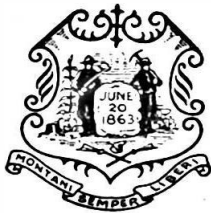


ACTS
of the
LEGISLATURE
of
WEST VIRGINIA

REGULAR SESSION
1931

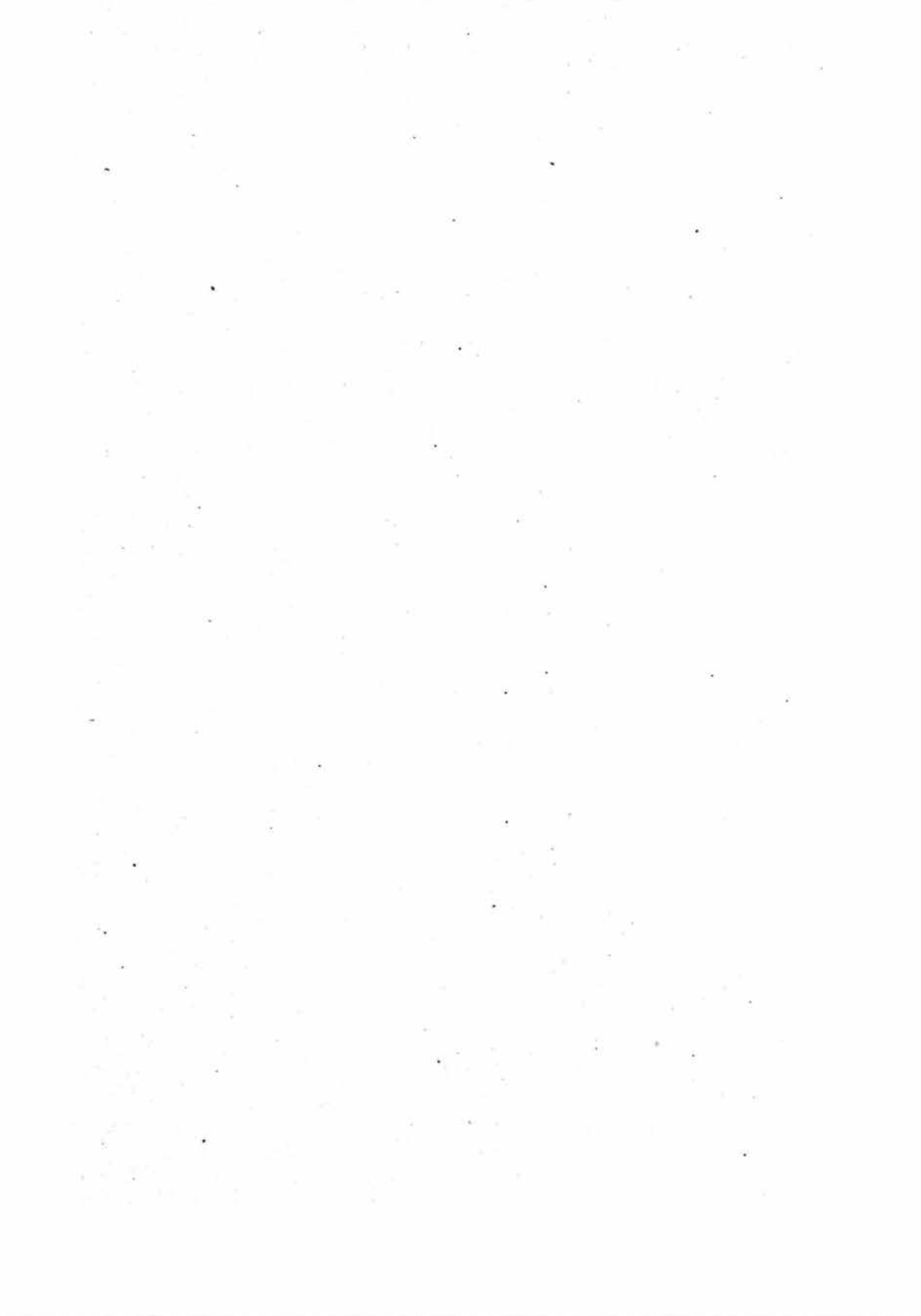


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NOTE BY CLERK OF THE HOUSE OF DELEGATES.

This volume contains all the acts of the 1931 regular session of the Legislature, including municipal charters.



List of Members and Officers of the Legislature of West Virginia 1931

SENATE

OFFICERS

President—M. Z. WHITE, Williamson.
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	A. L. Helmick (R).....	Thomas
Fifteenth.....	*Robert White (D).....	Romney
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(R)—Republican
 (D)—Democrat
 (*)—Holdover Senators

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ON EDUCATION

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ON FORFEITED, DELINQUENT AND UNAPPROPRIATED LAND

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TO EXAMINE CLERK'S OFFICE

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ON FORESTRY AND CONSERVATION

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ON ENROLLED BILLS

Messrs. Smith (*Chairman*), Roberts, Woodyard, Abbot and Garvin.

House of Delegates

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 *Doorkeeper—O. O. ALLISON, Chester

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	J. Minor Dunham (D)	Fairmont
	Paul Haymond (D)	Fairmont
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	John C. Myers (D)	Moundeville

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	A. J. Lubliner (D)	Bluefield
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	C. H. Scott (D)	Elkins
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Roane	W. Hunter Smith (R)	Wallback
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Taylor	Fred B. Watkins (D)	Crafton
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Tyler	H. Cliff Hamilton (D)	Bearsville
Upshur	Lycurgus Hyre (R)	Buckhannon
Wayne	O. J. Rife (D)	Kenova
	J. O. Mareum (D)	Ceredo
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Wetzel	Lee Cusack (D)	New Martinsville
	Donley E. Brown (D)	Paden City
Wirt	James L. Smith (D)	Elizabeth
Wood	Ben H. Butcher (D)	Parkersburg
	George W. Dye (D)	Parkersburg
	J. M. Melrose (D)	Mineral Wells R. D.
Wyoming	George W. Sutherland (D)	Pineville

*Died March 16, 1931. Vacancy in office not filled.

68—Democrats
26—Republicans

94—Total

Standing Committees of the House of Delegates

ELECTIONS AND PRIVILEGES

Messrs. Smith (of Marion), (*Chairman*), Ballard, Barnhart, Bassel, Butcher, Campbell, Goode, Lubliner, Matthews, McGuire, Ross, Sutherland, Brown (of Hancock), Calhoun, Prichard, Rexroad and Ulrich.

JUDICIARY

Messrs. Barnhart (*Chairman*), Armstrong, Calhoun, Cowgill, Harbert, Haymond, Hiner, Kenna, Lubliner, Marcum, McGuire, Norton, Poling, Scott (of Randolph), Smith (of Wirt), Sycamore, Thornhill, Brown (of Hancock), Carter, Hartigan, Hinerman and Hyre.

FEDERAL RELATIONS

Messrs. Cottrill (*Chairman*), Barnhart, Bassel, Bryant, Butcher, Calvert, Davis, Foster, Gardner, Gilbert, Hickel, Kenna, Scott (of Morgan), Simmons, Wilkinson, Calhoun, Carter, Faber, Lilly and Mott.

