72. For current ex-		
2	penses .....	\$1,500.00	\$1,500.00

*Miscellaneous Appropriations.*

2	Sec. 73. For the payment of the following miscellaneous		
2	items, the sum set opposite each item is hereby appropriated:		
3	To pay for deficit in militia department.....	\$26,000.00	
4	To pay S. Spencer Moore Co., supplies extra ses-		
5	sion, one thousand nine hundred and sixteen.....		75.50
6	To pay S. Spencer Moore Co., supplies, session		
7	one thousand nine hundred and seventeen.....		378.92
8	To pay Underwood Typewriter Co., purchase and		
9	rent of typewriters and supplies, session one thousand		
10	nine hundred and seventeen.....		705.18
11	To the county of Mercer, to reimburse the county		
12	for clothing furnished in felony cases.....		1,980.36
13	To pay W. P. Hawley, for refund of capitation		
14	tax, paid to taxpayers account erroneous payment...		136.00
15	For deficit in appropriation for department of		
16	agriculture for year ending June 30, 1916, for enforce-		
17	ment of live stock sanitary laws.....		776.48
18	To pay Charleston Ministerial Association.....		264.00
19	To pay Remington Typewriter Company, rent and		
20	supplies .....		19.50
21	To pay Prindle Furniture Company.....		12.50
22	To pay Dawley Furniture Company .....		5.50
23	To pay Central Engineering Company (State's		
24	share on street contract with city of Charleston)....		1,422.73
25	To pay Woodrum Home Outfitting Company....		60.00
26	To pay Charles Lawson.....		4.00
27	To pay Myers Brothers, plumbing.....		7.92
28	To pay May Shoe Company .....		1.00
29	To pay Royal Typewriter Company, rent .....		3.30

30	To pay Burlew Hardware Company for supplies.	3.89
31	To pay Katherine Deegan, for rent on her own	
32	typewriter used during the regular session, 1917....	5.00
33	To pay military claim of G. N. Biggs, repairs to	
34	armory at Huntington .....	847.39
35	To reimburse F. A. Holesberry & Co., for license	
36	refund .....	50.50
37	To reimburse Goodhue & Reynolds for license re-	
38	fund .....	100.00
39	To reimburse Wheeling Livestock Commission Co.,	
40	license refund .....	200.00
41	To reimburse Mrs. Florence Louise Waterman,	
42	hospital expenses incurred from injury sustained while	
43	in employ of state at Panama-Pacific exposition.....	200.00
44	To reimburse Dan B. Leonard, hospital and phy-	
45	sician expenses incurred from injury received while	
46	discharging duties as assistant clerk of the house of	
47	delegates, session one thousand nine hundred and sev-	
48	enteen .....	1,000.00
49	To refund Charles F. Etz, executor of estate of	
50	Caroline Etz, for erroneous inheritance tax.....	50.00
51	To reimburse the governor's civil contingent fund	
52	on account of expenditures in carrying out provisions	
53	of section six, of chapter fifty-five of the acts of the	
54	legislature one thousand nine hundred and fifteen....	1,363.83
55	To pay W. T. Turner, for twenty-two days as	
56	journal clerk to house of delegates, balance of two	
57	dollars per day .....	44.00
58	To pay John Goodhue, balance on books furnished	
59	to state library, at Charles Town, W. Va.....	61.65
60	To pay The Michie Company, balance on books	
61	furnished to state library, at Charles Town, W. Va...	222.00
62	To pay Z. F. Davis, receiver of estate of W. H.	
63	Omen .....	520.00
64	To pay Mrs. Hope McDonald, for death of hus-	
65	band while discharging duties under military depart-	
66	ment during Cabin Creek strike .....	1,000.00
67	To pay military claim of Andrew Taylor.....	26.25
68	To pay military claim of Charles N. Simms.....	525.00
69	To pay military claim of Major Wm. Wallace....	160.00
70	To pay military claim of Sgt. Birt Lafferty....	120.25

71	To pay David Dick, repairing window.....	3.37
72	To pay Kreig, Wallace & McQuaide, supplies....	6.55
73	To pay Goshorn Hardware Co., supplies.....	.20
74	To pay Geo. W. Sturm, assignee of John B.	
75	Wyatt, balance per diem as assistant clerk at the	
76	regular session of legislature of one thousand nine hun-	
77	dred and fifteen, eight days at six dollars per day....	48.00
78	To pay John Guy Prichard, ten days preliminary	
79	service at beginning of one thousand nine hundred	
80	and seventeen, session of legislature, at ten dollars	
81	per day .....	100.00
82	To pay Miss Bessie Hoover, stenographic work	
83	for house finance committee .....	5.00
84	To pay Commercial Law Company for two copies	
85	of the West Code for the house and senate judiciary	
86	committee (session one thousand nine hundred and	
87	seventeen .....	30.00
88	To pay G. M. Clinedinst, washing windows, house	
89	and senate .....	153.00
90	To pay Charleston Lumber Co., desks for house of	
91	delegates .....	78.00
92	To pay Uriah Barnes, one hundred and forty-five	
93	code furnished house and senate.....	942.50
94	To pay Chesapeake & Potomac Telephone Co.,	
95	(session one thousand nine hundred and seventeen)..	418.80
96	To pay J. H. Hudson, repairing locks and fur-	
97	nishing keys .....	12.50
98	To pay Coffey Plumbing Co., for supplies.....	9.20
99	To pay Eskew, Smith & Cannon, supplies.....	22.15
100	To pay Charleston Electrical Supply Co., sup-	
101	plies .....	201.31
102	To pay Coyle & Richardson, supplies .....	17.98
103	To pay P. A. Donovan, supplies.....	9.20
104	To pay J. F. Lewis, locks, keys and supplies... ..	67.10
105	To pay Emma Peyton, washing towels for house	
106	and senate .....	25.00
107	To pay sheriff of Taylor county, to be credited to	
108	the high school fund of the state aid to high schools,	
109	which amount, was not drawn from state treasury	
110	to the time the appropriation expired, payable out of	
111	General School Fund .....	530.00

112	To pay Wilson Stephenson, for ten days ser-	
113	vices as journal clerk, regular session, 1917, at \$4.00	
114	per day .....	40.00
115	To pay M. L. Davis, stenographic service as per	
116	bill certified to .....	145.21
117	To pay Saas Printing Co., for 3,500 automobile	
118	tags .....	765.00
119	To pay S. L. Jepson for back salary, year ending	
120	June thirty, one thousand nine hundred and four-	
121	teen .....	500.00
122	To pay C. L. Topping, for unpaid vouchers....	650.00
123	To pay John T. Harris, for unpaid vouchers....	450.00

Sec. 74. For refunding overpayments made into the treasury  
 2 on account of taxes, licenses, fines and commissions, to be paid out  
 3 of the fund into which they were paid, such an amount as may be  
 4 necessary for such purpose is hereby appropriated.

Sec. 75. Wherever the figures "1918" are used in this act, it  
 2 is intended that the amount appearing in the column under such  
 3 figures shall be appropriated for the purposes herein named for the  
 4 fiscal year ending June thirtieth, one thousand nine hundred and  
 5 eighteen; and wherever the figures "1919" are used in this act, it is  
 6 intended that the amount appearing in the column under such fig-  
 7 ures shall be appropriated for the purposes herein named for the  
 8 fiscal year ending June thirtieth, one thousand nine hundred and  
 9 nineteen.

*Be it further enacted by the Legislature of West Virginia:*

Sec. 76. The appropriations herein made to or for any state  
 2 board or institution shall be drawn from the treasury upon the re-  
 3 quisition of the proper officers thereof made upon the auditor at  
 4 such times and in such amounts as may be necessary for the pur-  
 5 poses for which such appropriations are made; and the auditor  
 6 shall pay the amount named in any such requisition at such time  
 7 and in such installments as shall be necessary for the purposes for  
 8 which any such appropriation is made. But all requisitions for  
 9 appropriations for new buildings and substantial betterments, ex-  
 10 cept such as are under control of the board of control, shall be  
 11 accompanied by the architect's estimate that the amount named in  
 12 such requisition is needed for immediate use. The auditor shall  
 13 not issue his warrants to pay any money out of the state treasury  
 14 unless the same is needed for present use.

15 The members of all state boards, and of boards of regents or  
16 of directors of state institutions, unless a different rate of com-  
17 pensation is provided by law, shall be allowed four dollars per  
18 day for each day necessarily employed as such (including the time  
19 spent in going to and returning from the place of meeting) and  
20 the actual and necessary expenses incurred by them in the discharge  
21 of their duties, and no mileage shall be paid. But before payment  
22 to any such member of any such compensation or expenses, he  
23 shall make up in duplicate and certify to its correctness an itemized  
24 statement of the number of days spent (giving dates) and of the  
25 expenses, which statement shall be filed with the secretary or  
26 clerk of the institution, the original whereof the secretary or clerk  
27 shall file or preserve in his office, and the duplicate he shall at  
28 once forward to the auditor. If any such member shall wilfully  
29 make a greater charge for such services or expenses than truth  
30 justifies, he shall be guilty of embezzlement and punished accord-  
31 ingly.

Sec. 77. All printing, binding, printing paper and sta-  
2 tionery for the state superintendent of free schools shall be paid  
3 for out of the general school fund. No printing, binding or print-  
4 ing paper or stationery for the following named boards, officers  
5 or institutions shall be paid for out of the appropriation for  
6 public printing, public binding, or for supplying paper or sta-  
7 tionery, but shall be paid for out of the appropriations therefor  
8 herein made, or out of the expense fund or contingent expense  
9 fund thereof, namely:

10 The public service commission, the state road commission, the  
11 workmen's compensation department, the forest, game and fish war-  
12 den, the board of dental examiners, state vaccine agents, commis-  
13 sioners of pharmacy, state board of examiners, state board of em-  
14 balmers, Welch hospital No. 1, McKendree hospital No. 2, Fair-  
15 mont hospital No. 3, West Virginia humane society, normal schools,  
16 schools for the deaf and blind, the university, and all its depart-  
17 ments and branches, including the experiment station, Huntington,  
18 Weston and Spencer state hospitals, industrial schools for boys, the  
19 West Virginia collegiate institute and the industrial home for girls.

20 Such boards, officers and institutions, except the state super-  
21 intendent of free schools, that are herein required to pay for their  
22 own printing, stationery and printing paper and binding, have  
23 authority to procure the same, or have the same done on requisition  
24 of the superintendent of public printing, or may buy such printing



25 and stationery, or have such printing and binding done on com-  
26 petitive bids, under such rules as may be made by the commis-  
27 sioners of public printing.

28       When stationery or printing paper is procured from the super-  
29 intendent of public printing, or printing and binding are done on  
30 requisition on his office, by any such board, officers or institu-  
31 tions, the superintendent of public printing as to such printing,  
32 binding, stationery and printing paper, shall certify the cost thereof  
33 to the auditor, stating to what officer, board or institution the same  
34 was furnished, and the auditor shall charge against the proper  
35 fund or appropriation of such officers, institution or board the  
36 amount thereof, and credit such amount to the proper appropri-  
37 ations made by this act for public printing, binding, stationery  
38 and printing paper. *Provided*, that the annual or biennial reports  
39 required by law to be made to the governor by such boards, officers  
40 and institutions shall be printed and paid for out of the appro-  
41 priation for public printing, public binding and for supplying  
42 printing paper and stationery, but all such reports shall be type-  
43 written, or prepared in such a manner that the same shall be  
44 legible and suitable for printers' copy, and only so much of any  
45 such reports shall be printed as may be ordered by the governor;  
46 and no such reports shall be printed by the public printer except  
47 on requisition therefor, signed by the governor, which requisition  
48 shall state the number to be printed and how the same are to be  
49 bound. Such officers, boards and institutions as are required by  
50 law to make a report to the governor shall place the same in his  
51 hands as soon as the same are completed, and within ninety days  
52 after the close of the period which they are to cover.

Sec. 78. No sum of money shall be paid out of the treasury  
2 for the years ending June thirtieth, one thousand nine hundred  
3 and eighteen, and one thousand nine hundred and nineteen, beyond  
4 the amounts hereby appropriated, unless the same be provided  
5 for by constitution or some general law, and no money shall  
6 be hereafter drawn from the treasury to pay the salary of any  
7 officers or employees before their services have been rendered  
8 and this shall apply to appropriations heretofore made as well  
9 as to the appropriations made herein.

Sec. 79. Upon the adjournment of this session of the legisla-  
2 ture, the clerk of the house and the clerk of the senate, shall  
3 jointly make up and furnish the auditor and treasurer, without  
4 delay, a certified copy of this and all other acts carrying appropri-  
5 ations.

## CHAPTER 3.

(House Bill No. 35.)

AN ACT making appropriations of public money to pay the per diem and mileage of members of the legislature for the second extraordinary session of one thousand nine hundred and seventeen, and for salaries of the officers and attaches thereof.

[Passed May 26, 1917. In effect from passage. Approved by the Governor May 26, 1917.]

Sec.

1. Appropriation for per diem and mileage of members; for per diem of officers and attaches of the house of delegates.

Sec.

1-a. Of the senate.

2. Auditor authorized to issue warrants.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That there be and are hereby appropriated out of the public treasury for the payment of the per diem and mileage, of the members of the legislature for the second extraordinary session of one thousand nine hundred and seventeen and the per diem of the officers and attaches thereof the following sums of money:

7

*House of Delegates.*

8 To pay the per diem of the members, four thousand and  
9 seven hundred eighty-four dollars.

10 To pay the mileage of members, three thousand, three hun-  
11 dred fifty-eight dollars and ten cents.

12 To pay the per diem of the speaker for services rendered dur-  
13 ing the session and to be rendered after the session in signing the  
14 journal, one hundred sixty-eight dollars.

15 To pay the clerk of the house and necessary assistants, for  
17 preliminary work performed prior to the opening of this extra-  
18 ordinary session, and to be performed after the close of the session,  
19 in the filing of papers, and indexing the journal and bills, as  
20 follows:

21 To pay the clerk of the house, four hundred fifty dollars.

22 To pay Will A. Strickler, chief assistant clerk, two hundred  
23 fifty dollars.

24 To pay expert desk clerk one hundred eighty dollars.

25 To pay the stenographer to the clerk, one hundred eighty  
26 dollars.

27 To pay A. K. Slaughter, expert printing clerk for services  
28 to be rendered the clerk of the house in proof reading journals  
29 and index, one hundred eighty dollars.

30 To pay the per diem of the sergeant-at-arms for services ren-  
31 dered during this session and to be rendered in the completion of  
32 the work, checking of accounts, etc., at the end of the session,  
33 two hundred fifty dollars.

34 To pay the per diem of the assistant sergeant-at-arms, fifty  
35 two dollars.

36 To pay the per diem of the doorkeeper, fifty-two dollars.

37 To pay the per diem of the assistant doorkeeper, fifty-two dol-  
38 lars.

39 To pay the per diem of gallery doorkeeper, fifty-two dollars.

40 To pay the per diem of the three cloak-room keepers, one  
41 hundred seventeen dollars.

42 To pay the per diem of the day watchman, fifty-two dollars.

43 To pay the per diem of the night watchman, fifty-two dollars.

44 To pay the per diem of the clerk of finance committee, for  
45 services rendered, and to be rendered in making up and furnish-  
46 ing to the clerks of the two houses and the auditor proper state-  
47 ment of the appropriations of this session, one hundred thirty-  
48 eight dollars.

49 To pay the per diem of the clerk of the judiciary committee,  
50 seventy-eight dollars.

51 To pay the per diem of the six floor pages, one hundred fifty-  
52 eight dollars.

53 To pay the per diem of the floor stenographers, three hun-  
54 dred twelve dollars.

55 To pay the per diem of the two journal clerks, one hundred  
56 four dollars.

57 To pay the per diem of the stenographers to the committee on  
58 taxation and finance, seventy-eight dollars.

59 To pay the per diem of the stenographer of the committee on  
60 the judiciary, seventy-eight dollars.

61 To pay the per diem of the secretary to the speaker, seventy-  
62 eight dollars.

63 To pay the per diem of four printing clerks, three hundred  
64 twelve dollars.

65 To pay the per diem of one reading clerk, seventy-eight dol-  
66 lars.

- 67 To pay the per diem of one bill record clerk, seventy-eight dol-  
68 lars.
- 69 To pay the per diem of one assistant clerk, seventy-eight  
70 dollars.
- 71 To pay the per diem of the clerk of the committee on enrolled  
72 bills, seventy-eight dollars.
- 73 To pay the per diem of the toilet room keeper, thirty-nine  
74 dollars.

*Senate.*

- Section 1-a. To pay the per diem of the members of the  
2 Senate one thousand five hundred and thirty-four dollars.
- 3 To pay the mileage of the members of the Senate, on thou-  
4 sand and seventy-four dollars and seventy cents.
- 5 To pay the per diem of the sergeant-at-arms for services ren-  
6 dered prior to the opening of the session, during the session and  
7 to be rendered in completing the work of the session, one hun-  
8 dred and fifty dollars.
- 9 To pay the per diem of the assistant sergeant-at-arms, sixty-  
10 five dollars.
- 11 To pay the per diem of the door-keeper, assistant door-keeper  
12 and gallery door-keeper, fifty-two dollars each, one hundred and  
13 fifty-six dollars.
- 14 To pay the per diem of the night watchman, fifty-two dol-  
15 lars.
- 16 To pay the mileage of the clerk of the senate, twenty-eight  
17 dollars.
- 18 To pay the mileage of the door-keeper of the senate, ten dol-  
19 lars.
- 20 To pay the clerk of the senate, and necessary assistants, for  
21 preliminary work performed prior to the opening of this extra-  
22 ordinary session, for work done during the session, and to be  
23 performed after the close of the session in connection with the  
24 filing of bills and papers, and indexing the senate journals and  
25 bills, as follows:
- 26 To the clerk of the senate four hundred and fifty dollars.
- 27 To the chief assistant clerk, minute clerk and supervisor of  
28 printing, two hundred and fifty dollars each, seven hundred and  
29 fifty dollars.
- 30 To the stenographer to the clerk, one hundred and twenty  
31 dollars.

32 To pay the per diem of the bill editor, the warrant clerk and  
32-a the book-keeper seventy-eight dollars each, two hundred and thirty  
33 four dollars.

34 To pay the per diem of two printing clerks and two assist-  
35 ants seventy-eight dollars each, three hundred and twelve dol-  
36 lars.

37 To pay the per diem of two copy holders and the senate and  
38 house bill record clerk, seventy-eight dollars each, two hundred  
39 and thirty-four dollars.

40 To pay the per diem of the stenographer to the president, sev-  
41 enty-eight dollars.

42 To pay the per diem of the stenographer to the finance com-  
43 mittee, seventy-eight dollars.

44 To pay the per diem of the clerk to the committee on the judi-  
45 ciary, seventy-eight dollars.

46 To pay the per diem of the clerk of the committee on engrossed  
47 bills, seventy-eight dollars.

48 To pay the per diem of the clerk of the committee on en-  
49 rolled bills, seventy-eight dollars.

50 To pay the per diem of three floor stenographers, sixty-five  
51 dollars each, one hundred and ninety-five dollars.

52 To pay the per diem of the mailing and banking page, who  
53 also served as journal and bill page, fifty-two dollars.

54 To pay the per diem of four floor pages, twenty-six dollars  
55 each, one hundred and four dollars.

56 To pay the per diem of two cloak-room keepers, thirty-nine  
57 dollars each, seventy-eight dollars.

Sec. 2. The auditor of this state is hereby authorized and  
2 directed to issue his warrants upon the treasury from time to  
3 time for such amounts as are or may become due to the several  
4 members, officers and attaches of the senate and the house of dele-  
5 gates, upon the request of the clerk of the senate and the ser-  
6 geant-at-arms of the house of delegates, respectively.

## CHAPTER 4.

(House Bill No. 1.)

AN ACT relating to the creation of executive and advisory state coun-  
cils of defense and prescribing the powers and duties thereof.

[Passed May 21, 1917. In effect from passage. Approved by the Governor  
May 23, 1917.]

## SEC.

1. Board of public works constituted council of defense.
2. Advisory state council of defense; how appointed; number and term.
3. Duration of councils of defense.
4. Advisory council to have special knowledge of certain subjects.
5. Duties of executive council.
6. Executive council has power to subpoena witnesses and require testimony; upon refusal to testify, the courts upon proper application may issue order requiring compliance with subpoena; failure to obey, punishable as contempt; courts having civil jurisdiction may issue writs of injunction to compel obedience to

## SEC.

- order of executive council; refusal to comply punishable as contempt; violation of such order a misdemeanor; penalty.
7. Advisory council of defense authorized to make investigations and render services required by executive council; adopt proper rules and regulations for meetings, with concurrence of executive council.
8. No compensation allowed advisory council; necessary expenses a legitimate charge.
9. Act to be construed as a military measure; shall not limit powers now vested in governor, or repeal statutes in force.
10. In effect from passage.

*Be it enacted by the Legislature of West Virginia:*

Section 1. The board of public works shall be and is hereby constituted an executive state council of defense, hereinafter called the executive council.

Sec. 2. There is also hereby created an advisory state council of defense, consisting of citizens appointed by the governor from time to time, not exceeding a total of fifteen members, all of whom shall serve during the pleasure of the executive council.

Sec. 3. Said councils of defense are created for the duration of the war in which the United States is now engaged, and for the period of six months thereafter and no longer.

Sec. 4. The members of the advisory council shall be appointed with reference to their special knowledge of agriculture, labor, industries, public utilities, natural resources, sanitation, finance, transportation, or other subjects relating to national or state defense.

Sec. 5. It shall be the duty of the said executive council:

1. To adopt, publish and enforce all reasonable rules and regulations governing the operation of railroads, mills, mines, manufacturing plants and other industrial works in this state and for the conservation of the resources of this state, in so far as such rules and regulations are not in conflict with the rules and regulations adopted by the council of national defense; to employ assistants; to create and appoint bureaus and committees from the advisory council and perform such other acts as may be necessary to carry out the purposes of this act.

2. To co-operate with and assist the council of national defense in the execution of the duties prescribed by an act of congress of the United States approved August twenty-nine, one

10-d thousand nine hundred and sixteen, entitled "an act making  
10-e appropriations for the support of the army for the fiscal year  
11 ending June thirty, one thousand nine hundred and seventeen,  
12 and for other purposes," or any acts amendatory thereof or sup-  
13 plemental or additional thereto, and the orders, rules and regu-  
14 lations issued thereunder by the national council of defense.

15 3. To co-operate with councils of defense and similar agen-  
16 cies in other states in so far as co-operation is in harmony with  
17 the council of national defense.

18 4. To suppress insurrections or rebellions and to  
19 carry out within the state of West Virginia such plans of  
20 national defense as are mutually agreed upon between it and  
21 the council of national defense.

22 5. To cause to be taken a census and inventory of the  
23 resources of the state in men and materials, to make investigation  
24 and report to the governor the location and availability of mili-  
25 tary supplies, and the location and capacity of railroads, auto-  
26 mobiles and all other means of transportation and convenience  
27 within the state so as to determine their availability for mili-  
28 tary purposes of the state, and to render possible the expedi-  
29 tious mobilization and concentration of state troops and sup-  
30 plies at points of defense and military advantage.

31 6. To give information to producers of materials as to  
32 supplies needed by such military forces.

33 7. And in general to take such steps as may be, in the  
34 opinion of said councils, necessary or advisable for the public  
35 defense and security; for the protection of routes of communi-  
36 cation; for the public care and assistance of individuals and  
37 classes upon whom the hardships of war would fall most heavily;  
38 for the development of the resources of the state, particularly  
39 those from which will be derived the supplies of food and other  
40 commodities upon which the conduct of war makes a special  
41 drain; to regulate food and fuel prices; to encourage the military  
42 training of the citizens of the state, and such other measures as  
43 may be necessary to meet the exigencies of all situations occasioned  
44 by war, if not in conflict with any rule promulgated by the national  
45 council of defense.

Sec. 6. The executive council shall have the power to sub-  
2 poena witnesses and require their testimony, compel the pro-  
3 duction of account books and files and all documents relative

4 to any investigation or matter which may be under consideration  
5 by it.

6 In case of refusal of any person to comply with any sub-  
7 poena issued hereunder, or to testify in regard to any matter in  
8 which he may be required to produce account books, files, papers,  
9 and documents relative to any investigation being conducted by  
10 the executive council, any circuit, intermediate or criminal  
11 court of the state or any judge thereof, either in term time or in  
12 vacation, upon the application of said executive council or any  
13 member thereof, or the governor, shall issue an order requiring  
14 such person to comply with such subpoena and to testify and  
15 produce account books, files, papers and documents, or either,  
16 and any failure to obey such order of the court or judge thereof,  
17 shall be punished by the court as a contempt of court. Upon  
18 application therefor by the governor or the executive council, the  
19 supreme court of appeals and intermediate courts having civil  
20 jurisdiction shall have jurisdiction to issue writs of mandamus  
21 or injunction in the name of the state to compel obedience or to  
22 make effective any order issued by said executive council under  
23 the provision of this act and shall have power to punish any such  
24 who refuse to comply with the order of the governor or said ex-  
25 ecutive council as a contempt of said court. Any person who  
26 shall violate any such order or rule of the governor or said ex-  
27 ecutive council shall be guilty of a misdemeanor and upon con-  
28 viction thereof shall be fined not less than ten nor more than one  
29 hundred dollars and in addition thereto may be confined in jail not  
30 more than twelve months.

Sec. 7. For the purpose of co-ordinating the said councils  
2 of defense and of carrying out the intentions of this act, the said  
3 advisory council of defense, or any committee, bureau or mem-  
4 bers thereof, are hereby empowered and authorized to make such  
5 inquiries and investigations, and to perform such duties and  
6 acts as may be prescribed and delegated to it by said executive  
7 council of defense, and in general to render such services and  
8 perform such duties as may be desired or required by said ex-  
9 ecutive council. The advisory council may adopt such rules and  
10 regulations as may be proper for the conduct of its meetings and  
11 the regulation of its duties, with the concurrence of the ex-  
12 ecutive council.

Sec. 8. The members of the advisory council shall serve  
2 without compensation, but the actual and necessary expenses of



3 the members of each the executive and advisory council incurred  
4 under the discharge of duties of this act shall be a proper and  
5 legitimate charge against any appropriation made therefor.

Sec. 9. This act shall be construed as a military measure,  
2 and as supplemental to existing law and shall in no wise be so  
3 construed as to limit, abridge or repeal any of the powers and  
4 duties now vested in the governor by the constitution and laws  
5 of this state, or as repealing any statute now in force.

## CHAPTER 5.

(House Bill No. 2.)

AN ACT to amend and re-enact section four of chapter one of the code of West Virginia, relating to the limits and jurisdiction of the state and acquisition of lands by the United States, and authorizing any county, magisterial district or municipality to pay for such land and present the same to the United States free of cost.

[Passed May 16, 1917. In effect from passage. Approved by the Governor  
May 17, 1917.]

Sec.

4. Consent of West Virginia legislature given to acquire land; purpose of same; recordation of title; by whom payment shall be made; government of United States to hold same free of cost; to issue bonds and levy

SEC.

taxes for payment; provision as to municipal corporations; limit of debt fixed by constitution to be observed in submission of question to vote of people. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

That section four of chapter one of the code of West Virginia be amended and re-enacted to read as follows:

Section 4. In pursuance of the seventeenth clause of the  
2 eighth section of the first article of the constitution of the United  
3 States, the consent of the legislature of West Virginia is hereby  
4 given to the purchase or condemnation or acceptance as a gift,  
5 whether heretofore or hereafter made or had to the government  
6 of the United States, or under its authority, of any tract or par-  
7 cel of land within the limits of the state, for the purpose of  
8 erecting thereon light houses, beacons, signal stations, post offices,  
9 custom houses, court houses, locks, dams, works for the improve-

10 ment of the navigation of any watercourse, armor plate manufac-  
11 turing plants, projectile factories or factories of any kind or char-  
12 acter, or any other needful buildings or structures or proving  
13 grounds, or work of public improvement whatever, or for any  
14 other purpose for which the same may be needed or required by  
15 the government of the United States. The evidence of title to  
16 such land shall be recorded as in other cases.

17 Any county, magisterial district or municipality, whether in-  
18 corporated under general law or special act of the legislature, shall  
19 have power to pay for any such tract or parcel of land and present  
20 the same to the government of the United States free of cost, for  
21 any of the purposes aforesaid, and to issue bonds and levy taxes  
22 for the purpose of paying for the same; and in the case of a  
23 municipal corporation the land so purchased and presented may  
24 be within the corporate limits of said municipality or within five  
25 miles thereof; *provided, however*, that no such county, magisterial  
26 district or municipality shall, by the issue and sale of such bonds,  
27 cause the aggregate of its debt to exceed the limit fixed by the con-  
28 stitution of this state. And, *provided, further*, that the provisions  
29 of the constitution and statutes of this state, or the special act  
30 creating any municipality, relating to submitting the question of  
31 the issuing of bonds and all questions connected with the same  
32 to a vote of the people shall in all respects be observed and com-  
33 plied with.

34 All acts or parts of acts inconsistent herewith are hereby re-  
35 pealed.

## CHAPTER 6.

(House Bill No. 4.)

AN ACT providing for a state levy on real and personal property and levying an excise tax on the incomes of corporations, for the state council of defense war fund and the militia, and to enable the state council of defense to render proper and necessary aid to the federal government in the prosecution of the present war, and such other purposes as the state executive council of defense may deem necessary.

[Passed May 26, 1917. In effect from passage. Approved by the Governor  
May 26, 1917.]

**Sec.**

1. Special levy imposed on real and personal property during present war; amount thereof.
2. Manner of laying, collecting and accounting for said levy.
3. Annual special excise tax to be paid by corporations or associations engaged in business in state; amount thereof and how based; exceptions.
4. How said tax imposed by section

**SEC.**

- three shall be levied and collected; not to continue after termination of present war.
5. Amount of special levy and excise tax to be determined by board of public works; provision as to "State Council of Defense War Fund"; how same shall be disbursed; purpose of said fund; balance remaining; how used.
  6. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. There shall be imposed on all real and personal property not exempt from taxation for the year one thousand nine hundred and seventeen and thereafter, during the continuance of the present war, a special levy not to exceed two cents on the one hundred dollars valuation.

Sec. 2. Said levy shall be laid by the board of public works and any act of the board of public works in fixing the special levy provided for by this act 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 levies so fixed by the board of public works on the land books and the personal property books of their county, and to collect and account for said levies in the same manner as the regular state levy is extended, collected and accounted for.

Sec. 3. In addition to the tax imposed by section five of chapter three of the acts of the legislature of one thousand nine hundred and fifteen, second extraordinary session, every corporation, joint stock company, or association organized for profit, and having a capital stock represented by shares, and every insurance company, respectively, now or hereafter organized under the laws of this state, or under the laws of any other state or government and engaged in any business whatsoever in the state of West Virginia, shall pay an annual special excise tax for the privilege of carrying on or doing business in the state of West Virginia, not in excess of the equivalent of one-fourth of one *per centum* upon the entire net income of such company, received by it from all sources during the year, on business transacted and capital invested in this state, as hereinafter set forth; *provided, however,* that nothing in this section contained shall apply to labor, agricultural or horticultural organizations; nor to mutual savings

17 banks not having a capital stock represented by shares and which  
18 are operated exclusively for the benefit of their depositors; nor  
19 to cemetery companies, which are organized and operated exclu-  
20 sively for the benefit of their members; nor to fraternal beneficiary  
21 societies, orders or associations operating under the lodge system,  
22 or for the exclusive benefit of the members of a fraternity itself  
23 operating under the lodge system, providing for the payment of  
24 life, sick, accident, and other benefits to the members of such  
25 societies, orders or associations, and dependent on such members;  
26 nor to domestic building and loan associations organized and oper-  
27 ated exclusively for the benefit of their members; nor to any cor-  
28 poration or association organized and operated exclusively for  
29 religious, charitable, scientific or educational purposes; nor to  
30 business leagues, chambers of commerce, or boards of trade, or to  
31 any civic league or organization organized and operated exclu-  
32 sively for the promotion of social welfare, none of which said  
33 organizations, savings banks, cemetery companies, fraternal  
34 beneficiary societies or fraternities, building and loan associations,  
35 charitable, religious, scientific or educational associations, busi-  
36 ness leagues, named in this proviso, are organized for profit, and  
37 no part of the net income of which inures to any private stock-  
38 holder or individual.

Sec. 4. The tax imposed by section three of this act shall be  
2 computed, levied, assessed, collected and paid upon the same basis  
3 and in the same manner as the tax imposed by section five of chap-  
4 ter three of the acts of the legislature of one thousand nine hun-  
5 dred and fifteen, second extraordinary session. *Provided, how-*  
6 *ever,* that no tax shall be levied, assessed or collected under this  
7 act for a longer period than the end of the fiscal year after the  
8 termination of the war now existing between the United States  
9 and the Imperial German government.

Sec. 5. The amount of said special levy and said special  
2 excise tax, within the limits herein prescribed, shall be determined  
3 by the board of public works, and in the event the same shall be  
4 less than the maximum amount herein prescribed, they shall  
5 be fixed in the same ratio to the maximum amounts and when col-  
6 lected, shall be placed in a separate fund in the state treasury  
7 to be known as the "State Council of Defense War Fund." Said  
8 fund shall be disbursed from the state treasury, on the warrant  
9 of the state auditor, when requisition is made by the executive  
10 state council of defense, signed by the president and secretary of

11 said executive council. This fund shall be used to carry into  
 12 effect the law creating the state council of defense; and to pro-  
 13 vide for the current expenses of the militia or any other body of  
 14 organized troops lawfully called out by the governor of the state,  
 15 and the organization and equipment of any new units required  
 16 by the federal government or the state council of defense. Any  
 17 balance remaining in said fund, after the purpose of the fund has  
 18 been carried out and completed, may be used by the executive  
 19 counsel of defense to supplement the appropriation for any hos-  
 20 pital for the insane, or other public institution, where the regular  
 21 appropriation therefor shall prove insufficient, because of ex-  
 22 cessive prices of food or other products necessary for the main-  
 23 tenance of said institution; and the remainder, if any, shall be  
 24 placed in the general revenue of the state fund.