TAXATION AND FINANCE

Messrs. Harbert (*Chairman*), Baker, Ballard, Bowen, Campbell, Cusack, Ferrell, Hamilton, Matthews, Pence, Randolph, Ross, Scott (of Morgan), Smith (of Marion), Thornhill, White, Wilkinson, Dailey, Hartigan, Laughlin, Rairden and Tabor.

MILITARY AFFAIRS

Messrs. Ross (*Chairman*), Ballard, Calvert, Campbell, Dunham, Easley, Hays, Hiner, Meadows, Simmons, Fazenbaker, Holbrook, Hyre, Smith (of Preston) and Wolverton.

PROHIBITION AND TEMPERANCE

Messrs. Boggs (*Chairman*), Ballard, Chipley, Dunham, Gibson, Hickel, Matthews, McGuire, Rife, Righter, Wilkinson, Dailey, Hinerman, Rankin, Rexroad and Tabor.

EDUCATION

Messrs. Hamilton (*Chairman*), Barnhart, Bassel, Ferrell, Gardner, Goode, Hays, Holt, Lubliner, Melrose, Rife, Scott (of Morgan),

Sutherland, Sycamore, Talbott, Watkins, Alderman, Calhoun, Fazenbaker, Rankin and Rexroad.

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. Ballard (*Chairman*), Bowen, Butcher, Cowgill, Ferrell, Foster, Harbert, Haymond, Hiner, Kenna, Martin, Myers, Norton, Rife, Talbott, Thornhill, Brown (of Hancock), Carter, Mirable, Mott and Vandervort.

BANKS AND CORPORATIONS

Messrs. White (*Chairman*), Baker, Ballard, Barnhart, Cowgill, Douglas, Dunn, Gilbert, Haines, Haymond, Matthews, Meadows, Myers, Randolph, Starcher, Sutherland, Brown (of Hancock), Carter, Prichard, Rairden and Tabor.

ROADS

Messrs. Talbott (*Chairman*), Boggs, Bryant, Cowgill, Davis, Hamilton, Harbert, Hays, Hickel, MacQueen, Martin, Simmons, Smith (of Wirt), Thornhill, Watkins, Dailey, Mirable, Mott, Rairden, Smith (of Preston) and Ulrich.

FORFEITED AND UNAPPROPRIATED LANDS

Messrs. Scott (of Randolph), (*Chairman*), Bowen, Brown (of Wetzel), Chipley, Cottrill, Foster, Haines, Hiner, MacQueen, Meadows, Poling, Ross, Scott (of Morgan), Sycamore, Talbott, Faber, Holbrook, Hyre, Smith (of Preston) and Lilly.

CLAIMS AND GRIEVANCES

Messrs. Simmons (*Chairman*), Armstrong, Baker, Boggs, Butcher, Cusack, Dye, Frame, Gardner, Marcum, Melrose, Pence, Smith (of Wirt), Sutherland, Watkins, White, Alderman, Calhoun, Fazenbaker, Hinerman and Lilly.

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Messrs. Thornhill (*Chairman*), Boggs, Brown (of Wetzel), Bryant, Calvert, Cottrill, Douglas, Dunn, Frame, Haines, Holt, Matthews, McGuire, Pence, Starcher, White, Hartigan, Rankin, Rexroad, Smith (of Roane) and Wolverton.

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Messrs. Chipley (*Chairman*), Bryant, Douglas, Dunn, Easley, Ferrell, Frame, Gardner, Hamilton, Hiner, Martin, Melrose, Norton,

Scott (of Morgan), Scott (of Randolph), Dailey, Mott, Rexroad, Smith (of Roane) and Ulrich.

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PENITENTIARY

Messrs. Cusack (*Chairman*), Armstrong, Boggs, Carter, Campbell, Chipley Dunham, Meadows, Melrose, Myers, Ross, Scott (of Morgan), Scott (of Randolph), Smith (of Marion), Talbott, Thornhill, Cummins, Hinerman, Hyre, Mirable and Rairden.

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Messrs. Ferrell (*Chairman*), Baker, Bassel, Bryant, Campbell, Easley, Gibson, Haymond, Lubliner, MacQueen, Martin, Meadows, Myers, Poling, Sycamore, Laughlin, Prichard, Smith (of Preston), Smith (of Roane), Tabor and Vandervort.

AGRICULTURE

Messrs. Gardner (*Chairman*), Armstrong, Boggs, Bowen, Chipley, Dunn, Goode, Haines, Hamilton, Hays, Hickel, Melrose, Poling, Scott (of Randolph), Talbott, Dailey, Rairden, Rankin, Smith (of Roane), Vandervort and Wolverton.

STATE BOUNDARIES

Messrs. Marcum (*Chairman*), Barnhart, Cowgill, Cusack, Easley, Foster, Hiner, Kenna, McGuire, Sutherland, Carter, Holbrook, Prichard and Tabor.

RAILROADS

Messrs. Starcher (*Chairman*), Cusack, Easley, Gilbert, Marcum, Martin, McGuire, Poling, Randolph, Ross, Simmons, Smith (of Marion), Watkins, White, Wilkinson, Cummins, Dailey, Fazenbaker, Hinerman and Holbrook.

LABOR

Messrs. Lubliner (*Chairman*), Baker, Bassel, Calvert, Davis, Douglas, Dunham, Dye, Ferrell, Hiner, Marcum, Randolph, Scott (of Morgan), Smith (of Marion), Watkins, Calhoun, Fazenbaker, Mott, Ulrich and Vandervort.

MEDICINE AND SANITATION

Messrs. Frame (*Chairman*), Armstrong, Chipley, Cottrill, Dunham, Dunn, Foster, Gibson, Gilbert, Goode, Harbert, Hickel, Lilly, Righter, Sycamore, Watkins, Hartigan, Laughlin, Rankin, Tabor and Wolverton.

GAME AND FISH

Messrs. Hays (*Chairman*), Brown (of Wetzel), Butcher, Calvert, Chipley, Easley, Gardner, Goode, Haines, Kenna, MacQueen, Martin, Norton, Randolph, Righter, Hyre, Mott, Rankin, Rexroad and Ulrich.

INSURANCE

Messrs. Campbell (*Chairman*), Dye, Harbert, Haymond, Holt, Lubliner, MacQueen, Martin, Norton, Rife, Scott (of Morgan), Starcher, Thornhill, White, Wilkinson, Calhoun, Fazenbaker, Hinnerman, Smith (of Preston) and Vandervort.

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Messrs. Cowgill (*Chairman*), Bowen, Bryant, Butcher, Chipley, Cottrill, Harbert, Lubliner, Marcum, Matthews, Meadows, McGuire, Myers, Norton, Pence, Scott (of Randolph), Hyre, Laughlin, Mott, Rairden and Rankin.

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PRINTING AND CONTINGENT EXPENSES

Messrs. Haines (*Chairman*), Armstrong, Baker, Brown (of Wetzel), Bryant, Cottrill, Dunn, Gibson, Hays, Myers, Poling, Randolph, Rife, Smith (of Marion), Smith (of Wirt), Brown (of Hancock), Dailey, Fazenbaker, Mott and Smith (of Roane).