Sec. 6. All acts and parts of acts inconsistent with this act  
 2 are hereby repealed.

## CHAPTER 7.

(House Bill No. 6.)

AN ACT relating to the protection of sheep and the conservation of  
 the food supply necessary for the maintenance of the people.

[Passed May 26, 1917. In effect sixty days from passage. Became a law without  
 the Governor's approval.]

### SEC.

1. Unlawful for person keeping dog to permit animal to run at large or trespass on lands of another; if sheep or domestic animals are killed or injured, what shall constitute *prima facie* evidence of guilt.
2. Provision as to tags; where procured, and fee; cause for seizure of dog; procedure if dog wears collar bearing tag; how owner may reclaim impounded dog;

### SEC.

- provision as to killing of vicious dog; not liable to prosecution; duty of common council to provide suitable pound.
3. Unnaturalized resident of state shall not own or keep dog.
  4. Act not construed to prevent citizen from lawful hunting.
  5. Penalty for violation of provisions of act.
  6. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any person to suffer or  
 2 permit any dog in his possession or kept by him about his prem-  
 3 ises, to run at large on any unenclosed land, or trespass upon any  
 4 enclosed or unenclosed lands of another.

5 If any dog be suffered or permitted to run at large or trespass  
 6 as aforesaid, or kill or assist in killing, injuring or chasing any

7 sheep or other domestic animals out of the enclosure of the owner  
8 or keeper of such dog, proof that such dog was at large at the time  
9 and place of injury complained of shall be *prima facie* evidence of  
10 liability and guilt, as hereinafter provided.

Sec. 2. The county court of every county and the council of  
2 every municipality, shall prepare and deliver, to its assessor, sheriff,  
3 constables, or other police officers, consecutively numbered substan-  
4 tial aluminum or brass tags, bearing the calendar year and the  
5 name of the county or municipality issuing such tag, which shall  
6 be delivered by them to any citizen of the county or municipality  
7 who may apply therefor and pay into its treasury a fee of not  
8 more than twenty-five cents for each tag, which tags shall be  
9 fastened upon the collars worn by the dogs owned or kept by  
10 such citizens, and for which fee such officer shall issue a receipt  
11 showing the name and address of the citizen and the year and  
12 number of the tag. Such officer shall also keep a record book  
13 showing the name and address of each citizen to whom such tags  
14 are issued, the number of such tag so issued and the year thereof.

15 Any citizen may, and the sheriff, constables or other police offi-  
16 cers of any county, district or municipality, shall seize any dog  
17 found unaccompanied by its owner or keeper and running at large  
18 on any road, street or other public place, or trespassing on any  
19 premises other than the premises of the owner. If such dog is  
20 wearing a collar bearing such tag, it shall be impounded and the  
21 citizen or officer so seizing and impounding said dog shall im-  
22 mediately thereafter by written notice notify the owner of such  
23 dog as disclosed by the records herein provided for to be kept  
24 that such dog has been seized and impounded by him and unless  
25 such owner or keeper of such dog shall, within seven days from  
26 the receipt of said notice claim such dog, and pay such citizen  
27 or officer a fee of two dollars for seizing, and a fee of ten cents  
28 for each day it is impounded, it shall be killed forthwith in any  
29 humane manner. *Provided*, that any citizen or officer may kill  
30 any dangerous or vicious dog, or any dog not registered as herein  
31 provided for, or any dog permitted to run at large after the owner  
32 or keeper shall have had notice not to permit such dog to run at  
33 large, if such dog be off the premises and out of the control of its  
34 owner or keeper. No citizen or officer shall be liable in damages  
35 or to prosecution by reason of killing any dog as herein provided.  
36 For every dog seized and not claimed by its owner or keeper as  
37 aforesaid, the county court shall pay the citizen or officer entitled

38 thereto said fees and costs upon due proof of the seizure, im-  
39 pounding and killing of such dog; and the owner or keeper shall  
40 be liable therefor in any action before the court or justice having  
41 jurisdiction; *provided, further*, that it shall be the duty of the  
42 common council of every incorporated city, town or village in this  
43 state, to provide a suitable pound for such dog or dogs so seized  
44 under the provisions of this act.

Sec. 3. It shall be unlawful for any unnaturalized for-  
2 eign born resident of this state to own or keep a dog of any kind  
3 in this state.

Sec. 4. Nothing in this act shall be construed to prevent  
2 any citizen of this state from lawfully hunting with a dog or dogs  
3 on any land owned by him or by any person from whom such citi-  
4 zen has first secured permission to hunt with a dog or dogs; and  
5 no citizen shall hunt with a dog or dogs upon the land of another  
6 without written or verbal permission from the owner or lessee  
7 thereof.

Sec. 5. Any person violating any provision of this act or  
2 failing or neglecting to perform any duty imposed by it, shall be  
3 liable, in an action of prosecution before any court or justice hav-  
4 ing jurisdiction, for the amount of damage sustained, and also for  
5 a fine of not to exceed one hundred dollars and the cost of pros-  
6 ecuton, or to imprisonment in the county jail not more than thirty  
7 days, or to both fine and imprisonment; and any person who shall  
8 remove from any dog a collar bearing a tag as provided for in this  
9 act, or who shall alter or remove any such tag from a dog properly  
10 registered as herein provided for, shall be guilty of a misdemeanor,  
11 and, upon conviction, shall be fined not to exceed one hundred dol-  
12 lars and the cost of the prosecution, or to imprisonment in the  
13 county jail not more than thirty days, or to both fine and im-  
14 prisonment, and shall be liable to the owner or keeper of such dog  
15 in a civil action for the amount of damages sustained.

Sec. 6. All acts and parts of acts inconsistent herewith are  
2 hereby repealed.

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## CHAPTER 8.

(House Bill No. 21.)

AN ACT accepting the provisions of the act of congress providing  
for national aid for vocational education and providing for carry-  
ing the same into effect.

[Passed May 26, 1917. In effect ninety days from passage. Become a law without the Governor's approval.]

## Sec.

1. Provisions of act of congress relating to vocational education accepted by state of West Virginia.
2. State treasurer designated custodian; to receive money from

## Sec.

3. United States treasury and pay same upon warrant of auditor.
3. Board of regents designated as state board to carry out provisions of act.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the provision of an act of congress entitled  
 2 "an act to provide for the promotion of vocational education; to  
 3 provide for co-operation with the states in the promotion of such  
 4 education in agriculture and the trades and industries; to pro-  
 5 vide for co-operation with the states in the preparation of teachers  
 6 of vocational subjects; and to appropriate money and regulate its  
 7 expenditures," are hereby accepted by the state of West Virginia  
 8 as to:

- 9 a. Appropriations for the salaries of teachers, supervisors or  
 10 directors of agricultural subjects.
- 11 b. Appropriations for salaries of teachers of vocational and  
 12 industrial subjects.
- 13 c. Appropriations for the training of teachers of vocational  
 14 subjects.

Sec. 2. The state treasurer is hereby designated as the cus-  
 2 todian for vocational education and shall receive money paid to  
 3 the state from the United States treasury under the provisions of  
 4 said act of congress and shall pay the same upon the warrant  
 5 of the auditor of state when the same is certified by the state board  
 6 of control.

Sec. 3. The state board of regents is hereby designated as  
 2 the state board to carry out the provisions of said act so far as  
 3 the same relates to the co-operation of the states and federal gov-  
 4 ernment and shall have full power to do all things necessary in  
 5 the formulation of plans for the promotion of education in agri-  
 6 culture, in trades and industries and to formulate and execute  
 7 plans for the preparation of teachers of vocational subjects.



## CHAPTER 9.

(House Bill No. 34.)

AN ACT to provide protection for the lives and properties of the inhabitants of the state of West Virginia, during the continuance of the war between the United States and the Imperial German government; and for that purpose to authorize, empower and direct the sheriffs of the several counties, with the consent and approval of their respective county courts, to appoint special police deputies.

[Passed May 26, 1917. In effect from passage. Approved by the Governor May 26, 1917.]

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| <p>SEC.</p> <ol style="list-style-type: none"> <li>1. Power given sheriffs to appoint special police deputies; term of service and eligibility.</li> <li>2. Upon call of governor, duty of such deputies to police and protect lives and property of citizens.</li> <li>3. Deputies have right to carry necessary firearms without bond or license; governor may remove for cause; requirements as to</li> </ol> | <p>SEC.</p> <ol style="list-style-type: none"> <li>4. Deputy police force not required to serve at or near voting precincts; interference with election official or voter a misdemeanor; penalty.</li> <li>5. Compensation for deputies: how paid.</li> <li>6. Inconsistent acts repealed.</li> </ol> |
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*Be it enacted by the Legislature of West Virginia:*

Section 1. The sheriff of every county in the state of West Virginia shall, with the consent and approval of the county court of his county appoint not less than ten nor more than one hundred citizens thereof who are over the age of thirty-one years, as special police deputies. Such persons so appointed shall be of good moral character and voters resident within the county, and their service shall continue during the period of the war between the United States and the Imperial German government. No person shall be eligible to hold or be appointed to said special deputy police force who is a member of, employed by, or identified with any detective agency or private police organization.

Sec. 2. Upon the call and at the direction of the governor, the deputies so appointed under the provisions of this act shall have the power, and it shall be their duty to police and protect the lives and properties of persons or citizens within their respective counties, under the direction of the sheriff thereof and if, in the opinion of the governor, any of such special deputy police force is needed to perform duty in any other county of the state of West Virginia, he shall have the right and authority to command them, or any of them, to perform such duties which, in

10 his opinion, may be necessary for the purposes aforesaid, and for  
11 the preservation of peace and order therein.

Sec. 3. While on duty, the members of said special deputy  
2 police force appointed as aforesaid, shall have the right and privi-  
3 lege to carry visible any necessary firearms, without being required  
4 to give any bond or apply for, or obtain any license, as provided by  
5 section seven, of chapter one hundred and forty-eight, of "Barnes  
6 Code of West Virginia," of one thousand nine hundred and sixteen;  
6-a and such deputies may, for cause, be removed by the governor,  
7 and while on duty, they shall be under the command and control  
8 of such officers as the governor may designate and appoint; and  
9 such police deputies may organize and drill for the purpose of  
10 discipline and efficiency, under such rules and regulations as may  
11 be prescribed and promulgated by the governor, and the governor  
12 shall, within thirty days after this act takes effect, prescribe or  
13 designate some form of regulation design that will distinctly  
14 identify said deputy police from civilians.

Sec. 4. No member of such special deputy police force shall,  
2 in any instance, be detailed for or ordered on duty at or near any  
3 voting precinct where any election or primary is being held, or is  
4 about to be held, nor shall any member of said force interfere in  
5 any manner with any election official or voter in the discharge of his  
6 duty as such, or in going to or returning from the voting precincts,  
7 and any member of such force violating the provisions of this sec-  
8 tion shall be guilty of a misdemeanor and, upon conviction thereof,  
9 shall be fined not less than twenty-five nor more than one hundred  
10 dollars and may, at the discretion of the court, be imprisoned in  
11 the county jail not less than thirty nor more than ninety days, or  
12 both fined and imprisoned, as aforesaid.

Sec. 5. When such special deputy police are called for ser-  
2 vice by the governor, as hereinbefore provided, each member there-  
3 of shall receive the sum of three dollars per day and expenses, for  
4 the time actually engaged under said call, in such service, the same  
5 to be paid out of the state council of defense war fund, as pro-  
6 vided by law.

Sec. 6. All acts or parts of acts in conflict herewith are here-  
2 by repealed.

## CHAPTER 10.

(Senate Bill No. 1.)

AN ACT to prevent and punish fraud in sales of goods, wares and merchandise at public or private sale by itinerant vendors, and to regulate all such sales.

[Passed May 22, 1917. In effect from passage. Became a law without the Governor's approval.]

## SEC.

1. "Itinerant vendor" construed, for purpose of act; persons so engaged not relieved from provisions of act by association with local dealers; provisions not to apply to sales made by commercial travelers; other exceptions.
2. Facts relating to sale to be stated in writing under oath, before goods are advertised or sold; statement to be filed in office of clerk of county court; record of statements to be kept, and same open to inspection.
3. Special deposit to be made with

## SEC.

- county clerk before license shall be issued; time deposit shall be issued; time deposit shall be held.
4. Deposits subject to attachment and execution on behalf of creditors; fines and penalties fixed by appropriate courts; provision as to settlement of claims and payment of deposit.
5. License tax; how assessed and collected; no license issued or tax assessed for less than one year.
6. What shall constitute violations of act; penalty for same; each day a separate offense.
7. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the words "itinerant vendor," for the purpose of this act, shall mean and include all persons, firms or corporations, both principals and agents, who engage or conduct within this state, either in one locality, or in traveling from place to place, a temporary or transient business of selling goods, wares and merchandise; and who, for the purpose of carrying on such business, use, lease or occupy either in whole or in part, a room, building or other structure, or who use, lease or occupy for such purposes a room or rooms in any hotel or lodging house, for the exhibition and sale of such goods, wares and merchandise; and the person, firm or corporation so engaged shall not be relieved from the provisions of this act by reason of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as part of the business of, or in the name of, any local dealer, trader, merchant or auctioneer. The provisions of this act shall not apply to sales made to persons by commercial travelers, or selling agents in the usual course of business, nor to *bona fide* sales of goods, wares or merchandise by sample for future delivery; nor to hawkers or peddlers in the streets, roads or highways, from

21 packs or vehicles, nor to persons selling meat or the products of  
22 the farm, garden or dairy, nor to any sales of goods, wares  
22-a or merchandise on the grounds of any agricultural association  
23 during the continuance of any annual fair held by such associa-  
24 tion; nor to any sales by societies acting for charitable, religious or  
25 public purposes; nor to judicial sales directed by law, or under  
26 the orders of any court; nor to the sales of the common necessi-  
27 ties of life in any public market place.

Sec. 2. No itinerant vendor shall advertise, represent or hold  
2 forth a sale of goods, wares or merchandise as a bankrupt, insol-  
3 vent, assignee, trustee, estate, executor, administrator, receiver,  
4 attorney, manufacturers, wholesale, or closing-out sale, or a sale  
5 of any goods damaged by smoke, fire, water or otherwise, unless  
6 before so doing, he shall state in writing, under oath, to the clerk  
7 of the county in which such business is proposed to be conducted at  
8 the time he makes application for a license, hereinafter provided  
9 for, all the facts relating to the reason and character of such  
10 special sale so advertised, held forth, or represented, including a  
11 statement of the names of the persons from whom said goods,  
12 wares, or merchandise were purchased, and the date of  
13 the delivery of the same to the person applying for  
14 license; the place, if any, where said goods, wares or  
14-a merchandise were previously exposed for sale, and such  
15 details as are necessary to exactly locate and fully identify all  
16 such goods, wares and merchandise proposed to be sold. And such  
17 itinerant vendor shall also include in the said statement the names  
18 and residence of the owner or owners in whose interest the business  
19 is conducted, to be kept on file in the office of the said clerk of the  
20 county court, and a record shall be kept by said clerk of all such  
21 statements, in convenient form and open to public inspection.

Sec. 3. Every itinerant vendor desiring to do business within  
2 this state shall deposit with the said clerk of the county court  
3 the sum of five hundred dollars, as a special deposit, before a li-  
4 cense shall be issued to him, as hereinafter provided, authorizing  
5 him to do business in this state, in conformity with the provis-  
6 ions of this act. Said deposit shall be held by the said clerk for  
7 a period of thirty days after such itinerant vendor ceases to do bus-  
8 iness within this state, and after satisfying all claims which shall  
9 be made against him under the next following section hereof, shall  
10 return such deposit or such portion thereof as remains in his  
11 hands to the said itinerant vendor who deposited the same.

Sec. 4. The deposits so made with the said clerk shall be  
2 subject to attachment and execution on behalf of creditors whose  
3 claims arise in connection with the business conducted within this  
4 state, and to the payment of fines and penalties incurred by such  
5 itinerant vendor in violation of this act as may be fixed by the  
6 judgment of appropriate courts having jurisdiction thereof, as well  
7 as for any unpaid taxes assessed, laid or charged, by any proper au-  
8 thorities, upon such goods, wares and merchandise, and the said  
9 deposit or any remaining portion thereof shall not be paid to such  
10 itinerant vendor until all outstanding claims or notices of claims  
11 presented within thirty days after he ceases to do business, are  
12 settled in full.

Sec. 5. On every license to carry on such business as is con-  
2 templated, there shall be assessed an annual license tax of five hun-  
3 dred dollars, and such license shall be applied for and issued, and  
4 such license tax shall be assessed and collected in the same man-  
5 ner that other licenses and license taxes are assessed and collected.  
6 under the provisions of chapter thirty-two of the code of West Vir-  
7 ginia, and any acts amendatory thereof, and applicable hereto;  
8 *provided, however,* that no such license shall be issued, or such li-  
9 cense tax shall be assessed for any period of less than one year.

Sec. 6. Every itinerant vendor who sells or exhibits for sale at  
2 public or private sale, any goods, wares and merchandise without  
3 first obtaining a license therefor, and in all other respects com-  
4 plying with the provisions of this act, or who makes any false state-  
5 ment in reference to the matter set out in the second section of  
6 this act, or who fails to comply with the requirements of any of  
7 the sections of this act, and every person, whether principal or  
8 agent, who, by circular, hand-bill, newspaper, or in any manner  
9 advertises such sale, as herein described, before proper licenses are  
10 issued to the vendor, and before he has complied with the provis-  
11 ions of this act, shall be guilty of a violation of this act, and shall  
12 be punished accordingly, by a fine of not less than twenty-five dol-  
13 lars, nor more than one hundred dollars; and each day that any  
14 violation thereof shall continue shall be deemed to constitute a  
15 separate offense, and be punishable hereunder accordingly.

Sec. 7. All acts or parts of acts inconsistent with the provis-  
2 ions of this act are hereby repealed.

## CHAPTER 11.

(Senate Bill No. 3.)

AN ACT to provide that farm loan bonds issued under the provisions of the federal farm loan act of the congress of the United States shall be a lawful investment for savings bank deposits, for all fiduciary and trust funds, for the funds of insurance companies and of savings and loan associations, and for the workmen's compensation fund, and that such farm loan bonds shall be accepted as security for all public deposits.

[Passed May 19, 1917. In effect from passage. Approved by the Governor May 21, 1917.]

SEC.

1. Farm loan bonds issued under act of congress of United States lawful investment for savings bank deposits, etc.; said bonds

SEC.

to be accepted as security for public deposits; terms.  
2. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That farm loan bonds issued by federal land banks or joint stock land banks, under an act of congress approved July seventeenth, one thousand nine hundred and sixteen, entitled "An act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create government depositories and financial agents for the United States, and for other purposes," shall be a lawful investment for savings bank deposits, for all fiduciary and trust funds, for the funds of insurance companies and savings and loan associations, and for the workmen's compensation fund. Said farm loan bonds shall be accepted as security for all public deposits on the same terms as any bonds for which the faith of the United States is pledged.

Sec. 2. All acts and parts of acts inconsistent with the terms of this act are hereby repealed.

## CHAPTER 12.

(Senate Bill No. 7.)

[Passed May 19, 1917. In effect thirty days from passage. Approved by the Governor May 21, 1917.]

AN ACT to prevent idleness and vagrancy in West Virginia during the continuance of the war in which the United States is now engaged.

## SEC.

1. Duty of able bodied male residents to engage in occupation for support of self and dependents.
2. Person who shall fail or refuse so to do within specified time, held to be a vagrant and guilty of misdemeanor; penalty; exception as to students during school term; provision as to payment of money received from labor performed under sentence; how prosecutions shall be conducted; plea of inability to obtain work not a defense to prosecution; exception.

## SEC.

3. Who has jurisdiction under act to punish offenders; violation each week a separate offense; no appeal allowed except bond be given with security; when judgment may be suspended; violation of condition of bond entitles state to recover; person convicted may be re-arrested and required to serve former sentence.
4. "Resident" construed for purposes of act; what shall be *prima facie* evidence of vagrancy in prosecutions.
5. Inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. It is hereby declared to be the duty of every able bodied male resident of this state, between the ages of sixteen and sixty years, to habitually and regularly engage in some lawful, useful and recognized business, profession, occupation or employment whereby he may produce or earn sufficient to support himself and those legally dependent upon him.

Sec. 2. From the time this act becomes effective, and thenceforward until six months after the termination of the present war between the United States and the Imperial German government, any able bodied male resident of this state between the ages of sixteen and sixty, except *bona fide* students during school term, who shall fail or refuse to regularly and steadily engage for at least thirty-six hours per week in some lawful and recognized business, profession, occupation or employment, whereby he may contribute to the support of himself and those legally dependent upon him, shall be held to be a vagrant within the meaning and effect of this act, and shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than one hundred dollars for each offense, and as a part of such sentence and punishment such offender shall be by the trial court ordered to work not exceeding sixty days upon the public roads or streets, or upon some other public work being done by and in the county in which such person shall be convicted, or by any municipality therein. One-half of the fair value of any such labor so performed under such sentence, shall be paid by the county or municipality receiving the same toward the support of any persons legally dependent upon such vagrant, but if there shall be no such legal dependents, then no payment shall be made on account of any labor performed under such judgment. Any labor so required by a judgment of conviction hereunder shall be rendered in all

25 respects as is now provided by law in the case of other prisoners  
26 in jail.

27 Prosecutions for vagrancy hereunder shall be instituted and  
28 conducted as other criminal prosecutions, and in no case shall  
29 the possession by the accused of money, property or income suffi-  
30 cient to support himself and those legally dependent upon him  
31 be a defense to any prosecution under this act. In no case shall  
32 the claim by the accused of inability to obtain work or employment  
33 be a defense to a prosecution hereunder, unless it shall be proved  
34 that the accused promptly notified the proper representative of  
35 the state council of defense of his inability to obtain employment,  
36 and requested that work or employment be found for him, and  
37 that such employment was not furnished him.

Sec. 3. All justices of the peace, mayors and police judges  
2 within the state are hereby given jurisdiction to try and punish  
3 all offenders under this act, or such prosecution may be by indict-  
4 ment. Each week or portion thereof that such resident shall con-  
5 tinue a vagrant hereunder shall constitute a separate offense, and  
6 no appeal shall be allowed from any judgment of conviction for  
7 vagrancy, unless the accused shall give bond, with penalty and  
8 security to be fixed and approved by the court granting the ap-  
9 peal, conditioned not to violate this act during the pendency of  
10 such appeal. Any judgment for the performance of labor here-  
11 under may be suspended by the court pronouncing the same, upon  
12 the execution by the person convicted of a bond, with the penalty  
13 and security approved by the court, conditioned to comply with  
14 the provisions of this act for one year from the date of such bond.  
15 A violation of the condition of such last mentioned bond shall en-  
16 title the state to recover the amount of the penalty thereof, and in  
17 addition thereto the convicted person shall be rearrested and re-  
19 quired to serve the sentence formerly pronounced against him.

Sec. 4. For the purposes of this act any male person found  
2 in this state shall be deemed a resident, and in any prosecution  
3 hereunder, proof that the accused habitually loiters in idleness  
4 in streets, roads, depots, pool rooms, hotels, stores or other public  
5 place, or that he is habitually intoxicated, or is addicted to the use  
6 of narcotic drugs, or is a professional gambler, or, being able  
7 bodied is supported in whole or in part by the labor of any woman  
8 or child, shall be *prima facie* evidence of vagrancy.

Sec. 5. All acts and parts of acts in conflict with this act,  
2 or any part hereof, are hereby repealed.



## CHAPTER 13.

(Senate Bill No. 10.)

AN ACT to permit registered voters, required by military duty to this state or to the United States to be absent from their voting precincts on the day of election, to vote by registered mail.

[Passed May 23, 1917. In effect from passage. Approved by the Governor May 26, 1917.]

## SEC.

1. Registered voter in military service and absent from precinct may vote by registered mail, under provisions of act.
2. Notice to be given to registrar of intention to vote by mail; other instructions as to notice and application for ballot.
3. Duty of registrar upon receipt of notice; information and instructions to be forwarded to applicant.
4. Form of certificate of registration and coupon.
5. Form of voucher or certificate.
6. Instructions to applicant upon receipt of ballot.
7. Blank ballots to be furnished registrar, properly sealed and marked; requirements as to form and color; unused ballots to be returned, together with list of names of voters.
8. Registrar to deposit ballot in sealed box; not to be opened until day of election; coupons

## SEC.

- to be filed with letter of application.
9. List of voters applying for ballots to be posted at polling place; when.
10. Sealed ballots, application and list to be delivered to commissioners of election on election day; receipt to be taken for same.
11. Box to be opened at close of balloting; procedure as names are called.
12. Disposition of empty envelopes when ballots are voted or rejected; cause for rejection to be stated in writing and signed; what shall be done with box.
13. Compensation of registrar.
14. Penalty for abetting fraud in connection with votes cast; to fraudulently sign name of qualified voter, forgery; penalty for violation of provisions of act by public official.
15. Provisions of act to have full force and effect; inconsistent acts repealed.

*Be it enacted by the Legislature of West Virginia:*

Section 1. Any registered voter whose participation in the military service of the state or of the United States requires him to be absent from the precinct in which he is registered, on the day of holding any primary or general election, may vote by registered mail upon compliance with the provisions of this act.

Sec. 2. Such voter shall give notice in writing to a registrar of his precinct, not less than thirty days nor more than sixty days prior to the primary or general election in which he desires to participate, of his intention to vote by registered mail, and if in a primary election, of the party ballot which he desires to vote. Said notice with an application for a ballot, shall be delivered personally to such registrar or forwarded to him by registered mail, and shall be accompanied by sufficient postage or the correct amount in legal tender, necessary for the return of the blank ballot and instruction in regard to the same, together

11 with a return envelope addressed in care of the voter's command-  
12 ing officer.

Sec. 3. Upon receipt of such application for ballot, the reg-  
2 istrar shall satisfy himself that the applicant is duly qualified to  
3 vote in the precinct for which said application is made, and shall  
4 enroll the name and address of the applicant, if found eligible, in  
5 a book to be provided for the purpose; and as soon as such reg-  
6 istrar receives the copies of the official ballots provided him for  
7 the purpose, he shall make out the certificate and coupon at-  
8 tached, hereinafter provided for, and forward the same to the  
9 applicant by registered mail (the cost of same having been paid  
10 the registrar as hereinbefore provided,) and shall also enclose in  
11 said letter—

12 (a) An envelope containing the folded ballot, sealed and  
13 marked "ballot within."

14 (b) An envelope for resealing the marked ballot, form of  
15 which is hereinafter provided, and therein called "voucher."

16 (c) A properly addressed envelope for the return of said  
17 ballot to the registrar.

18 (d) A printed slip giving full instructions regarding the  
19 manner of marking the ballot, in order that the same may be  
20 counted, how prepared and how returned; which printed slip to-  
21 gether with the printed envelopes herein required to be used shall  
22 be provided by the board of ballot commissioners.

Sec. 4. The certificate of registration and coupon attached  
2 shall be printed, and shall be in form or effect as follows:

3 This is to certify that.....is a  
4 qualified voter at.....Precinct No.....  
5 .....District..... County, West  
6 Virginia, and entitled to vote in the election on the.....day  
7 of....., 19.....  
8 Application for ballot received.....(date),  
9 from.....(postoffice), and mailed to.....  
9a in care of.....,  
10 (name of commanding officer) as requested, on.....  
11 ..... , 19.....

12 A copy of this certificate is filed with the letter of applica-  
13 tion. Number.....

14 Signed.....,  
15 Registrar.

Sec. 5. The voucher shall be on the back of the return envelope containing the marked ballot and shall be in form or effect as follows:

This is to certify that the enclosed ballot was received by me as per my application to the registrar of. Precinct. District. County, West Virginia. The envelope marked "ballot within" was opened by me in the presence of. (name and rank of certifying officer), marked in his presence, but without assistance nor knowledge on the part of any one as to the manner in which same was prepared, and then and there sealed as provided by law.

Teste:.....

(To be signed by officer designated for such duty.)

Date.....

If the ballot is to be voted in a primary election, such voucher shall also contain the oath or affirmation required by section thirteen of chapter twenty-six of the acts of one thousand nine hundred and fifteen, and when signed by the voter, the same shall have the same force and effect, and be subject to the same penalties, as if signed by the voter at the voting place in the manner provided by said section.

(Detach the coupon below and return)

Name given by voter. Color. Height. Age. Hair. Eyes. Weight, estimated, Birthplace given by voter, Occupation. State and precinct where voter claimed to have last voted.

To the best of my knowledge, the above information is correct and applicant has complied with the requirements of the law as contained in the enclosed card of instructions. I have no knowledge whatever of the marking, erasures or intent of the ballot enclosed.

(Signed).....

Sec. 6. Upon receipt of such registered letter, forwarded by the registrar, the applicant shall open the sealed envelope marked

3 "ballot within" only in the presence of his commanding officer  
4 or of some commissioned officer duly delegated by him for such  
5 duty. He shall thereupon mark and refold the ballot without  
6 assistance and without making known the manner of marking the  
7 same, and shall then and there place the ballot within the  
8 voucher envelope provided for the purpose, shall seal the same and  
9 sign the voucher printed upon the envelope in the presence of  
10 said officer who shall witness the same in writing; and such en-  
11 velope shall thereupon be enclosed within the envelope directed  
12 to the registrar, and it shall then and there be sealed and regis-  
13 tered to the registrar. The officer witnessing the voucher shall also  
14 fill out the coupon attached to the certificate of registration, and  
15 shall sign and enclose the same in the said envelope addressed to  
16 the registrar.

Sec. 7. It shall be the duty of the board of ballot com-  
2 missioners to furnish the registrar of each precinct as soon as  
3 the ballots may be prepared with a sufficient number of blank  
4 ballots, prior to each primary or general election, each properly  
5 sealed in an envelope marked "ballot within" and take his re-  
6 ceipt for the same. Each of such ballots shall have printed at  
7 the top in display type the words "absent voter's ballot," and in  
8 the case of a general election such ballots shall be printed on  
9 paper of a different color from the official ballot to be used on  
10 the day of election. Within five days after the election each reg-  
11 istrar shall return to the board of ballot commissioners all unused  
12 ballots in their original sealed envelopes, together with a list of  
13 the names of voters who have been furnished ballots, as provided  
14 in this act.

Sec. 8. Upon the receipt of the ballot from the voter, as  
2 herein provided, the registrar shall, opposite the name of the  
3 voter in the book heretofore mentioned, write in ink the words  
4 "deposited in sealed box by me on.....," and add  
5 thereto his own signature; and shall thereupon deposit the en-  
6 velope containing the ballot, unopened, in a sealed box to be pro-  
7 vided for this purpose by the clerk of the county court, and there  
8 it shall remain until the day of the election. The registrar shall  
9 file the coupons enclosed by the voter with his letter of appli-  
10 cation.

Sec. 9. Seven days prior to the election the registrar shall  
2 post at the polling place in his precinct a list of the voters who have  
3 applied for ballots in accordance with the provisions of this act,  
4 which list shall remain so posted during the day of election.

Sec. 10. On the day of election the registrar shall deliver  
2 the box containing the sealed ballots aforesaid, and also the let-  
3 ters of application with return coupons attached, and a copy of the  
4 list provided for in the preceding section, all under seal, to the  
5 commissioners of election at the precinct at which such ballots  
6 are to be cast, and shall take a receipt from said commissioners  
7 for said box and sealed papers.

Sec. 11. At the close of the regular balloting, the boxes con-  
2 taining such ballots shall be opened by the commissioners of elec-  
3 tion, and as each envelope is removed from the box, the name of  
4 the voter shall be called and checked as if the voter were voting  
5 in person. If found entitled to cast his vote, the envelope shall  
6 then, but not until then, be opened, and the ballot deposited in  
7 the regular box without examining or unfolding it.

Sec. 12. When all the ballots shall have been accounted for  
2 and either voted or rejected, the empty envelopes that previously  
3 contained the said ballots shall be returned to the original box,  
4 together with the sealed package of letters of application and  
5 coupons, and the rejected envelopes, if any, on which, or on a  
6 sheet of paper thereto attached, shall be plainly written the cause  
7 of rejection, signed by a majority of the commissioners of elec-  
8 tion. The box shall thereupon be resealed, and returned with the  
9 other returns of election, to the clerk of the county court, who  
10 shall keep the same unopened for one year, unless sooner ordered  
11 to be opened by a court having jurisdiction.

Sec. 13. The registrar shall receive for each voter availing  
2 himself of the provisions of this act the same fee that he re-  
3 ceives for registering a voter, and for posting the notice required  
4 by section nine, he shall receive one dollar.

Sec. 14. Any person attempting to aid or abet fraud in con-  
2 nection with any vote cast, or to be cast, or attempted to be cast,  
3 under the provisions of this act, shall, upon conviction, be sen-  
4 tenced to the penitentiary for not less than one nor more than  
5 five years, and said offense, if committed, shall be construed to be  
6 within the jurisdiction in which the precinct at which the ballot is

7 presented to be counted is located. Any person attempting to  
 8 vote by fraudulently signing the name of a regularly qualified  
 9 voter, shall be guilty of forgery. Any public official who knowingly  
 10 violates any of the provisions of this act, and thereby aids or at-  
 11 tempts to aid in any way the illegal casting or attempting to cast a  
 12 vote, or who shall connive to nullify any provision of this act in  
 13 order that fraud may be perpetrated, shall forever be disqualified  
 14 from holding office in this state, and shall moreover be forever dis-  
 15 qualified from exercising the right of franchise.