RULES

Mr. Speaker (*Chairman, ex-officio*), Dunn, Hays, Matthews, Scott, (of Randolph), Talbott, Cummins and Tabor.

ENROLLED BILLS

Messrs. Meadows (*Chairman*), Bryant, Cowgill, Gilbert and Holbrook.

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LEGISLATURE OF WEST VIRGINIA

ACTS OF 1931

REGULAR SESSION

CHAPTER 1

(Senate Bill No. 11—By Mr. Wells)

AN ACT authorizing the issuance and sale of not exceeding ten million dollars of road bonds of the state of West Virginia to raise money for road construction purposes under and by virtue of the "Good Roads Amendment" to the constitution adopted at the general election held in November, one thousand nine hundred and twenty; to provide for the distribution and expenditure of the proceeds of sale thereof, and to provide for the levy and collection of an annual state tax and other revenue sufficient to pay semi-annually the interest on said bonds and the principal thereof within twenty-five years.

[Passed February 11, 1931; in effect from passage. Approved by the Governor.]

Sec.

1. Retirement and reissue of ten millions dollars of state road bonds.
2. Transfer and registry of bonds; interest, rate and place payable; exemption from taxation.
3. Form of bond.
4. Form of coupon.
5. Separate listing of coupon and registered bonds.
6. State road sinking fund, sources of; separate account for; how disbursed and invested.
7. When board of public works to lay

Sec.

- an annual tax to pay principal and interest of bonds.
8. Sale of bonds by governor; interest bearing date.
9. Proceeds of sales of bond apportioned among counties on eighty-two basis.
10. Plates to be property of state.
11. Auditor to be custodian of unsold bonds.
12. Interim certificates.
13. Payment of necessary expenses of bond sales.

Be it enacted by the Legislature of West Virginia:

Section 1. That bonds of the state of West Virginia of the 2 par value of ten million dollars are hereby authorized to be 3 issued and sold for the purpose of raising funds for assisting 4 in building and constructing the system of state roads and high- 5 ways provided for by the constitution. Said bonds may be 6 issued by the governor in such amounts, in coupon or registered

7 form, in such denominations, at such times and bearing such
8 date or dates as the governor may determine, and shall become
9 due and payable serially in equal amounts beginning one year
10 and ending twenty-five years from the date thereof: *Provided,*
11 *however,* That no bonds may be issued under the provisions of
12 this act until bonds authorized and issued under the provisions
13 of the "Good Roads Amendment" to the constitution of said
14 state, ratified at the general election held in November, one
15 thousand nine hundred and twenty, have been retired and can-
16 celled out of the state road sinking fund created by section six
17 of chapter one hundred and thirteen of the acts of the legis-
18 lature of West Virginia of one thousand nine hundred and
19 twenty-one, in an amount equal to or greater than the amount
20 to be issued hereunder at any one time.

Sec. 2. The auditor and treasurer are authorized to arrange
2 for the transfer of registered bonds and for each such transfer
3 a fee of fifty cents shall be charged by and paid to the state of
4 West Virginia, to the credit of the state road sinking fund.
5 Bonds taken in exchange will be cancelled by the auditor and
6 treasurer and be carefully preserved by the treasurer. The
7 treasurer shall make provisions for registering payable to bearer
8 bonds and for each bond registered a fee of fifty cents shall
9 likewise be charged by and paid to the state of West Virginia,
10 to the credit of the state road sinking fund. All of such bonds
11 shall be payable at the office of the treasurer of the state of
12 West Virginia, or, at the option of the holder, at some desig-
13 nated bank in the city of New York to be designated by the
14 governor. Said bonds shall bear interest at a rate not exceeding
15 four and one-half per centum per annum, payable semi-annually,
16 on the first day of.....and the first day of....., of each year,
17 to bearer, at the office of the treasurer of the state of West Vir-
18 ginia, at the capitol of said state, or at the bank designated by
19 the governor, upon presentation and surrender of interest cou-
20 pons then due, in the case of coupon bonds. In the case of
21 registered bonds the treasurer of the state of West Virginia
22 shall issue his check for the interest then due on the first day
23 of.....and.....of each year, and mail the same to
24 the registered owner at his address as shown by the record of
25 registration. Both the principal and interest of said bonds
26 shall be payable in gold coin of the United States of the present
27 standard of weight and fineness and said bonds shall be exempt

28 from taxation by the state of West Virginia, or by any county,
 29 district, or municipality thereof, which fact shall appear on the
 30 face of the bonds as part of the contract with the holder thereof.

Sec. 3. Said bonds and coupons shall be engraved and the
 2 bonds shall be signed, on behalf of the state of West Virginia,
 3 by the treasurer thereof, under the great seal of the state, and
 4 countersigned by the auditor of the state, and shall be in the
 5 following form or to the following effect, as nearly as may be,
 6 namely:

7 **COUPON GOLD BOND**
 8 **(OR REGISTERED GOLD BOND, AS THE CASE MAY BE)**
 9 **OF THE**
 10 **STATE OF WEST VIRGINIA**

11 \$..... No.....

12 The State of West Virginia, under and by virtue of authority
 13 of an act of its Legislature passed at the regular session of one
 14 thousand nine hundred and thirty-one on the.....day of
 15, one thousand nine hundred and thirty-one
 16 and approved by the governor on the.....day of.....,
 17 one thousand nine hundred and thirty-one, which is hereby
 18 made a part hereof as fully as if set forth at length herein,
 19 acknowledges itself to be indebted to, and hereby promises to
 20 pay to the bearer hereof (in the case of a coupon bond) or to
 21, or assigns, (the owner of record, in case of
 22 registered bonds).....years after the date of this bond,
 23 to-wit, on the.....day of....., 19....., in gold coin of
 24 the United States of America of the present standard of weight
 25 and fineness at the office of the Treasurer of the State
 26 of West Virginia, at the capitol of said state, or at the option of
 27 the holder at.....bank in the City of New York
 28 the sum of.....dollars, with interest thereon
 29 at.....per centum per annum from date, payable
 30 semi-annually in like gold coin of the United States of America,
 31 at the Treasurer's office or bank aforesaid, on the first day of
 32and the first day of.....of each year, (and in
 33 the case of coupon bonds) according to the tenor of the annexed
 34 coupons, bearing the engraved fac simile signature of the
 35 Treasurer of the State of West Virginia, upon surrender of
 36 such coupons. This bond (in the case of a coupon bond) may
 37 be exchanged for a registered bond of like tenor upon applica-
 38 tion to the Treasurer of the State of West Virginia.

39 To secure the payment of this bond, principal sum and in-
 40 terest, when other funds and revenues sufficient are not avail-
 41 able for that purpose, it is agreed that the board of public works
 42 of the State of West Virginia shall annually cause to be levied
 43 and collected an annual state tax on all property in the state,
 44 until said bond is fully paid, sufficient to pay the annual in-
 45 terest on said bond and the principal sum thereof within the
 46 time this bond becomes due and payable.

47 This bond is hereby made exempt from any taxation by the
 48 State of West Virginia, or by any county, district or municipal
 49 corporation thereof.