Sec. 15. The provisions of this act shall be liberally con-  
 2 strued so that full force and effect may be given them; and all  
 3 acts or parts of acts in conflict herewith are hereby repealed.

### CHAPTER 14.

(Senate Bill No. 22.)

AN ACT to punish speculation by any person or body of persons for  
 the purpose of cornering the market in any food stuffs, fuel, or any  
 other necessities of life, and providing a penalty therefor.

[Passed May 26, 1917. In effect thirty days from passage. Became a law without  
 the Governor's approval.]

<p>SEC.                  1. Unlawful for person or persons                  buying or selling food stuffs to                  store same to affect the market</p>		<p>SEC.                  price or limit supply to public;                  violation, a misdemeanor; pen-                  alty.</p>
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*Be it enacted by the Legislature of West Virginia:*

Section 1. It shall be unlawful for any person or body of  
 2 persons buying or selling any food stuffs, fuel or any article or ar-  
 3 ticles pertaining to necessities of life who, either in his individual  
 4 capacity or as an officer, agent, or employee of a corporation, or  
 5 member of a partnership, to store any such food stuffs, fuel, article  
 6 or articles for the purpose of cornering the market or affecting the  
 7 market price thereof, or for the purpose of limiting the supply  
 8 thereof to the public, whether temporarily or otherwise. Any person  
 9 violating any of the provisions of this act shall be deemed guilty of  
 10 a misdemeanor, and upon conviction thereof, shall be punished by a  
 11 fine of not less than one hundred dollars nor more than one thous-  
 12 and dollars, and may, in the discretion of the court, be confined in  
 13 the county jail not exceeding one year.

## CHAPTER 15.

(Senate Bill No. 26.)

AN ACT to provide for the submission to the voters of the state of an amendment to the constitution of the state of West Virginia, as follows: Adding section fifty-one to article six.

[Passed May 24, 1917. In effect ninety days from passage. Approved by the Governor May 26, 1917.]

### SEC.

1. Ratification or rejection of amendment to constitution to be submitted to voters at next general election.
51. Proposed amendment; how money may be appropriated out of treasury by the legislature.
2. Amendment known as "Budget Amendment."
3. Ballot on constitutional budget amendment; instructions as to election.

### SEC.

4. Certificates as to result of election; what shall be done with said certificates.
5. When certificates shall be laid before the governor; result of election declared.
6. Governor to cause amendment to be published three months before election; how cost of same shall be paid.

*Be it enacted by the Legislature of West Virginia:*

Section 1. That the question of the ratification or rejection of an amendment to the constitution of West Virginia, proposed in accordance with the provision of section two of article fourteen of said constitution, shall be submitted to the voters of the state at the next general election, to be held in the year one thousand nine hundred and eighteen, which proposed amendment is as follows:

### *Proposed Amendment.*

Section 51. The legislature shall not appropriate any money out of the treasury except in accordance with the following provisions:

#### 4 *Sub-Section A.*

5 Every appropriation bill shall be either a budget bill, or a  
6 supplementary appropriation bill, as hereinafter mentioned.

#### 7 *Sub-Section B:*

8 *First:* Within ten days after the convening of the legisla-  
9 ture, unless such time shall be extended by the legislature for  
10 the session at which the budget is to be submitted, the board  
11 of public works, which shall consist of the governor, secretary

12 of state, auditor, treasurer, attorney general, superintendent of  
13 free schools and commissioner of agriculture, shall submit to the  
14 legislature two budgets, one for each of the ensuing fiscal years.  
15 Each budget shall contain a complete plan of proposed expendi-  
16 tures and estimated revenues for the particular fiscal year to  
17 which it relates; and shall show the estimated surplus or deficit  
18 of revenues at the end of such year. Accompanying each  
19 budget shall be a statement showing: (1) the revenues and  
20 expenditures for each of the two fiscal years next preceding;  
21 (2) the current assets, liabilities, reserves and surplus or deficit  
22 of the state; (3) the debts and funds of the state; (4) an estimate  
23 of the state's financial condition as of the beginning and end  
24 of each of the fiscal years covered by the two budgets above  
25 provided; (5) any explanation the board of public works may  
26 desire to make as to the important features of any budget and  
27 any suggestions as to methods for the reduction or increase of  
28 the state's revenue.

29 *Second:* Each budget shall be divided into two parts, and  
30 the first part shall be designated "Governmental Appropriations"  
31 and shall embrace an itemized estimate of the appropriations;  
32 (1) for the legislature as certified to the board of public works  
33 in the manner hereinafter provided; (2) for the executive de-  
34 partment; (3) for the judiciary department, as provided by law,  
35 certified to the governor by the auditor; (4) to pay and dis-  
36 charge the principal and interest of any debt of the state of  
37 West Virginia hereafter created in conformity with the consti-  
38 tution, and all laws enacted in pursuance thereof; (5) for the  
39 salaries payable by the state under the constitution and laws  
40 of the state; (6) for the aid of public schools in conformity with  
41 the laws of the state; (7) for such other purposes as are set forth  
42 in the constitution and laws made in pursuance thereof.

43 *Third:* The second part shall be designated "General Ap-  
44 propriations," and shall include all other estimates of appro-  
45 priations.

46 The board of public works shall deliver to the presiding offi-  
47 cer of each house the budgets and a bill for all the proposed  
48 appropriations of the budgets clearly itemized and classified;  
49 and the presiding officer of each house shall promptly cause said  
50 bill to be introduced therein, and such bill shall be known as the  
51 "Budget Bill." The board of public works may, before final  
52 action thereon by the legislature, amend or supplement either



53 of said budgets to correct an oversight or in case of an emer-  
54 gency, with the consent of the legislature, by delivering such  
55 an amendment or supplement to the presiding officers of both  
56 houses; and such amendment or supplement shall thereby be-  
57 come a part of said budget bill as an addition to the items of  
58 said bill or as a modification of or a substitute for any item  
59 of said bill such amendment or supplement may affect.

60 The legislature shall not amend the budget bill so as to cre-  
61 ate a deficit but may amend the bill by increasing or diminishing  
62 the items therein relating to the legislature, and by increasing the  
63 items therein relating to the judiciary, but except as hereinbefore  
64 specified, may not alter the said bill except to strike out or re-  
65 duce items therein; *provided, however*, that the salary or com-  
66 pensation of any public officer shall not be increased or diminished  
67 during his term of office; and such bill when and as passed by  
68 both houses shall be a law immediately without further action  
68-a by the governor.

69 *Fourth:* The governor and such representatives of the  
70 boards, officers and commissions of the state expending or apply-  
71 ing for state's money as have been designated by the board of  
72 public works for this purpose, shall have the right, and when re-  
73 quested by either house of the legislature it shall be their duty to  
74 appear and be heard with respect to any budget bill during the  
75 consideration thereof, and to answer inquiries relative thereto.

76 *Sub-Section C.—Supplementary Appropriation Bills.*

77 Neither house shall consider other appropriations until the  
78 budget bill has been finally acted upon by both houses, and no  
79 such other appropriations shall be valid except in accordance  
80 with the provisions following:

81 (1) Every such appropriation shall be embodied in a sepa-  
82 rate bill limited to some single work, object or purpose therein  
83 stated and called herein a supplementary appropriation bill; (2)  
84 Each supplementary appropriation bill shall provide the revenue  
85 necessary to pay the appropriation thereby made by a tax, direct  
86 or indirect, to be laid and collected as shall be directed in said  
87 bill unless it appears from such budget that there is sufficient  
88 revenue available; (3) No supplementary appropriation bill shall  
89 become a law unless it be passed in each house by a vote of a  
90 majority of the members present, and the yeas and nays recorded  
91 on its final passage. Each supplementary appropriation bill  
92 shall be presented to the governor of the state as provided in

93 section fourteen of article seven of the constitution and there-  
94 after all the provisions of said section shall apply.

95 Nothing in this amendment shall be construed as preventing  
96 the legislature from passing in time of war an appropriation bill  
97 to provide for the payment of any obligation of the state of West  
98 Virginia within the protection of section ten of article one of the  
99 constitution of the United States.

100 *Sub-Section D.—General Provisions.*

101 *First:* If the "Budget Bill" shall not have been finally acted  
102 upon by the legislature three days before the expiration of its  
103 regular session, the governor may, and it shall be his duty to  
104 issue a proclamation extending the session for such further  
105 period as may, in his judgment, be necessary for the passage of  
106 such bill; but no other matter than such bill shall be considered  
107 during such extended session except a provision for the cost  
108 thereof.

109 *Second:* The board of public works for the purpose of mak-  
110 ing up its budgets shall have the power, and it shall be its duty,  
111 to require from the proper state officials, including herein all  
112 executive departments, all executive and administrative officers,  
113 bureaus, boards, commissions and agencies expending or super-  
114 vising the expenditures of, and all institutions applying for state  
115 moneys and appropriations, such itemized estimates and other  
116 information, in such form and at such times as said board  
117 shall direct. The estimates for the legislative department, cer-  
118 tified by the presiding officer of each house, of the judiciary,  
119 as provided by law, certified by the auditor, and for the public  
120 schools, as provided by law, shall be transmitted to the board of  
121 public works, in such form and at such time as it shall direct,  
122 and shall be included in the budget.

123 The board of public works may provide for public hearings  
124 on all estimates and may require the attendance at such hearings  
125 of representatives of all agencies, and all institutions applying  
126 for state moneys. After such public hearings it may, in its dis-  
127 cretion, revise all estimates except those for the legislative and  
128 judiciary departments, and for the public schools as provided by  
129 law.

130 *Third:* The legislature may, from time to time, enact such  
131 laws, not inconsistent with this section, as may be necessary and  
132 proper to carry out its provisions.

133 *Fourth:* In the event of any inconsistency between any of  
134 the provisions of this section and any of the other provisions of  
134-a the constitution, except amendments thereto heretofore  
134-b made and ratified by the people, the provisions of  
135 this section shall prevail. But nothing herein shall be  
136 construed as preventing the governor from calling ex-  
137 traordinary sessions of the legislature, as provided by sec-  
138 tion seven of article seven, or as preventing the legislature  
139 at such extraordinary sessions from considering any emergency  
140 appropriation or appropriations.

141 If any item of any appropriation bill passed under the pro-  
142 visions of this section shall be held invalid upon any ground,  
143 such invalidity shall not affect the legality of the bill or of any  
144 other item of such bill or bills.

Sec. 2. For convenience in referring to the said proposed  
2 amendment and in the preparation of the form of the ballot herein-  
3 after provided for, said proposed amendment is hereby designated  
4 as follows: To be known as "Budget Amendment."

Sec. 3. For the purpose of enabling the voters of the state  
2 to vote on the question of said proposed amendment to the con-  
3 stitution, at the said general election to be held in the year one  
4 thousand nine hundred and eighteen, the board of ballot commis-  
5 sioners of each county are hereby required to place upon and  
6 at the foot of the official ballots to be voted at said election, the  
7 following:

8 *Ballot on Constitutional Budget Amendment.*

9 Adding section fifty-one to article six.

9-a For ratification of budget amendment.

10 Against ratification of budget amendment.

11 The said election on the proposed amendment at each place  
12 of voting, shall be superintended, conducted and returned, and  
13 the result thereof ascertained, by the same officers and in the  
14 same manner as the election of officers to be voted for at said  
15 election; and all of the provisions of the law relating to general  
16 elections, including all duties to be performed by any officer or  
17 board, as far as applicable and not inconsistent with anything  
18 herein contained, shall apply to the election held under the pro-  
19 visions of this act, except when it is herein otherwise provided.  
20 The ballot cast on the question of said proposed amendment shall  
21 be counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commis-  
 2 sioners, or a majority of them, and the canvassers (if there be any)  
 3 or a majority of them, at each place of voting, shall make out and  
 4 sign two certificates thereof in the following form or to the fol-  
 5 lowing effect: "We, the undersigned, who acted as commissioners  
 6 (or canvassers, as the case may be), of the election held at  
 7 ....., in the district of....., in the  
 8 county of ....., on the .....  
 9 day of ....., one thousand nine hundred and  
 10 eighteen, upon the question of the ratification or rejection of the  
 11 proposed constitutional amendment to section fifty-one of article  
 12 six, do hereby certify that the result of said election is as follows:  
 13 Adding section fifty-one to article six.  
 14 For ratification of budget amendment .....Votes  
 15 Against ratification of budget amendment .....votes.  
 16 Given under our hands this .....day of .....  
 17 one thousand nine hundred and eighteen."

18 The said two certificates shall correspond with each other in  
 19 all respects, and contain the full and true returns of said election  
 20 at each place of voting on said questions. The said commission-  
 21 ers, or any one of them, (or said canvassers or one of them, as  
 22 the case may be), shall within four days, excluding Sundays,  
 23 after that on which said election was held, deliver one of said cer-  
 24 tificates to the clerk of the county court of his county, together  
 25 with the ballots, and the other to the clerk of the circuit court  
 26 of the county.

27 The said certificates, together with the ballot cast on the  
 28 question of said proposed amendment, shall be laid before the  
 29 commissioners of the county court at the court house at the same  
 30 time the ballots, poll books and the certificates of the election for  
 31 the members of the legislature are laid before them; and as soon  
 32 as the result of said election in the county upon the question of  
 33 such ratification or rejection is ascertained, two certificates of such  
 34 result shall be made out and signed by said commissioners, as a  
 35 board of canvassers, in the form or to the following effect:

36 "We, the board of canvassers of the county of.....  
 37 having carefully and impartially examined the returns of the elec-  
 38 tion held in said county, in each district thereof, on the.....  
 39 day of ....., one thousand nine hundred and  
 40 eighteen, do certify that the result of the election in said county,  
 41 on the question of the ratification or rejection of the proposed

42 amendment adding section fifty-one to article six is as follows:  
 43 For ratification of budget amendment.....votes.  
 44 Against ratification of budget amendment.....votes.  
 45 Given under our hands this .....day of .....  
 46 one thousand nine hundred and eighteen.”

47 One of the certificates shall be filed in the office of the clerk  
 48 of the county court, and the other forwarded by mail to the sec-  
 49 retary of state who shall file and preserve the same until the day  
 50 on which the result of said election in the state is to be ascer-  
 51 tained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or  
 2 as soon thereafter as practicable, the said certificates shall be laid  
 3 before the governor, whose duty it shall be to ascertain therefrom  
 4 the result of said election in the state, and declare the same by  
 5 proclamation published in one or more newspapers printed at the  
 6 seat of government. If a majority of the votes cast at said election  
 7 upon said question be for the ratification of the said amendment,  
 8 the proposed amendment so ratified shall be of force and effect  
 9 from the time of such ratification and be part of the constitution  
 10 of the state.

Sec. 6. The governor shall cause the said proposed amend-  
 2 ment, with the proper designation for the same as hereinbefore  
 3 adopted, to be published at least three months before such election  
 4 in some newspaper in every county in which a newspaper is  
 5 printed, at a price to be agreed upon, in advance, in writing, and  
 6 the cost of such advertising shall in the first instance, if found  
 7 necessary by him, be paid out of the governor’s contingent fund  
 8 and be afterwards repaid to such fund by appropriation of the  
 9 legislature.

## HOUSE CONCURRENT RESOLUTION NO. 1.

(Adopted May 14, 1917.)

Raising a joint committee to wait upon the Governor.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a select committee of five be raised, composed of two members of the Senate appointed by the President, and three members of the House of Delegates appointed by the Speaker, to wait upon the Governor, jointly, and inform him that the Legislature is organized in accordance with his proclamation issued on the twenty-seventh day of April, one thousand nine hundred and seventeen, with a quorum of each house present, and is prepared to receive any communication that he may be pleased to make.

## HOUSE CONCURRENT RESOLUTION NO. 3.

(Adopted May 19, 1917.)

Authorizing the auditor to issue warrants for mileage and per diem of members, officers and attaches.

*Resolved, by the Legislature of West Virginia:*

That the auditor is hereby authorized to issue his warrants upon the treasurer, in advance of the passage of the legislative appropriation bill, 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 and mileage, upon the proper requisition of the clerk of the Senate and the sergeant-at-arms of the House, respectively.

## HOUSE CONCURRENT RESOLUTION NO. 5.

(Adopted May 26, 1917.)

Authorizing the janitor of the capitol to employ, under the statute, additional help during the present session of the legislature.

*Resolved by the House of Delegates of West Virginia, the Senate concurring therein:*

That the janitor of the capitol appoint not to exceed nine additional helpers during the present session of the legislature, who, to:

gether with the chief janitor, shall receive three dollars per day, as provided by law, one-half of which shall be paid out of the contingent fund of the House, and one-half out of the contingent fund of the Senate, upon proper warrants drawn upon the auditor by the sergeant-at-arms of the House of Delegates and by the clerk of the Senate, respectively; payable as hereinbefore provided for the payment of the janitor's assistants.

### HOUSE CONCURRENT RESOLUTION NO. 6.

(Adopted May 25, 1917.)

In recognition of the public services of Honorable Septimius Hall.

WHEREAS, It is in keeping with the policy of our democratic form of government, as well as a command of Divine Providence, that faithful service receive proper recognition;

*Be it therefore Resolved by the House of Delegates, the Senate concurring therein:*

That West Virginia owes a debt of gratitude to one of her sons, a distinguished member of the House of Delegates; one who has given half a century of faithful service to the welfare of his state, namely, the Honorable Septimius Hall, member of the House from the county of Wetzel. Mr. Hall began serving his state in a legislative capacity in 1872 as a member of the Constitutional Convention and for forty-five years has been almost continuously in one branch or other of our law making bodies fighting for the rights of the common people. Mr. Hall has assisted in the making of practically all the laws on our statute books, therefore contributing more perhaps than other citizen to the wonderful march of progress made by our state in the last half century. He has served faithfully and well in both branches of our law making bodies, being a most valued member of the important committees, and has always been found fighting the cause of the common people as against any selfish interests which have from time to time attempted to fasten their talons on the legal life of our beloved state. He has been noted for his generosity in dealing with the members of the party differing from his own, and, prompted by a spirit of fairness, has always fought in the open. By his honesty of purpose; by his unquestioned integrity he has made friends of those differing from him on political matters. To know him is but to love him. The greatest law book of all ages can give us no prom-

ise beyond the years our beloved friend has already passed. As we all must die, so will Mr. Hall die, yet his works will follow him and live on for all time in the everlasting laws of state written in our wonderfully fertile valleys, on our sturdy hills covered with verdant blue grass, on our rugged mountain peaks where the lightning flashes play but can not erase, yet, more enduring than all these in the hearts of a grateful people.

*Therefore, be it Resolved:* That we, the members of the House of Delegates, the Senate concurring therein, offer this testimonial as a memorial to a life well spent in the faithful discharge of duty and as a tribute of esteem and confidence while he is yet with us.

*Be it further Resolved:* That this resolution be printed in the Journals of the House of Delegates and the Senate and that the clerk of the House be and is hereby authorized to have a copy engrossed, signed by the Speaker of the House and the President of the Senate, and presented to Mr. Hall.

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#### HOUSE CONCURRENT RESOLUTION NO. 7.

(Adopted May 26, 1917.)

Raising a joint committee to wait upon the governor.

*Resolved by the House of Delegates, the Senate concurring therein:*

That a joint committee of five, consisting of three on 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, be appointed for the purpose of notifying the governor that the legislature is ready to adjourn, *sine die*, having completed its labors, and ask him if he has any further communication to make.

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#### SENATE JOINT RESOLUTION NO. 1.

(Adopted May 23, 1917.)

Adding section fifty-one to article six of the constitution of West Virginia.

*Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each House agreeing thereto:*

That the following be and the same is hereby proposed as an amendment to the constitution of this state, to-wit:



Section 51. The legislature shall not appropriate any money out of the treasury except in accordance with the following provisions:

*Sub-Section A.*

Every appropriation bill shall be either a budget bill, or a supplementary appropriation bill, as hereinafter mentioned.

*Sub-Section B.*

*First:* Within ten days after the convening of the legislature, unless such time shall be extended by the legislature for the session at which the budget is to be submitted, the board of public works, which shall consist of the governor, secretary of state, auditor, treasurer, attorney general, superintendent of free schools and commissioner of agriculture, shall submit to the legislature, two budgets, one for each of the ensuing fiscal years. Each budget shall contain a complete plan of proposed expenditures and estimated revenues for the particular fiscal year to which it relates; and shall show the estimated surplus or deficit of revenues at the end of such year. Accompanying each budget shall be a statement showing: (1) the revenues and expenditures for each of the two fiscal years next preceding; (2) the current assets, liabilities, reserves and surplus or deficit of the state; (3) the debts and funds of the state; (4) an estimate of the state's financial condition as of the beginning and end of each of the fiscal years covered by the two budgets above provided; (5) any explanation the board of public works may desire to make as to the important features of any budget and any suggestion as to methods for the reduction or increase of the state's revenue.

*Second:* Each budget shall be divided into two parts, and the first part shall be designated "Governmental Appropriations" and shall embrace an itemized estimate of the appropriations; (1) for the legislature as certified to the board of public works in the manner hereinafter provided; (2) for the executive department; (3) for the judiciary department, as provided by law, certified to the governor by the auditor; (4) to pay and discharge the principal and interest of any debt of the state of West Virginia hereafter created in conformity with the constitution, and all laws enacted in pursuance thereof; (5) for the salaries payable by the state under the constitution and laws of the state; (6) for the aid of public schools in conformity with the laws of the state; (7) for such other purposes as are set forth in the constitution and laws made in pursuance thereof.

*Third:* The second part shall be designated "General Appropriations," and shall include all other estimates of appropriations.

The board of public works shall deliver to the presiding officer of each house the budgets and a bill for all the proposed appropriations of the budgets clearly itemized and classified; and the presiding officer of each house shall promptly cause said bill to be introduced therein, and such bill shall be known as the "Budget Bill." The board of public works may, before final action thereon by the legislature, amend or supplement either of said budgets to correct an oversight or in case of an emergency, with the consent of the legislature by delivering such an amendment or supplement to the presiding officers of both houses; and such amendment or supplement shall thereby become a part of said budget bill as an addition to the items of said bill or as a modification of or a substitute for any item of said bill such amendment or supplement may affect.

The legislature shall not amend the budget bill so as to create a deficit but may amend the bill by increasing or diminishing the items therein relating to the legislature, and by increasing the items therein relating to the judiciary, but except as hereinbefore specified, may not alter the said bill except to strike out or reduce items therein; *provided, however,* that the salary or compensation of any public officer shall not be increased or diminished during his term of office; and such bill when and as passed by both houses shall be a law immediately without further action by the governor.

*Fourth:* The governor and such representatives of the boards, officers and commissions of the state expending or applying for state's money as have been designated by the board of public works for this purpose, shall have the right, and when requested by either house of the legislature it shall be their duty to appear and be heard with respect to any budget bill during the consideration thereof, and to answer inquiries relative thereto.

#### *Sub-Section C.—Supplementary Appropriation Bills.*

Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses, and no such other appropriations shall be valid except in accordance with the provisions following:

(1) Every such appropriation shall be embodied in a separate bill limited to some single work, object or purpose therein stated and called herein a supplementary appropriation bill; (2) Each supplementary appropriation bill shall provide the revenue necessary to pay

the appropriation thereby made by a tax, direct or indirect, to be laid and collected as shall be directed in said bill unless it appears from such budget that there is sufficient revenue available; (3) No supplementary appropriation bill shall become a law unless it be passed in each house by a vote of a majority of the members present, and the yeas and nays recorded on its final passage. Each supplementary appropriation bill shall be presented to the governor of the state as provided in section fourteen of article seven of the constitution and thereafter all the provisions of said section shall apply.

Nothing in this amendment shall be construed as preventing the legislature from passing in time of war an appropriation bill to provide for the payment of any obligation of the state of West Virginia within the protection of section ten of article one of the constitution of the United States.

*Sub-Section D.—General Provisions.*

*First:* If the "Budget Bill" shall not have been finally acted upon by the legislature three days before the expiration of its regular session, the governor may, and it shall be his duty to issue a proclamation extending the session for such further period as may, in his judgment, be necessary for the passage of such bill; but no other matter than such bill shall be considered during such extended session except a provision for the cost thereof.

*Second:* The board of public works for the purpose of making up its budgets shall have the power, and it shall be its duty, to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions and agencies expending or supervising the expenditure of, and all institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such times as said board shall direct. The estimates for the legislative department, certified by the presiding officer of each house, of the judiciary, as provided by law, certified by the auditor, and for the public schools, as provided by law, shall be transmitted to the board of public works, in such form and at such time as it shall direct, and shall be included in the budget.

The board of public works may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies, and all institutions applying for state moneys. After such public hearings it may, in its discretion,

revise all estimates except those for the legislative and judiciary departments, and for the public schools as provided by law.

*Third:* The legislature may, from time to time, enact such laws, not inconsistent with this action, as may be necessary and proper to carry out its provisions.

*Fourth:* In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the constitution, except amendments thereto heretofore made and ratified by the people, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the governor from calling extraordinary sessions of the legislature, as provided by section seven of article seven, or as preventing the legislature at such extraordinary sessions from considering any emergency appropriation or appropriations.

If any item of any appropriation bill passed under the provisions of this section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.

#### SENATE JOINT RESOLUTION NO. 9.

(Adopted May 25, 1917.)

Memorializing the Congress of the United States to enact a law prohibiting the use of grain in the manufacture of alcoholic beverages during the present war.

WHEREAS, The civilized world is now threatened with famine on account of the frightful devastation of the world war, and the sacred duty devolves upon this great country to provide the food wherewith to avert such a calamity, and to this end every possible effort should be made to conserve the food supply of the United States; therefore be it

*Resolved, by the Legislature of West Virginia:*

That the Senate and the House of Representatives in Congress assembled be requested to adopt immediate measures prohibiting the use of any grain products of this country for the manufacture of alcoholic beverages during the period of the present war. Be it further

*Resolved,* That these resolutions be transmitted to each member of the Senate and House of Representatives from West Virginia, with

the request that they be recorded in the journals of their respective bodies.

SENATE CONCURRENT RESOLUTION NO. 1.

(Adopted May 14, 1917.)

Providing for a joint session of the houses of the Legislature.

*Resolved by the Senate of West Virginia, the House of Delegates concurring therein:*

That the two houses meet at once in joint assembly, in the hall of the House of Delegates, and that an invitation be extended to His Excellency, Governor John J. Cornwell, to be present and deliver in person his special message to this legislature.

*Be it further Resolved,* That a joint committee consisting of two members of the Senate and three members of the House of Delegates be appointed by the presiding officers of the respective bodies to wait upon the Governor and notify him of the action of the two houses.

SENATE CONCURRENT RESOLUTION NO. 2.

(Adopted May 19, 1917.)

Congratulating the patriotic sons of West Virginia who have "rallied 'round the flag."

WHEREAS, A state of war exists between the United States of America and the Imperial German government; and

WHEREAS, Many of the most virile young men of West Virginia have "rallied 'round the flag." Now, therefore, be it

*Resolved by the Senate of West Virginia, the House of Delegates concurring therein:*

That we commend the action of our patriotic sons who have enlisted in the defense of democracy, and feel proud of the fine example of loyalty they have exhibited to the people of the great American republic in this crisis in her history. We congratulate them upon their splendid devotion to the cause of right, justice, freedom and humanity and wish them God's blessing in the work in which they are engaged.

The clerk of the senate is directed to send by registered mail an attested copy of this resolution to Hon. Roy E. Parrish, a member of

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the Senate of West Virginia, at Fort Benjamin Harrison, Indiana, to be read by him to the sons of West Virginia now there in the officers' reserve corps.

SENATE CONCURRENT RESOLUTION NO. 3.

(Adopted May 26, 1917.)

Providing for the printing and distribution of advance copies of the acts of the Second Extraordinary Session of one thousand nine hundred and seventeen.

*Resolved by the Senate, the House of Delegates concurring therein:*

That the clerks of the two houses are hereby directed to have printed by the public printer, five thousand advance copies of the acts of this session, properly head-noted, and with full table of contents, and in paper binding, for distribution among the members of the legislature, judges of the various courts of the state, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two houses, as soon as possible after the adjournment of this session. Upon receipt of the same, the clerks shall, without delay, forward by mail or express to each member of the Senate and House of Delegates, at least twenty-five of said advance copies, and one copy to each of the officials hereinbefore enumerated.

For the extra work provided for in this resolution, the time of said clerks and one assistant clerk from each house is extended for thirty days, the per diem to be paid out of the contingent fund of the Senate and House, respectively, upon proper warrants being drawn therefor by the clerk of the Senate and the sergeant-at-arms of the House, and the Auditor is hereby authorized and directed to pay the same.

# OFFICIAL DIRECTORY



TRIBUNE PRINTING CO., CHARLESTON, W. VA.



# STATE GOVERNMENT

## STATE CAPITOL, CHARLESTON, KANAWHA COUNTY

OFFICE	NAME	RESIDENCE	COUNTY
Governor.....	JOHN J. CORNWELL...	Romney.....	Hampshire
Secretary of State.....	HOUSTON G. YOUNG..	Charleston.....	Kanawha
State Supr. of Free Schools.....	M. P. SHAWKEY.....	Charleston.....	Kanawha
Auditor.....	JOHN S. DARST.....	Cottageville.....	Jackson
Attorney General.....	E. T. ENGLAND.....	Logan.....	Logan
Assistants.....	FRANK LIVELY.....	Charleston.....	Kanawha
	HENRY A. NOLTE.....	Wheeling.....	Ohio
	CHARLES RITCHIE...	Keyser.....	Mineral
Treasurer.....	WM. S. JOHNSON.....	Mt. Hope.....	Fayette
Commissioner of Agriculture.....	JAS. A. STEWART.....	Morgantown.....	Monongalia
State Tax Commissioner.....	WALTER S. HALLANAN	Barboursville...	Cabell
Librarian.....	BEN H. OXLEY.....	Charleston.....	Kanawha
Commissioner of Banking.....	S. P. SMITH.....	Charleston.....	Kanawha
Commissioner of Health.....	S. P. JEPSON.....	Wheeling.....	Ohio
Adjutant General.....	JOHN C. BOND.....	Charleston.....	Kanawha
Workmen's Compensation Com'r.....	LEE OTT.....	Thomas.....	Tucker
Commissioner of Labor.....	S. B. MONTGOMERY...	Tunnelton.....	Preston
Chief Mine Inspector.....	EARL A. HENRY.....	Clifton.....	Mason
Game and Fish Warden.....	J. A. VIGUESNEY.....	Belington.....	Barbour
Pardon Attorney.....	JAS. E. CUTLIP.....	Sutton.....	Braxton
Archivist and Historian.....	HENRY S. GREEN.....	Morgantown.....	Monongalia

### STATE BOARD OF CONTROL.

E. B. Stephenson, <i>President</i> .....	Charleston.....	Kanawha County
J. M. WILLIAMSON, <i>Treasurer</i> .....	Moundsville.....	Marshall County
J. S. LAKIN, <i>Member</i> .....	Terra Alta.....	Preston County

### PUBLIC SERVICE COMMISSION

E. F. MORGAN.....	Fairmont.....	Marion County
E. G. Rider.....	Sutton.....	Braxton County
Geo. R. C. WILES.....	Williamson.....	Mingo County

### STATE ROAD COMMISSION

A. D. WILLIAMS.....	Marlinton.....	Pocahontas County
T. S. SCANLON.....	Huntington.....	Cabell County

## UNITED STATES SENATORS

NAME	POSTOFFICE	COUNTY	TERM EXPIRES
NATHAN GOFF.....	Clarksburg.....	Harrison.....	March 4, 1919
HOWARD SUTHERLAND.....	Elkins.....	Randolph.....	March 4, 1923

## REPRESENTATIVES IN CONGRESS

DISTRICT	NAME	POSTOFFICE	COUNTY	TERM EXPIRES
First.....	M. M. NEELY.....	Fairmont.....	Marion.....	March 4, 1919
Second...	GEORGE M. BOWERS.....	Martinsburg.....	Berkeley.....	March 4, 1919
Third....	STUART F. REED.....	Clarksburg.....	Harrison.....	March 4, 1919
Fourth....	HARRY C. WOODYARD.....	Spencer.....	Roane.....	March 4, 1919
Fifth.....	EDWARD COOPER.....	Bramwell.....	Mercer.....	March 4, 1919
Sixth.....	ADAM B. LITTLEPAGE.....	Charleston.....	Kanawha.....	March 4, 1919

THE JUDICIARY

UNITED STATES COURTS

CIRCUIT COURT OF APPEALS, FOURTH CIRCUIT, RICHMOND, VA.

COMMENCEMENT OF TERMS

First Tuesday in February, first Tuesday in May and first Tuesday in November.

- Edward Douglass White, Chief Justice, Washington, D. C.
- Jeter C. Pritchard, Circuit Judge, Asheville, N. C.
- Charles A. Woods, Circuit Judge, Florence, Marion, S. C.
- John C. Rose, District Judge, Baltimore, Md.
- Henry Groves Connor, District Judge, Wilson, N. C.
- James Edmond Boyd, District Judge, Greensboro, N. C.
- Henry A. M. Smith, Charleston, S. C.
- Edmund Waddill, Jr., District Judge, Richmond, Va.
- H. Clay McDowell, District Judge, Lynchburg, Va.
- Alston G. Dayton, District Judge, Philippi, W. Va.
- Benjamin F. Keller, District Judge, Charleston, W. Va.
- Henry T. Meloney, Clerk, Richmond, Va.
- Claude M. Dean, Deputy, Richmond, Va.

DISTRICT COURTS OF WEST VIRGINIA

NORTHERN DISTRICT

COMMENCEMENT OF TERMS

- Parkersburg—Second Tuesday of January and second Tuesday of June.
- Wheeling—First Tuesday of May and third Tuesday of October.
- Clarksburg—Second Tuesday of April and first Tuesday of October.
- Martinsburg—First Tuesday of April and third Tuesday of September.
- Philippi—Fourth Tuesday of May and second Tuesday of November.
- Elkins—First Tuesday of July and first Tuesday of December.