50 In testimony whereof, witness the signature of.....,
 51 Treasurer of the State of West Virginia, and the countersigna-
 52 ture of....., the Auditor of said State hereto
 53 affixed according to law, dated the.....day of.....,
 54 one thousand nine hundred and.....and the seal of the
 55 State of West Virginia.

56 (Seal)
 57 Treasurer of the State of West Virginia.

58 Countersigned,
 59
 60 Auditor of West Virginia.

Sec. 4. The form of coupons shall be substantially as follows,

2 to-wit:

3 STATE OF WEST VIRGINIA
 4 Bond No..... Coupon No.....

5 On the first day of....., 19....., the State of
 6 West Virginia will pay to the bearer, in gold coin of the United
 7 States of the present standard of weight and fineness, at the
 8 office of the Treasurer of the State, or at the option of the
 9 holder at.....bank in the City of New
 10 York, the sum of.....dollars, the same being semi-
 11 annual interest on Bond No..... series of one thousand
 12 nine hundred and.....

13
 14 Treasurer of the State of West Virginia.

15 The signature of the treasurer to said coupons shall be by his
 16 engraved fac simile signature and the coupons shall be num-
 17 bered in the order of their maturity, from number one con-
 18 secutively. Said bonds and coupons may be signed by the
 19 present treasurer and auditor, or by any of their respective

20 successors in office; and bonds signed by the persons now in
21 office may be sold by the governor or his successor in office
22 without being signed by the successor in office of the present
23 treasurer or auditor.

Sec. 5. All coupon and registered bonds issued under this
2 act shall be separately listed by the auditor of the state in books
3 provided for the purpose, in each case giving the date, number,
4 character and amount of obligations issued, and in case of
5 registered bonds, the name and post office address of the person,
6 firm or corporation registered as the owner thereof.

Sec. 6. Into the state road sinking fund shall be paid all
2 moneys received from the annual state tax levy on the taxable
3 property in the state levied under the provisions of this act,
4 from any and all appropriations made by the state from other
5 sources for the purposes of paying the interest on said bonds or
6 paying off and retiring same, from fines, forfeitures and pen-
7 alties, if any made applicable by law for the payment of said
8 bonds or the interest thereon, from transfer fees as herein pro-
9 vided, and from any source whatsoever, which is made liable by
10 law for the payment of the principal of said bonds or the
11 interest thereon.

12 All such funds shall be kept by the treasurer in a separate
13 account, under the designation aforesaid, and all money be-
14 longing to said fund shall be deposited in the state treasury
15 to the credit thereof.

16 Said fund shall be applied by the treasurer of the state, first
17 to the payment of the semi-annual interest on said bonds as it
18 shall become due as herein provided. The remainder of said
19 fund shall be turned over by the state treasurer to the state
20 sinking fund commission, whose duty it shall be to invest the
21 same in the bonds of the government of the United States, the
22 bonds of the state of West Virginia, or any political sub-division
23 thereof: *Provided, however,* That bonds so purchased by the
24 state sinking fund commission shall mature so as to provide
25 sufficient money to pay off all bonds herein provided to be
26 issued as they may become due; and the money so paid into
27 the said state road sinking fund under the provisions of this
28 act shall be expended for the purpose of paying the interest
29 and principal of the bonds hereby provided for, and for no
30 other purpose except that said fund may be invested until
31 needed, as herein provided.

Sec. 7. In order to provide the revenue necessary for the payment of the principal and interest of said bonds, as herein before provided, the board of public works is authorized, empowered and directed to lay annually a tax upon all real and personal property subject to taxation within this state, sufficient to pay interest on said bonds accruing during the current year and one twenty-fifth of the total issue (at par value) of said bonds, for such number of years, not exceeding twenty-five, as may be necessary to pay the interest thereon and to pay off the principal sum of said bonds; and said taxes, when so collected, shall not be liable for or applicable to any other purpose: *Provided, however,* That if there be other funds in the state treasury, or in the state road funds, in any fiscal year, not otherwise appropriated, or if other sources of revenue be hereafter provided by law for the purpose, the board of public works is authorized, empowered and directed to set apart, in any year there be such funds, or other sources of revenue provided for such purpose, a sum sufficient to pay the interest on bonds accruing during the current year, and to pay off and retire the principal of said bonds, or any part thereof, at maturity.

The authority hereby vested in the board of public works shall be in addition to the authority now vested in it by present law.

Sec. 8. The governor shall sell all bonds herein mentioned at such time or times as he may determine necessary to provide funds for road construction purposes, as herein provided, upon recommendation of the state road commission. All sales shall be at not less than par and accrued interest. Registered bonds shall bear interest only from the date of delivery. All interest coupons becoming payable prior to said sale date shall be cancelled by the treasurer and rendered ineffective before the delivery of the bonds so sold.

Sec. 9. The proceeds of all sales of bonds herein authorized shall be paid into the state road fund created by section fifteen, chapter one hundred and twelve of the acts of the legislature of one thousand nine hundred and twenty-one; and the proceeds from the sale of said bonds shall be apportioned by the state road commission among the several counties on the eighty-two basis in accordance with the provisions of section twenty-three, chapter seventeen of the acts of the legislature of one thousand nine hundred and twenty-five.

Sec. 10. The plates from which the bonds authorized by this act are engraved shall be the property of the state of West Virginia.

Sec. 11. The state auditor shall be the custodian of all unsold bonds issued pursuant to the provisions of this act.

Sec. 12. The governor may authorize the issuance of interim certificates to be issued to the purchasers of said bonds to be held by them in lieu of engraved bonds. When said interim certificates are so issued, they shall become full and legal obligations of the state of West Virginia under all of the provisions of this act just as fully and completely as the engraved and permanent bonds.

Sec. 13. All necessary expenses incurred in the execution of this act shall be paid out of any money in the treasury of the state of West Virginia, not otherwise appropriated, on warrants of the auditor of the state drawn on the state treasurer.

CHAPTER 2

(Senate Bill No. 125—By Mr. White, of Mingo)

AN ACT to coordinate in a single administrative unit the activities of all state public welfare agencies by creating a department of public welfare, and to repeal or revise all acts or parts of acts in conflict herewith.

[Passed March 10, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Department of public welfare created; appointment, qualification, salary and duties of director.
2. Office at state capitol; employees; allocation of funds.
3. Advisory council; advisory surgeons; three divisions in department.
4. Crippled children's council, board of children's guardians and veterans' service office.

SEC.

5. Duties and powers of state veterans' service officer vested in department of public welfare.
6. Duties and powers of board of children's guardians vested in department of public welfare.
7. Duties and powers of crippled children's council vested in department of public welfare.
8. Liberal construction of act required.
9. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created the West Virginia department of public welfare, the executive officer of which shall be a director to be appointed, with the advice and consent of the senate, by the governor, to serve concurrently with the governor for a term of four years. The director shall be a person qualified to administer the department so as to carry out the

7 purposes of this act, namely, to promote efficiency and effec-
8 tiveness in the expenditure of state funds for public welfare by
9 the coordination of the activities, personnel and resources of all
10 state public welfare agencies. The director shall receive a
11 salary of four thousand eight hundred dollars annually, payable
12 as other state salaries are paid. The director shall have power
13 to make such rules and regulations not inconsistent with law as
14 such director may deem best for the administration of the de-
15 partment and the care and treatment of wards of the state
16 under the director's supervision.

Sec. 2. The department of public welfare shall be provided
2 by the board of public works with offices at the state capitol,
3 and the director of said department is authorized to secure the
4 services of such employees as are necessary for carrying out
5 the provisions of this act, to fix the salaries of said employees,
6 and to requisition the state auditor for the disbursement of all
7 funds appropriated for the department for traveling and other
8 expenses: *Provided*, That the amounts designated in the budget
9 bill shall be devoted to the purpose shown by the itemization
10 for crippled children, for dependent and neglected children,
11 and for veterans and their dependents.

Sec. 3. For the purpose of keeping public interest in the
2 various phases of welfare work sustained, the director shall
3 maintain close contact with an advisory council, with which he
4 shall confer on matters of major policy, composed of the presi-
5 dent and three vice presidents of the West Virginia crippled
6 children's society, the head of each veterans' organization in the
7 state, and the president and vice president of the state organi-
8 zation of county welfare boards, and the president and two vice
9 presidents of the West Virginia federation of woman's clubs,
10 which council shall serve without pay. On recommendation of
11 the West Virginia crippled children's society, the director shall
12 appoint an advisory staff of three orthopedic surgeons, who
13 shall, while acting in such advisory capacity, serve without pay,
14 for the purpose of examining the credentials, and recommend-
15 ing the appointment, of orthopedic surgeons to be engaged by
16 the department. The director shall provide a division for
17 crippled children, a division for dependent and neglected chil-
18 dren, and a division for veterans' affairs within the department,
19 and each division shall be charged specifically with the conduct
20 of its own affairs.

Sec. 4. The duties, responsibilities, and powers now vested
2 by law in the crippled children's council, the board of chil-
3 dren's guardians, and the veterans' service office are herewith
4 transferred to and vested in the department of public welfare.
5 The powers and duties in connection with the board of chil-
6 dren's guardians and the crippled children's council hereto-
7 fore vested in the board of control are herewith transferred to
8 and vested in the department of public welfare.

Sec. 5. The duties, responsibilities, and powers now vested
2 by sections one and two, article six, chapter twenty-nine of
3 the official code of West Virginia of one thousand nine hundred
4 and thirty-one, in the state veterans' service officer are herewith
5 transferred to and vested in the department of public welfare.

Sec. 6. The duties, responsibilities, and powers now vested
2 by article three of chapter forty-nine, official code of West
3 Virginia of one thousand nine hundred and thirty-one, and the
4 further powers, responsibilities, and duties now vested by ar-
5 ticles one, two, four, five, six, seven, eight, nine and ten of
6 chapter forty-nine, official code of West Virginia of one thou-
7 sand nine hundred and thirty-one, in the board of children's
8 guardians are herewith transferred to and vested in the de-
9 partment of public welfare, and hereafter the term "board of
10 children's guardians" shall be taken and deemed to mean the
11 department of public welfare.

Sec. 7. The duties, responsibilities, and powers now vested
2 by article eleven of chapter forty-nine, official code of West
3 Virginia of one thousand nine hundred and thirty-one, in the
4 crippled children's council are herewith transferred to and
5 vested in the department of public welfare, and the term "crip-
6 pled children's council" heretofore used shall be taken and
7 deemed to mean the department of public welfare.

Sec. 8. Being necessary for the health, welfare, protection
2 and convenience of the citizens of this state, this act shall be
3 liberally construed to effectuate the purposes thereof.

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

CHAPTER 3

(House Bill No. 78—By Mr. Ross)

AN ACT establishing a state athletic commission regulating boxing, sparring and wrestling in the state of West Virginia, and repealing section twenty-six of article two of chapter sixty-one of the code of West Virginia.

[Passed February 27, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.	SEC.
1. State athletic commission; number, residence and politics, compensation, terms, vacancies, quorum; officers, seal and rules.	ments to secretary of five per cent of gross receipts; bonds of applicants for license.
2. Secretary, power and duties; penalty for false swearing before secretary, etc.; biennial reports of commission.	9. Power of commission upon failure to report contest; forfeiture of license by club for nonpayment of tax.
3. Receipts and expenditure of moneys received by commission.	10. Presence of members of commission or inspector at exhibition or matches.
4. Expense of official headquarters.	11. Referee; appointment by commission; power.
5. Commission to have sole control of boxing, etc., matches; issuance and revocation of license; license application, issuance, fee for, duration; municipality not to tax boxing, etc., club.	12. Physical examination of contestants; physician present at contest; report by physician to commission.
6. Length of rounds; weight of gloves; no contest to be held on Sunday.	13. Weight of boxer.
7. Cancellation of license for fake boxing, etc., exhibition; penalty for participating in sham or fake boxing, etc., exhibition.	14. License fee for contestant, referee or second.
8. Reports by clubs to commission of contracts, what to show; pay-	15. Penalty for engaging in unlawful contests.
	16. Penalty for violation not expressly provided for.
	17. Special permits to American Legion and other organizations.
	18. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a board to be known as the state athletic commission of West Virginia. Within thirty days after this act takes effect the governor shall appoint three persons to be members of such commission, no more than two of whom shall belong to the same political party, and no two of whom shall be residents of the same county at the same time, and who shall serve without pay, one of whom shall serve until July first, one thousand nine hundred thirty-two, one until July first, one thousand nine hundred thirty-three, and one until July first, one thousand nine hundred thirty-four. At the expiration of the term of each member his successor shall be appointed for a term of three years. In the event of a vacancy in said board said vacancy shall likewise be filled by appointment by the governor and the governor shall likewise have the power to remove any commissioner at his pleasure. Any two members of the commission shall constitute a quorum for the exercise of the power or

17 authority conferred upon it. The members of the commission
18 shall at the first meeting after their appointment elect one of
19 their number chairman of the commission, and another of their
20 number secretary of the commission, shall adopt a seal for the
21 commission, and shall make such rules for the administration
22 of their office, not inconsistent herewith, as they may deem ex-
23 pedient; and they may hereafter amend or abrogate such rules.
24 The concurrence of at least two commissioners shall be necessary
25 to render a choice or decision of the commission.

Sec. 2. The office of the commission may be changed at
2 pleasure by the said commission. It shall be the duty of the
3 secretary to keep a full and true record of all proceedings of said
4 commission, to preserve all its books, documents and papers, to
5 prepare for service such notices and other papers as may be re-
6 quired of him by the commission, and to perform such other
7 duties as the commission may prescribe; and he may, under di-
8 rection of the commission, issue subpoenas for the attendance
9 of witnesses before the commission with the same effect as if
10 they were issued in an action in any circuit court of the state,
11 and may administer oaths in all matters pertaining to the duties
12 of his office or connected with the administration of the affairs
13 of the commission. Disobedience of such subpoena and false
14 swearing before such secretary shall be attended by the same
15 consequences and be subject to the same penalties as if such
16 disobedience or false swearing occurred in an action in any cir-
17 cuit court of the state. The commission shall make to the legis-
18 lature biennial reports of their proceedings for the two years
19 ending with the last day of the preceding December, and may
20 submit with such report, such recommendations pertaining to
21 its affairs, as to it shall seem advisable.