Alston G. Dayton.....	District Judge.....	Philippi
A. T. Barrett.....	Clerk.....	Parkersburg
John H. Conrad.....	Deputy Clerk.....	Parkersburg
Austin C. Merrill.....	Deputy Clerk.....	Philippi
George E. Boyd, Jr.....	Deputy Clerk.....	Wheeling
A. C. Nadenbousch.....	Deputy Clerk.....	Martinsburg
S. R. Harrison, Jr.....	Deputy Clerk.....	Clarksburg
Stuart W. Walker.....	District Attorney.....	Martinsburg
H. H. Byrer.....	Assistant.....	Philippi
J. J. P. O'Brien.....	Assistant.....	Wheeling
Garland H. Moore.....	Clerk.....	Martinsburg
C. E. Smith.....	United States Marshal.....	Parkersburg
Thomas E. Joyce.....	Chief Deputy.....	Parkersburg
John F. Throckmorton.....	Office Deputy.....	Parkersburg
Charles P. Cook.....	Office Deputy.....	Parkersburg
Pearl Mason.....	Office Deputy.....	Parkersburg
John D. Moore.....	Field Deputy.....	Fairmont
J. M. Short.....	Field Deputy.....	Wheeling
E. W. Athey.....	Field Deputy.....	Martinsburg

George E. Boyd, Jr.	United States Commissioner	Wheeling
Dorr Casto	United States Commissioner	Parkersburg
James T. Dailey	United States Commissioner	Kingwood
H. A. Downs	United States Commissioner	Martinsburg
Austin C. Merrill	United States Commissioner	Philippi
Albert M. Lohm	United States Commissioner	Clarksburg
Glenn Hunter	United States Commissioner	Morgantown
J. H. Siler	United States Commissioner	Berkeley Springs
Chas. R. Lilly	United States Commissioner	Grafton
J. P. Kirby	United States Commissioner	Fairmont
James W. Coberly	United States Commissioner	Elkins
T. A. Brown	Referee in Bankruptcy	Parkersburg
W. Frank Stout	Referee in Bankruptcy	Clarksburg
O. E. Wyckoff	Referee in Bankruptcy	Grafton
B. L. Butcher	Referee in Bankruptcy	Fairmont
M. H. King	Referee in Bankruptcy	Elkins
J. Ben Brady	Referee in Bankruptcy	Kingwood
Wilbur H. Thomas	Referee in Bankruptcy	Martinsburg
J. W. Cummins	Referee in Bankruptcy	Wheeling
T. P. Jacobs	Referee in Bankruptcy	New Martinsville

Counties composing the Northern District—Barbour, Berkeley, Brooke, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hancock, Hardy, Harrison, Jefferson, Lewis, Marion, Marshall, Mineral, Monongalia, Ohio, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt and Wood.

#### SOUTHERN DISTRICT

##### COMMENCEMENT OF TERMS

Charleston—First Tuesday in June and third Tuesday in November.  
 Huntington—First Tuesday in April and first Tuesday after the third Monday in September.  
 Bluefield—First Tuesday in May and third Tuesday in October.  
 Webster Springs—First Tuesday in September.  
 Lewisburg—Second Tuesday in July.

Benjamin F. Keller	District Judge	Charleston
Edwin M. Kentley	Clerk	Charleston
Albert M. Fitzwater	Deputy Clerk	Charleston
R. L. Gosling	Deputy Clerk	Huntington
P. D. Horan	Deputy Clerk	Bluefield
F. Witcher McCullough	District Attorney	Huntington
Lon H. Kelley	Assistant	Sutton
William E. Ross	Assistant	Bluefield
Wm. Osborne	United States Marshal	Charleston
John H. Campbell	Chief Office Deputy	Charleston
L. H. Oakes	Office Deputy	Charleston
Alphonse M. Foote	Office Deputy	Huntington
G. C. Rutherford	Office Deputy	Huntington
H. T. Lemon	Office Deputy	Beckley
J. H. Mitchell	Office Deputy	Welch
Jas. A. Farley	Office Deputy	Williamson
Nina G. Cornwell	Office Deputy	Charleston
V. C. Champe	United States Commissioner	Montgomery
Joseph M. Crockett	United States Commissioner	Welch
Howell M. Tanner	United States Commissioner	Bluefield
J. P. Douglass	United States Commissioner	Huntington
A. M. Sikes	United States Commissioner	Huntington
E. C. Eagle	United States Commissioner	Hinton
J. H. Gadd	United States Commissioner	Princeton
H. M. Patterson	United States Commissioner	Beckley
Joseph Ruffner	United States Commissioner	Charleston
John A. Thayer	United States Commissioner	Charleston

Howard C. Smith.....	United States Commissioner.....	Charleston
O. O. Sutton.....	United States Commissioner.....	Sutton
Grover C. Worrell.....	United States Commissioner.....	Mullens
Paris D. Yeager.....	United States Commissioner.....	Marlinton
W. G. Mathews.....	Referee in Bankruptcy.....	Charleston
Thos. A. Sheppard.....	Referee in Bankruptcy.....	Huntington
R. A. Blessing.....	Referee in Bankruptcy.....	Pt. Pleasant
C. W. Flesher.....	Referee in Bankruptcy.....	Gassaway
Arthur F. Kingdon.....	Referee in Bankruptcy.....	Bluefield
H. A. Bolin.....	Referee in Bankruptcy.....	Hinton
T. S. McNeel.....	Referee in Bankruptcy.....	Marlinton

Counties composing the Southern District—Jackson, Roane, Clay, Braxton, Webster, Nicholas, Pocahontas, Greenbrier, Fayette, Boone, Kanawha, Putnam, Mason, Cabell, Wayne, Lincoln, Logan, Mingo, Raleigh, Wyoming, McDowell, Mercer, Summers and Monroe.

## STATE COURTS

### SUPREME COURT OF APPEALS

JUDGES	RESIDENCE	COUNTY	TERM EXPIRES
Wm. N. Miller.....	Parkersburg.....	Wood.....	Dec. 31, 1928
Geo. Poffenbarger.....	Point Pleasant.....	Mason.....	Dec. 31, 1914
Harold M. Ritz.....	Bluefield.....	Mercer.....	Dec. 31, 1928
L. Judson Williams.....	Lewisburg.....	Greenbrier.....	Dec. 31, 1920
Chas. W. Lynch.....	Clarksburg.....	Harrison.....	Dec. 31, 1924

### CIRCUIT COURTS

FIRST JUDICIAL CIRCUIT—H. C HERVEY, *Wellsburg* and R. M. ADDLEMAN, *Wheeling*—  
*Judges.*

<i>Counties</i>	<i>Commencement of Terms</i>
Hancock.....	Second Monday in March, third Monday in June and first Monday in November
Brooke.....	Third Monday in February, first Monday in June and second Monday in October.
Marshall.....	Second Tuesday in February, last Tuesday in May and second Tuesday in October.
Ohio.....	Last Monday in March, first Monday in September and fourth Monday in November.

SECOND JUDICIAL CIRCUIT—P. D. MORRIS, *Judge, New Martinsville.*

<i>Counties.</i>	<i>Commencement of Terms.</i>
Wetzel.....	Second Tuesday in January, first Tuesday in May and third Tuesday in September.
Tyler.....	Fourth Tuesday in February, third Tuesday in June and first Tuesday in November.
Doddridge.....	Third Tuesday in March, second Tuesday in July and fourth Tuesday in September.

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**THIRD JUDICIAL CIRCUIT—HOMER B. WOODS, Judge, Harrisville.**

<i>Counties.</i>	<i>Commencement of Terms.</i>
Ritchie.....	Second Tuesday in February, second Tuesday in June and second Tuesday in October.
Pleasants.....	Second Tuesday in January, fourth Tuesday in April and second Tuesday in September.
Gilmer.....	First Tuesday in April, first Tuesday in August and first Tuesday in December.

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**FOURTH JUDICIAL CIRCUIT—WALTER E. McDOUGLE, Judge, Parkersburg.**

<i>Counties.</i>	<i>Commencement of Terms.</i>
Wood.....	Fourth Monday in January, fourth Monday in April and second Monday in October.
Wirt.....	First Monday in January, first Monday in June and second Monday in September.

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**FIFTH JUDICIAL CIRCUIT—W. H. O'BRIEN, Judge, Ripley.**

<i>Counties.</i>	<i>Commencement of Terms.</i>
Ronne.....	Third Tuesday in January, third Tuesday in May and third Tuesday in September.
Jackson.....	First Tuesday in April, first Tuesday in August and first Tuesday in November.
Calhoun.....	Third Tuesday in April, third Tuesday in August and third Tuesday in November.
Mason.....	First Tuesday in February, first Tuesday in June and first Tuesday in October.

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**SIXTH JUDICIAL CIRCUIT—JOHN T. GRAHAM, Judge, Huntington.**

<i>Counties.</i>	<i>Commencement of Terms.</i>
Cabell.....	First Monday in January, first Monday in May and third Monday in September.
Lincoln.....	First Monday in March, fourth Monday in June and first Monday in December.
Putnam.....	Third Monday in March, third Monday in July and third Monday in November.

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**SEVENTH JUDICIAL CIRCUIT—P. H. NAPIER, Judge, Wayne.**

<i>Counties.</i>	<i>Commencement of Terms.</i>
Boone.....	Second Monday in March, second Monday in June, second Monday in September and second Monday in December.
Logan.....	Second Monday in January, second Monday in April, second Monday in July and second Monday in October.
Wayne.....	Second Monday in February, second Monday in May, second Monday in August and second Monday in November.

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**EIGHTH JUDICIAL CIRCUIT—ISAIAH C. HERNDON, Judge, Welch.**

<i>Counties.</i>	<i>Commencement of Term.</i>
Mercer.....	Second Tuesday in May, second Tuesday in August and fourth Tuesday in November.
McDowell.....	Second Tuesday in February, second Tuesday in June and second Tuesday in September.
Monroe.....	Second Tuesday in April, second Tuesday in July and second Tuesday in November.

NINTH JUDICIAL CIRCUIT—JAMES H. MILLER, *Judge, Hinton.*

- Counties.* *Commencement of Term.*  
 Raleigh.....Third Monday in February, first Monday in May, fourth Monday in August and first Monday in December.  
 Summers.....First Monday in January, second Monday in March, second Monday in June and first Monday in October.

TENTH JUDICIAL CIRCUIT—SAMUEL D. LITTLEPAGE, *Judge, Charleston.*

- Counties.* *Commencement of Terms.*  
 Clay.....First Monday in January, first Monday in April, third Monday in June and second Monday in October.  
 Kanawha.....Second Monday in February, second Monday in May, second Monday in September and fourth Monday in November.

ELEVENTH JUDICIAL CIRCUIT—WM. L. LEE, *Judge, Fayetteville.*

- Counties.* *Commencement of Terms.*  
 Fayette.....First Tuesday in January, first Tuesday in April, first Tuesday in July and third Tuesday in September.

TWELFTH JUDICIAL CIRCUIT—WM. S. O'BRIEN, *Judge, Buckhannon.*

- Counties.* *Commencement of Terms.*  
 Upshur.....Second Monday in March, first Monday in July and second Monday in November.  
 Webster.....Third Tuesday in January, fourth Tuesday in May and third Tuesday in September.

THIRTEENTH JUDICIAL CIRCUIT—HAYMOND MAXWELL, *Judge, Clarksburg.*

- Counties.* *Commencement of Terms.*  
 Lewis.....First Monday in March, first Monday in July and first Monday in November.  
 Harrison.....First Monday in January, first Monday in May and first Monday in September.

FOURTEENTH JUDICIAL CIRCUIT—WILLIAM S. HAYMOND, *Judge, Fairmont.*

- Counties.* *Commencement of Terms.*  
 Marion.....Second Monday in March, first day of June and second Monday in November.

FIFTEENTH JUDICIAL CIRCUIT—NEIL J. FORTNEY, *Judge, Kingwood.*

- Counties.* *Commencement of Terms.*  
 Taylor.....Second Tuesday in January, fourth Tuesday in April and second Tuesday in September.  
 Preston.....Second Tuesday in March, second Tuesday in June and third Tuesday in November.

SIXTEENTH JUDICIAL CIRCUIT—F. M. REYNOLDS, *Judge, Keyser.*

- Counties.* *Commencement of Terms.*  
 Grant.....First Tuesday in April, second Tuesday in July and third Tuesday in November.  
 Mineral.....Third Tuesday in January, third Tuesday in April, fourth Tuesday in July and third Tuesday in October.  
 Tucker.....Second Tuesday in March, first Tuesday in June, first Tuesday in September and first Tuesday in December.

SEVENTEENTH JUDICIAL CIRCUIT—R. W. DAILEY, *Judge, Romney.**Counties.**Commencement of Terms.*

- Hampshire.....First Tuesday in January, first Tuesday in March, first Tuesday in July and third Tuesday in September.
- Hardy.....Third Tuesday in February, third Tuesday in June and third Tuesday in October.
- Pendleton.....Third Monday in March, fourth Monday in July and first Monday in December.

EIGHTEENTH JUDICIAL CIRCUIT—J. M. WOODS, *Judge, Martinsburg.**Counties.**Commencement of Terms.*

- Morgan.....First Tuesday in January, first Tuesday in April and first Tuesday in September.
- Berkeley.....Third Tuesday in January, third Tuesday in April and third Tuesday in September.
- Jefferson.....Third Tuesday in February, third Tuesday in May and third Tuesday in October.

NINETEENTH JUDICIAL CIRCUIT—WARREN B. KITTLE, *Judge, Philippi.**Counties.**Commencement of Terms.*

- Barbour.....Second Monday in January, second Monday in April and second Monday in September.
- Randolph.....Third Tuesday in February, third Tuesday in May and third Tuesday in October.

TWENTIETH JUDICIAL CIRCUIT—S. H. SHARP, *Judge, Marlinton.**Counties.**Commencement of Terms.*

- Greenbrier.....Third Tuesday in January, second Tuesday in May and second Tuesday in September.
- Pocahontas.....First Tuesday in April, first Tuesday in August and first Tuesday in December.

TWENTY-FIRST JUDICIAL CIRCUIT—JAKE FISHER, *Judge, Sutton.**Counties.**Commencement of Terms.*

- Braxton.....Third Monday in March, second Monday in July and third Monday in November.
- Nicholas.....Third Monday in January, third Monday in May and third Monday in October.

TWENTY-SECOND JUDICIAL CIRCUIT—JAMES DAMRON, *Judge, Williamson.**Counties.**Commencement of Terms.*

- Mingo.....Second Monday in January, second Monday in April, second Monday in July and first Monday in September.
- Wyoming.....Second Monday in February, second Monday in May, second Monday in August and second Monday in November.

TWENTY-THIRD JUDICIAL CIRCUIT—GEORGE C. STUROWS, *Judge, Morgantown.**Counties.**Commencement of Terms.*

- Monongalia.....First Monday in January, first Monday in April, first Monday in July and first Monday in October.