Sec. 3. The commission shall retain out of all moneys re-
2 ceived by it, as hereinafter provided, such sum as shall cover all
3 necessary traveling and other necessary expense of the members
4 of the commission. All moneys so received by the commission in
5 excess of two thousand five hundred dollars per annum shall be
6 by the secretary of said commission paid over to the treasurer
7 of the state of West Virginia, together with the full financial
8 statement of all moneys received and expended, and the secre-
9 tary of the commission shall annually make report of the fiscal
10 affairs of the commission for the preceding year to the treasurer
11 of the state of West Virginia.

Sec. 4. The commission may designate as its official headquarters the residence or place of business of any one of its members, or may, if it chooses, maintain an office, but the expense of said office, in case such is maintained, shall also be paid out of the sum of two thousand five hundred dollars provided for in section three.

Sec. 5. The commission shall have and hereby is vested with the sole direction, management and control of and jurisdiction over all boxing, wrestling and sparring matches and exhibitions to be conducted, held or given within the state by any club, corporation or association; and no boxing, sparring, wrestling match, or exhibition shall be conducted, held or given within the state except pursuant to its authority and held in accordance with this act. The commission may, in its discretion, issue and, at its pleasure, revoke the license to conduct, hold, or give boxing, sparring or wrestling matches and exhibitions to any club, corporation or association which shall at the time of application therefor own or hold a lease for a term of at least one year upon the building wherein it may be proposed to conduct, hold or give such boxing, sparring or wrestling match or exhibition. Every license shall be subject to such rules and regulations and amendments thereto as the commission may prescribe. Every application for a license, as herein provided for, shall be on a blank form provided by the commission. No license shall be granted to any club, corporation or association, unless the signer of the application be a bona fide resident of the state of West Virginia. Upon the issuance of such license by the commission, the applicant shall pay a state license tax to the commission of five hundred dollars for one year, or a proportionate part thereof for shorter periods, should such license not be granted at the beginning of the fiscal year, but in no instance shall the license fee be less than one hundred dollars, payable and collectible as are other license taxes. The end of the license year shall be June thirtieth. No municipal corporation shall impose any license tax on any such boxing, sparring or wrestling club, notwithstanding the provisions of any section of the code respecting municipal taxes and licenses. The granting of such license to such club by the commission, or the holding of such license by such club, individual or association, shall not prevent the commission from canceling or revoking the license to conduct such a club, as hereinbefore provided.

Sec. 6. No boxing or sparring match or exhibition shall be
2 more than twelve rounds of three minutes each in length with
3 intermission of one minute each between rounds; and the con-
4 testants shall wear, during such contests, gloves weighing at least
5 six ounces; and no exhibition or contest shall be held on Sun-
6 day.

Sec. 7. Any club, corporation or association which may con-
2 duct, hold or give or participate in any sham or fake boxing,
3 sparring, wrestling match or exhibition, shall thereby forfeit its
4 license issued in accordance with the provisions of this act, which
5 shall thereupon be, by the commission, cancelled and declared
6 void; and it shall not be entitled to receive another such
7 license or any license pursuant to the provisions of this
8 act, nor shall any license thereafter be granted to any club, cor-
9 poration or association, including among its members, directors,
10 partners, or stockholders any member, director, partner or stock-
11 holder of the club, corporation or association whose license has
12 been so forfeited. Any contestant who shall participate in any
13 sham or fake boxing, sparring or wrestling match or exhibition,
14 and any other person whatsoever who shall in any manner be
15 connected with the arranging, planning, holding, conducting or
16 giving of any such sham or fake boxing, sparring or wrestling
17 match or exhibition, shall be guilty of a misdemeanor, and shall
18 upon conviction thereof, be fined not less than five hundred
19 dollars, nor more than one thousand dollars, and be confined
20 in jail for a period of not less than six months, nor more than
21 one year; and any contestant so participating shall be further
22 totally disqualified from further admission or participation in
23 any boxing, sparring, or wrestling contest held or given by any
24 club, corporation or association duly licensed for said purposes.

Sec. 8. Every club, corporation or association which may
2 hold or exercise any of the privileges conferred by this act,
3 shall, within twenty-four hours after the determination of any
4 contest, furnish to the commission a written report, duly veri-
5 fied by one of its officers, showing the number of tickets sold for
6 such contest and the amount of the gross proceeds thereof, and
7 such other matters as the commission may prescribe, and shall
8 also, within such time pay to the secretary of the commission
9 a tax of five per cent of the total gross receipts from the sale
10 of tickets of admission to such boxing, sparring or wrestling
11 match or exhibition. Before any license shall be granted to any
12 club, corporation or association to conduct, hold or give any

13 boxing, sparring or wrestling match or exhibition, such applicant
14 therefor shall execute and file with the commission a bond in
15 the sum of five thousand dollars, to be approved as to form and
16 the sufficiency of the security thereon by the said commission,
17 conditioned for the payment of the tax hereby imposed.

Sec. 9. Whenever any such club, corporation or association
2 shall fail to make a report of any contest at the time prescribed
3 by this act, or whenever such report is unsatisfactory to the
4 commission, the commission or any member thereof may examine
5 or cause to be examined the books and records of such club,
6 corporation or association, and subpoena and examine under
7 oath its officers and other persons as witnesses for the purpose
8 of determining the total amount of its gross receipts for any
9 contest and the amount of tax due in pursuance of the provisions
10 of this act, and upon such examination and as a result thereof
11 the commission may fix and determine the tax. In case of the
12 default in the payment of any tax so ascertained to be due, to-
13 gether with the expenses incurred in making such examination,
14 for a period of twenty days after notice of such delinquent club,
15 corporation or association of the amount at which the same may
16 be fixed by the said commission, such delinquent club shall
17 ipso facto forfeit its license; and it shall be thereby disqualified
18 from receiving any new license or any renewal of license; and
19 it shall, in addition, forfeit and pay the sum of five hundred
20 dollars, which may be recovered by the said commission by suit
21 in any circuit court of the state.

Sec. 10. Each member of the commission shall have the
2 privilege of being present at all exhibitions and matches with-
3 out charge therefor, and shall, when present, see that the rules
4 are strictly observed, and may be present at the counting of the
5 gross receipts; and in the event that no member of the commis-
6 sion can be present, the commission may appoint an inspector
7 to be present representing said commission, which inspector shall
8 have the same privilege hereby conferred upon a member of the
9 commission; and said inspector shall immediately mail to the
10 commission the official box office statement received by him from
11 the officers of the club.

Sec. 11. The chief official of the boxing match or exhibition
2 shall be the referee. The referee shall be appointed by the com-
3 mission, and shall receive from the commission a card authoriz-
4 ing him to act as such referee, and no club shall employ or per-
5 mit any one to act as referee except one holding such card of

6 authorization from the commission. The referee shall have
7 general supervision and control over the match or exhibition.

Sec. 12. In any boxing, sparring or wrestling match or ex-
2 hibition, each contestant must be examined prior to entering the
3 ring by a physician who has been in active practice in the state
4 of West Virginia for not less than five years. The physician shall
5 certify in writing over his signature, as to contestant's physical
6 condition to engage in such contest. And said physician shall be
7 in attendance during the contest prepared to deal with any emer-
8 gency which may arise. Said physician shall file such report of
9 examination with the commission within the period of twenty-
10 four hours after the contest. But in the event that said physi-
11 cian is convinced of the unfitness of either of the contestants to
12 enter the contest, he shall at once certify such opinion to the
13 club, corporation or association under whose management the
14 contest is conducted, and it shall thereupon be unlawful for
15 said club, corporation or association to proceed with such con-
16 test.

Sec. 13. No boxer shall be permitted to contest against an
2 opponent ten pounds heavier than himself when the weight of
3 either contestant is less than one hundred and fifty pounds.

Sec. 14. No contestant, referee or second shall be permitted
2 to take part in any boxing contest, unless holding a license from
3 the state, said license to be issued by the commission for one
4 year or proportion thereof, dating from July first to June thir-
5 tieth, upon the payment of ten dollars, said license to be re-
6 voked upon conviction of violation of this act.

Sec. 15. Any person who shall engage in boxing, sparring or
2 wrestling contest with another person for money or other such
3 things of value, or for any championship, when an admission fee
4 is charged, either directly or indirectly in this state, except when
5 such contest is held in compliance with this statute, shall be
6 deemed guilty of a misdemeanor and upon conviction thereof
7 shall be fined not less than fifty dollars, and not more than five
8 hundred dollars.

Sec. 16. If any person shall violate any provision of this
2 act, for which violation a penalty is not here expressly pro-
3 vided, he shall be guilty of a misdemeanor, and upon conviction
4 thereof, shall be fined not less than fifty dollars, nor more than
5 five hundred dollars.

Sec. 17. Nothing in this act contained shall be construed to

2 render unlawful a boxing, sparring or wrestling contest for any
 3 charitable purpose, the American Legion, National Guard, Vet-
 4 erans of Foreign Wars, United Spanish War Veterans, Disabled
 5 Americans Veterans of the World War, or other charitable or-
 6 ganization, but a special permit shall be obtained from the com-
 7 mission. No charge shall be made for such special permit other
 8 than the five per cent of the gross receipts provided for in sec-
 9 tion eight, but failure to obtain same shall be construed a mis-
 10 demeanor.

Sec. 18. That section twenty-six of article two of chapter
 2 sixty-one of the code of West Virginia, and all other acts and
 3 parts of acts inconsistent with this act, be and the same are
 4 hereby repealed.

CHAPTER 4

(House Bill No. 226—By Mr. Cummins)

AN ACT to create a board of aeronautics; to provide for the selec-
 tion of its members; to prescribe their terms of office; to pre-
 scribe their powers and duties; to provide for the supervision
 and control of commercial and public airports and landing
 fields and schools of aviation; to provide for appeals from the
 order of such board; to provide penalties; to provide for the
 enforcement of all rules and regulations adopted by the board
 governing the operation of airports, air craft and aviation
 within the state; to provide for the licensing of aircraft, pilots,
 mechanics and schools of aviation; to provide for funds to
 carry out the provisions of this bill.

[Passed March 11, 1931; in effect ninety days from passage. Approved by the
 Governor.]

<p>SEC.</p> <ol style="list-style-type: none"> 1. State board of aeronautics; number, appointment; bipartisan. 2. Power and duties of board: approval of airport and landing fields: fee for certificate. 3. Reason to be given for rejection of application to operate airport, etc.; when airport, etc., may be closed. 4. Clerical assistance and inspection; 	<p>SEC.</p> <ol style="list-style-type: none"> qualification and duties of inspectors. 5. All airplanes owned by residents of state, all pilots, instructors, etc., to be licensed; license fee. 6. Payment of fees into state treasury; separate account for: use of fund. 7. Penalty for violation of rules and regulation of commission; inconsistent acts repealed.
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Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a board of aeronautics,
 2 to be known as the West Virginia board of aeronautics, to con-
 3 sist of three members to be appointed by the governor for a

4 term of two years, to serve without pay, no more than two of
5 whom shall be members of the same political party.

Sec. 2. Such board shall have general supervision and con-
2 trol over all airports and landing fields used for commercial
3 purposes, and all state, county and municipal airports, all
4 schools of aviation, and all other phases of aerial activities.
5 Such board is hereby given the power and authority to make
6 such rules and regulations as it may deem necessary and advisa-
7 ble for the public safety, governing the designing, laying out,
8 locating, building, equipping and operating of all landing fields
9 and airports within the state. Such board is given the power
10 and authority to make different ratings of airports and pre-
11 scribe the proper uses for which the different classes of
12 ratings are given. The board is given such power and authority
13 to make rules and regulations governing the personnel and
14 operation of all schools of aviation, for the purpose of protect-
15 ing the health and safety of students therein and insuring, so
16 far as may be, the public safety through the proper training
17 and instruction of student aviators and mechanics. Such board
18 shall adopt and enforce the provisions of the federal air com-
19 merce act, now in force or as hereafter amended, so as to make
20 applicable as far as possible the provisions of that act to the
21 state of West Virginia. All airports and landing fields and
22 schools of aviation shall, within sixty days after such board is
23 created, make application to the board for its approval of such
24 airport, landing field or school, and the board shall immediately
25 consider and pass upon such application. No airport, landing
26 field or school shall be used for commercial purposes without
27 the approval of this board. The board is hereby authorized to
28 issue a certificate of its approval in each case, for which it may
29 charge a fee of not to exceed twenty-five dollars.

Sec. 3. In any case where the board rejects an applicant for
2 permission to operate an airport, landing field or school of avia-
3 tion, or in any case where the board shall issue an order re-
4 quiring certain things to be done, it shall set forth its reasons
5 therefor and shall state the requirements to be met before such
6 approval will be given or such order modified or changed. In
7 any case where the board may deem it necessary, it may order
8 the closing of an airport or landing field or school of aviation
9 and all operations to cease until it shall have complied with the
10 requirements laid down by the board.

Sec. 4. The board is hereby authorized to employ the necessary clerical assistants and inspectors. No person shall be considered for appointment as inspector who does not have the following qualifications: He shall hold a federal transport pilot's license; shall have had at least one thousand hours of flying experience; and shall have been a resident of the state of West Virginia for the past year. The duty of the inspectors shall be to see that the state and federal laws governing aviation and the rules and regulations of the board are carried out. The members of the board and the inspectors shall have police power and may make arrests for any violation of this law or the rules and regulations of the board.

Sec. 5. All owners of airplanes within the state shall, within thirty days after such board is created, make application to the board for a license to operate, and the registration of such airplanes. All pilots, student pilots, mechanics and instructors shall also make application for a license to the board, and the board is hereby given authority to charge a reasonable fee for those licenses issued, and which shall not exceed ten dollars.