## JUDGES OF INTERMEDIATE AND CRIMINAL COURTS.

COUNTIES	NAMES	ADDRESS
Cabell.....	Thomas W. Taylor.....	Huntington
Harrison.....	James W. Robinson.....	Clarksburg
Kanawha.....	Henry K. Black.....	Charleston
Kanawha (Common Pleas).....	A. S. Alexander.....	Charleston
Marion.....	George Vincent.....	Fairmont
Mercer.....	J. F. Maynard.....	Bluefield
McDowell.....	James French Strother.....	Welch
Ohio.....	Allen H. Robinson.....	Wheeling
Raleigh.....	T. J. McGinnis.....	Beckley

## COUNTY OFFICERS

### PROSECUTING ATTORNEYS

COUNTIES	NAMES	ADDRESS
Parbour.....	W. Bruce Talbott.....	Philippi
Perkeley.....	Allen B. Noll.....	Martinsburg
Boone.....	H. W. B. Mullins.....	Madison
Braxton.....	W. F. Frame.....	Sutton
Brooke.....	R. L. Ramsay.....	Wellsburg
Cabell.....	Robert L. Blackwood.....	Huntington
Calhoun.....	Lorentz C. Hamilton.....	Grantsville
Clay.....	O. L. Hall.....	Clay
Doddridge.....	J. O. Wilcox.....	West Union
Fayette.....	Magco McClung.....	Fayetteville
Gilmer.....	B. W. Cradde ck.....	Glenville
Grant.....	Isaac D. Smith.....	Petersburg
Greenbrier.....	J. S. McWhorter.....	Lewisburg
Hampshire.....	Robert White.....	Romney
Hancock.....	W. W. Ingram.....	New Cumberland
Hardy.....	J. Ed Chipley.....	Moorefield
Harrison.....	Will E. Morris.....	Clarksburg
Jackson.....	W. F. Boggess.....	Ripley
Jefferson.....	Jchn T. Porterfield.....	Charles Town
Kanawha.....	B. Kemp Littlepage.....	Charleston
Lewis.....	Hunter M. Bennett.....	Weston
Lincoln.....	E. E. Young.....	Han lin
Lofan.....	John Chafin.....	Logan
Marion.....	Walter R. Haggerty.....	Fairmont
Marshall.....	James D. Parriott.....	Mounds ville
Mason.....	George G. Somerville.....	Pt. Pleasant
Mercer.....	H. B. Lee.....	Princeton
Mineral.....	Emory L. Taylor.....	Keyser
Mingo.....	W. W. Bronson.....	Williamson
Monongalia.....	Stanley R. Cox.....	Morgantown
Monroe.....	W. W. Lafon.....	Union
Morgan.....	H. W. Bayer.....	Berkeley Springs
McDowell.....	G. L. Counts.....	Welch
Nicholas.....	G. G. Duff.....	Summersville
Ohio.....	D. A. McKee.....	Wheeling
Pendleton.....	William McCoy.....	Franklin
Pleasants.....	J. C. Powell.....	St. Marys
Pocahontas.....	William A. Bratton.....	Marlinton
Preston.....	Vester B. Dunn.....	Kingwood
Putnam.....	C. C. Knapp.....	Winfield
Raleigh.....	M. L. Painter.....	Beckley
Randolph.....	Earle L. Maxwell.....	Elkins
Ritchie.....	Thomas J. Davis.....	Harris ville
Roane.....	H. C. Ferguson.....	Spencer
Summers.....	A. D. Daly.....	Hinton
Taylor.....	W. Merle Watkins.....	Grafton
Tucker.....	C. D. Smith.....	Parsons
Tyler.....	O. B. Conaway.....	Middlebourne
Upshur.....	A. Jerome Dailey.....	Buckhannon
Wayne.....	Charles W. Ferguson.....	Wayne
Webster.....	John M. Hoover.....	Webster Springs
Wetzel.....	G. W. Coffield.....	New Martinsville
Wirt.....	J. H. Smith.....	Elizabeth
Wood.....	James S. Wade.....	Parkersburg
Wyoming.....	Robert D. Bailey.....	Pineville

## CLERKS OF CIRCUIT COURTS.

COUNTIES	NAMES	ADDRESS
Barbour.....	W. D. Corder.....	Philippi
Berkeley.....	L. DeW. Gerhardt.....	Martinsburg
Boone.....	C. R. Mitchell.....	Madison
Braxton.....	C. H. Bland.....	Sutton
Brooke.....	Frank E. Foster.....	Wellsburg
Cabell.....	George R. Seamonds.....	Huntington
Calhoun.....	Lee Gainer.....	Grantsville
Clay.....	A. Stephenson.....	Clay
Doddridge.....	J. E. Kiger.....	West Union
Fayette.....	J. L. Nuttall.....	Fayetteville
Gilmer.....	W. W. Davis.....	Glenville
Grant.....	D. P. Hendrickson.....	Petersburg
Greenbrier.....	H. C. Skaggs.....	Lewisburg
Hampshire.....	V. M. Poling.....	Romney
Hancock.....	F. M. Cochran.....	New Cumberland
Hardy.....	C. B. Welton.....	Moorefield
Harrison.....	I. Wade Coffman.....	Clarksburg
Jackson.....	Herbert Skeen.....	Ripley
Jefferson.....	Charles W. Conrad.....	Charles Town
Kanawha.....	A. P. Hudson.....	Charleston
Lewis.....	William O. Allman.....	Weston
Lincoln.....	Grant Cremeans.....	Hamlin
Logan.....	John Ellis.....	Logan
Marion.....	Wm. S. Clack.....	Fairmont
Marshall.....	Victor Myers.....	Moundsville
Mason.....	Perry Buxton.....	Point Pleasant
Mercer.....	H. D. Karnes.....	Princeton
Mineral.....	J. V. Bell.....	Keyser
Mingo.....	Guy White.....	Williamson
Monongalia.....	John Shriver.....	Morgantown
Monroe.....	R. Porter Boyd.....	Union
Morgan.....	W. H. Webster.....	Berkeley Springs
McDowell.....	W. Burbridge Payne.....	Welch
Nicholas.....	Jennings J. Summer.....	Summersville
Ohio.....	John L. Kinghorn.....	Wheeling
Pendleton.....	Gordon Roggs.....	Franklin
Pleasants.....	W. R. Carson.....	St. Marys
Pocahontas.....	Geo. W. Sharp.....	Marlinton
Preston.....	John W. Watson.....	Kingwood
Putnam.....	W. E. Hodges.....	Winfield
Raleigh.....	Albert Williams.....	Beckley
Randolph.....	G. N. Wilson.....	Elkins
Ritchie.....	L. L. Cokeley.....	Harrisville
Rosne.....	L. O. Curtis.....	Spencer
Summers.....	Rufus S. Brown.....	Hinton
Taylor.....	Joe E. Mason.....	Grafton
Tucker.....	Lawrence Lipscomb.....	Parsons
Tyler.....	Olsey J. Hill.....	Middlebourne
Upshur.....	A. J. Zickafoose.....	Buckhannon
Wayne.....	Chas. E. Walker.....	Wayne
Webster.....	John R. Dyer.....	Webster Springs
Wetzel.....	F. B. Smith.....	New Martinsville
Wirt.....	Hugh Prnter.....	Elizabeth
Wood.....	Clay B. Wells.....	Parkersburg
Wyoming.....	Rice Cook.....	Pineville

## CLERKS OF COUNTY COURTS.

COUNTIES	NAMES	ADDRESS
Barbour.....	S. F. Hoffman.....	Philippi
Berkeley.....	E. A. Hobbs.....	Martinsburg
Boone.....	Elmer Nelson.....	Madison
Braxton.....	P. B. Adams.....	Sutton
Brooke.....	K. C. Brasheer.....	Wellsburg
Cabell.....	R. S. Douthat.....	Huntington
Calhoun.....	S. F. Fleming.....	Grantsville
Clay.....	James Reed.....	Clay
Doddridge.....	Hiram Hutson.....	West Union
Fayette.....	R. J. Stegall.....	Fayetteville
Gilmer.....	H. E. Rymer.....	Glenville
Grant.....	D. P. Hendrickson.....	Petersburg
Greenbrier.....	John S. Crawford.....	Lewisburg
Hampshire.....	C. W. Haines.....	Romney
Hancock.....	R. R. Hobbs.....	New Cumberland
Hardy.....	C. B. Welton.....	Mcreefield
Harrison.....	J. J. Crews.....	Charksburg
Jackson.....	C. C. Staats.....	Ripley
Jefferson.....	Chas. A. Johnson.....	Charles Town
Kanawha.....	L. C. Massey.....	Charleston
Lewis.....	Leander Troxell.....	Weston
Lincoln.....	A. F. Black.....	Hamlin
Logan.....	C. H. Miller.....	Logan
Marion.....	A. G. Martin.....	Fairmont
Marshall.....	John E. Chase.....	Moundsville
Mason.....	W. B. Barnett.....	Pt. Pleasant
Mercer.....	Lowery G. Bowling.....	Princeton
Mineral.....	J. V. Bell.....	Keyser
Mingo.....	Elihu Boggs.....	Williamson
Monongalia.....	John M. Gregg.....	Morgantown
Monroe.....	E. S. McNeer.....	Union
Morgan.....	M. S. Harmison.....	Berkeley Springs
McDowell.....	W. W. Whyte.....	Welch
Nicholas.....	P. N. Wiseman.....	Summersville
Ohio.....	John H. Wells.....	Wheeling
Pendleton.....	Gordon Boggs.....	Franklin
Pleasants.....	R. L. Griffin.....	St. Marys
Poeahontas.....	S. L. Brown.....	Marlinton
Preston.....	E. C. Everly.....	Kingwood
Putnam.....	J. M. Henson.....	Winfield
Raleigh.....	Jackson Smith.....	Bekley
Randolph.....	Thaddeus Pritt.....	Elkins
Ritchie.....	J. H. Sharpnack.....	Harrisville
Roane.....	W. A. Carpenter.....	Spencer
Summers.....	John M. Carden.....	Hinton
Taylor.....	C. T. Bartlett.....	Grafton
Tucker.....	H. F. Colebank.....	Parsons
Tyler.....	James Everett Smith.....	Middlebourne
Upshur.....	Ernest Phillips.....	Buckhannon
Wayne.....	Sam J. Crum.....	Wayno
Webster.....	A. J. McGuire.....	Cowen
Wetzel.....	Sylvester Myers.....	New Martinsville
Wirt.....	I. P. Thorn.....	Elizabeth
Wood.....	C. E. Pahl.....	Parkersburg
Wyoming.....	Will P. Cook.....	Pineville

SHERIFFS.

COUNTIES	NAMES	ADDRESS
Barbour	E. W. S. Kennedy	Philippi
Berkeley	H. S. Miller	Martinsburg
Boone	John L. Hill	Danville
Braxton	W. H. Moyers	Belfont
Brooke	J. R. Litten	Wellsburg
Cabell	H. E. Love	Huntington
Culhoun	M. A. C. Board	Cremo
Clay	E. L. Stephenson	Clay
Doddridge	S. L. Ford	West Union
Fayette	Henry McGraw	Ansted
Gilmer	Jacob Moore	Sand Fork
Grant	W. H. Muntzing	Maysville
Greenbrier	J. M. Miller	Ronceverte
Hempshire	Amos L. Pugh	Capon Bridge
Hancock	A. S. Cooper	New Cumberland
Hardy	F. B. Chrisman	Lost River
Harrison	Lloyd D. Griffin	Clarksburg
Jackson	John A. Shinn	Fairplain
Jefferson	Chas. T. Engle	Charles Town
Kanawha	S. P. Jarrett	Charleston
Lewis	Roy R. Hale	Weston
Lincoln	K. E. Toney	Toney
Logan	Frank P. Hurst	Logan
Marion	A. M. Glover	Fairmont
Marshall	W. E. Clayton	Benwood
Mason	C. D. Ball	Pt. Pleasant
Mercer	W. J. Elliott	Matoaka
Mineral	Don P. Davis	Keyser
Mingo	G. T. Blankenship	Matewan
Monongalia	John L. Dougan	Morgantown
Monroe	George E. Bare	Alderson
Morgan	C. R. Hovermale	Berkeley Springs
McDowell	S. A. Daniels	Welch
Nicholas	W. E. Morton	Calvin
Ohio	Howard Hastings	Wheeling
Pendleton	J. P. Kiser	Sugar Grove
Pleasants	O. C. Barkwill	St. Marys
Pocahontas	William Gibson	Marlinton
Preston	J. D. Browning	Kingwood
Putnam	W. E. Somerville	Winfield
Raleigh	W. L. Fester	Beckley
Randolph	Stewart L. Marsteller	Elkins
Ritchie	R. L. Warder	Harrisville
Roane	Enos Johnson	Spencer
Summers	J. D. Batton	Hinton
Taylor	Melvin Newlon	Grafton
Tucker	J. F. Repair	Parsons
Tyler	Will E. Long	Middlebourne
Upshur	J. H. Ashworth	Buckhannon
Wayne	H. H. Cyrus	Kenova
Webster	S. R. Woodzell	Webster Springs
Wetzel	J. O. Eakin	New Martinsville
Wirt	Harry G. Sayre	Elizabeth
Wood	William Dudley	Parkersburg
Wyoming	W. B. Belcher	Pineville

## COUNTY SUPERINTENDENTS OF FREE SCHOOLS.

COUNTIES	NAMES	ADDRESS
Barbour	E. A. Hunt	Pelington
Berkeley	Chas. W. Crowell	Martinsburg
Boone	W. W. Nelson	Madison
Braxton	J. H. Hutchinson	Sutton
Brooke	T. A. Burton	Wellsburg
Cabell	Edw. Mays	Huntington
Calhoun	A. E. Weaver	Grantsville
Clay	Rosco C. Mullins	Clay
Doddridge	L. L. Sadler	West Union
Fayette	J. W. Cavendish	Fayetteville
Gilmer	J. E. Hays	Glenville
Grant	H. F. Groves	Petersburg
Greenbrier	W. F. Richardson	Lewisburg
Hampshire	Arthur Slonaker	Romney
Hancock	H. O. Miller	New Cumberland
Hardy	E. A. Hawse	Moorefield
Harrison	Carl S. Lawson	Clarksburg
Jackson	P. H. Rardin	Ripley
Jefferson	James Grantham	Charles Town
Kanawha	G. W. Jenkins, Jr.	Charleston
Lewis	Ellis L. Smith	Weston
Lincoln	Fisher B. Adkins	Hamlin
Logan	L. E. Browning	Loran
Marion	Homer C. Toothman	Fairmont
Marshall	H. W. McDowell	Moundsville
Mason	M. E. Roach	Point Pleasant
Mercer	J. A. French	Princeton
Mineral	Richard W. Thrush	Keyser
Mingo	Chas. H. Ellis	Williamson
Monongalia	Lynn Hastings	Morgantown
Monroe	W. W. Baker	Union
Morgan	G. F. Fearnow	Berkeley Springs
McDowell	W. C. Cook	Welch
Nicholas	E. W. Skaggs	Summersville
Ohio	J. H. Lazear	Wheeling
Pendleton	Jesse H. Cook	Franklin
Pleasants	G. C. McTiggart	St. Marys
Pocahontas	B. B. Williams	Marlinton
Preston	M. E. Martin	Kingwood
Putnam	Henry C. Hill	Winfield
Raleigh	W. S. Rogers	Beckley
Randolph	Troy B. Wilmoth	Elkins
Ritchie	R. B. Cokeley	Harrisville
Roane	I. B. Boggs	Spencer
Summers	Lee Harper	Hinton
Taylor	R. J. Martin	Crafton
Tucker	C. R. Parsons	Parsons
Tyler	J. T. Foner	Middlebourne
Upshur	B. H. Carpenter	Buckhannon
Wayne	O. J. Rife	Wayne
Webster	S. N. Miller	Webster Springs
Wetzel	D. L. Haught	New Martinsville
Wirt	Ross Wilson	Elizabeth
Wood	H. A. Langfitt	Parkersburg
Wyoming	J. H. Cooper	Pineville

SURVEYORS OF LANDS.

COUNTIES	NAMES	ADDRESS
Barbour	Isaiah Johnson	Montrose
Berkeley	Wm. E. Morgan	Martinsburg
Boone	A. D. Lawson	Danville
Braxton	G. H. Moore	Davison
Brooke	M. E. Boyd	Wellsburg
Cabell	J. M. Oliver	Huntington
Calhoun	D. W. Shock	Dodrill
Clay	Scott Triplett	Clay
Doddridge	Vacant	
Fayette	Vacant	
Gilmer	Wm. MacMoss	Cedarville
Grant	Vacant	
Greenbrier	J. W. Rader	Lewisburg
Hampshire	H. J. Compton	Shanks
Hancock	C. E. Crofton	New Cumberland
Hardy	J. Wm. Kuykendall	Moorefield
Harrison	C. A. Osborn	Clarksburg
Jackson	D. D. Parsons	Kentuck
Jefferson	Alex S. Dandridge	Shepherdstown
Kanawha	W. G. Crichton	Charleston
Lewis	James B. Peterson	Weston
Lincoln	Milton Clay	Minerva
Logan	Charley Curry	Barnabus
Marion	Frank J. Wilfong	Fairmont
Marshall	S. Howe Bonar	Moundsville
Mason	G. E. Childs	Point Pleasant
Mercer	O. E. Jennings	Matoaka
Mineral	J. L. Hott	Keyser
Mingo	E. H. Simpkins	Lenore
Monongalia	A. L. Headley	Fairview
Monroe	J. H. Sydenstricker	Sinks Grove
Morgan	M. A. Varmslale	Great Cacapon
McDowell	L. A. Osborn	Welch
Nicholas	Robt. Williamson, Jr.	Richwood
Ohio	Orion S. Moller	Wheeling
Pendleton	Z. M. Nelson	Circleville
Pleasants	Vacant	
Pocahontas	Vacant	
Preston	S. R. Guseman	Reedsville
Putnam	J. T. Lanham	Lanham
Raleigh	W. J. Scarborough	Beckley
Randolph	C. Lee Flanagan	Elkins
Ritchie	P. R. Tharp	Harrisville
Roane	C. C. Sharp	Spencer
Summers	H. L. Batten	Pence Springs
Taylor	Vacant	
Tucker	H. U. Freeman	Parsons
Tyler	J. C. Warner	Alma
Upshur	Claude Burr	Buckham
Wayne	Vacant	
Webster	P. B. Cogar	Webster Springs
Wetzel	J. M. Cochran	Porters Falls
Wirt	Vacant	
Wood	E. N. Woodyard	Parkersburg
Wyoming	L. R. Hash	Rock View

## COUNTY ASSESSORS.

COUNTIES	NAMES	ADDRESS
Barbour.....	W. Scott Simon.....	Philippi
Berkeley.....	John W. Dodd.....	Martinsburg
Boone.....	John K. Myers.....	Madison
Braxton.....	George O. Vaker.....	Sutton
Brooke.....	H. R. Elson.....	Wellsburg
Cabell.....	C. C. Leep.....	Huntington
Calhoun.....	W. E. Stump.....	Grantsville
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