Sec. 6. All fees or other moneys collected by said board under the provisions of this article shall be paid into the state treasury in the manner provided in article two, chapter twelve of the code, and shall be carried in a separate account and be used and expended only for the purpose of carrying out the provisions of this article. The fees or other moneys so paid into the state treasury shall constitute and be treated as an excepted fund, and all of the provisions of section two of said article two, chapter twelve of the code, applicable to the funds therein excepted from the general provisions for the deposit and payment of state funds, shall be applicable to the fund derived from collections made pursuant to the provisions of this article.

Sec. 7. Any person, firm, association or corporation who shall have failed to comply with any rules or regulations adopted by said board, or shall violate any such rules or regulations, or shall fail to comply with or shall violate any order of said board, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment of not more than thirty days or both. Each violation of any rule, regulation or order shall be considered as a separate offense.

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

CHAPTER 5

(House Bill No. 104—By Mr. Barnhart)

AN ACT to provide for the creation of a commission on uniform state laws, the appointment of commissioners thereto, the payment of the expenses of such commissioners and prescribing the duties thereof.

[Passed February 24, 1931; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

1. Commission on uniform state laws, appointment and qualification; how vacancies filled.
2. Term of office; reimbursement for expenses.

SEC.

3. Meetings and officers of commission.
4. Duties of commission to secure uniformity in state laws; report by commission to legislature.
5. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That a new article, creating a commission on uniform state laws, be and the same is hereby added to chapter twenty-nine of the official code of West Virginia of one thousand nine hundred thirty-one, to be known as article nine, entitled "commission on uniform state laws," and consisting of sections one to five, inclusive, and to read as follows:

Section 1. Within thirty days after the effective date of this article, the governor, upon the recommendation of the executive council of the West Virginia Bar Association, of a list of seven eligible persons, shall appoint therefrom three commissioners, no more than two of whom shall be members of the same political party, and each of whom shall be members of the bar of this state, in good standing, or of the judiciary of this state, who shall constitute and be known as the commission on uniform state laws, and upon the death, resignation or refusal to serve of any of the commissioners so appointed, the governor, upon like recommendation, shall make an appointment to fill the vacancy so caused, such new appointment to be for the unexpired balance of the term of the original appointee.

Sec. 2. Each of said commissioners shall hold office for a term of four years, and until their successors are duly appointed, but nothing herein contained shall be construed to render a commissioner who has faithfully performed his duties ineligible for reappointment. No member of said commission shall receive any compensation for his services as commissioner, but each commissioner shall be entitled to receive his actual

8 disbursements for expenses in performing the duties of his office,
8a and an account of which expenses, shall be approved by the
9 chairman and paid by the state auditor as other claims author-
10 ized by law.

Sec. 3. The commissioners shall meet at the state capitol at
2 least once in two years and shall organize by the election of one
3 of their number as chairman and another as secretary, who shall
4 hold their respective offices for a term of two years and until
5 their successors are elected and qualified.

Sec. 4. It shall be the duty of each of said commissioners to
2 attend the meeting of the national conference of commissioners
3 on uniform state laws, or to arrange for the attendance of at
4 least one of their number at such national conference, and
5 in such national conference they shall do all in their
6 power to promote uniformity in state laws, upon all subjects
7 where uniformity may be deemed desirable and practicable;
8 said commission shall report to the legislature at each regular
9 session, and from time to time thereafter as said commission may
10 deem proper, an account of its transactions, and its advice and
11 recommendations for legislation. This report shall be printed for
12 presentation to each legislature.

Sec. 5. All acts and parts of acts inconsistent herewith are
2 hereby repealed.

CHAPTER 6

(House Bill No. 155—By Mr. Matthews)

AN ACT to amend and re-enact section one, article fifteen, chapter
eighteen, of the official code of West Virginia, of one thousand
nine hundred thirty-one, relating to New River State School.

[Passed March 4, 1931; in effect May 1, 1931. Approved by the Governor.]

SEC.	1. New River State College, change of name; supervision and manage-	SEC.	ment by state board of education and state board of control.
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Be it enacted by the Legislature of West Virginia:

That section one, article fifteen, chapter eighteen, of the official
code of West Virginia be amended and re-enacted so as to read as
follows:

Section 1. The New River State School heretofore estab-

2 lished and located at Montgomery, in Fayette county, shall be
 3 continued and shall be known as the "New River State College."
 4 The educational affairs of the school shall be under the control,
 5 supervision and management of the state board of education, as
 6 provided in section thirteen, article two, of this chapter, and
 7 its financial and business affairs shall be under the charge and
 8 control of the state board of control, as provided in section four,
 9 article one, chapter twenty-five of the code. The rules and
 10 regulations made by the president and faculty of this institu-
 11 tion for its general government shall be submitted to the state
 12 board of education for its approval. The college shall offer in-
 13 struction in home economics, industrial subjects, and such other
 14 subjects as the state board of education may direct.
 15 All acts and parts of acts inconsistent herewith are hereby re-
 16 pealed.

CHAPTER 7

(House Bill No. 215—By Mr. Lubliner)

AN ACT to amend and re-enact section one, article fourteen, chapter
 eighteen, of the official code of West Virginia, one thousand nine
 hundred thirty-one, relating to "Bluefield Colored Institute."

[Passed March 4, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.

1. Bluefield State Teachers' College,
 change of name; supervision and

SEC.

management by state board of
 education and state board of con-
 trol.

Be it enacted by the Legislature of West Virginia:

That section one, article fourteen, chapter eighteen of the official
 code of West Virginia be amended and re-enacted so as to read as
 follows:

Section 1. The Bluefield colored institute heretofore estab-
 2 lished and located at Bluefield, in Mercer county, shall be con-
 3 tinued and shall be known as the "Bluefield State Teachers'
 4 College." The educational affairs of the Bluefield state teachers'
 5 college shall be under the control, supervision and management
 6 of the state board of education, as provided in section thirteen,
 7 article two of this chapter, and its financial and business affairs
 8 shall be under the charge and control of the state board of con-
 9 trol, as provided in section four, article one, chapter twenty-five
 10 of this code. The rules and regulations made by the principal

11 and faculty of said college, for its general government, for the
 12 admission of students thereto, the standards of scholarship to be
 13 maintained therein, and the graduation of students therefrom,
 14 shall be submitted to the state board of education for its ap-
 15 proval.

CHAPTER 8

(House Bill No. 220—By Mr. Watkins)

AN ACT to amend and re-enact chapter one hundred twenty, acts
 of the legislature of one thousand nine hundred nineteen,
 regular session, relating to the purchase, by the state board of
 control, of additional farm lands for use of the West Virginia
 industrial school for boys.

[Passed March 12, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.	1.	Purchase of additional real estate for industrial school for boys;		SEC.	location; payment.
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Be it enacted by the Legislature of West Virginia:

Section 1. That the state board of control is hereby authori-
 2 zed to purchase for the use and benefit of the West Virginia
 3 industrial school for boys such real estate as may be necessary
 4 for the use of said institution: *Provided, however,* That no such
 5 real estate shall be purchased unless the same be conveniently
 6 and advantageously located to said institution: *And provided*
 7 *further,* That no such land shall be purchased except such as
 8 can be paid for in full from the earnings of said institution.
 9 Such said earnings shall have been collected at the time of
 10 purchase.

CHAPTER 9

(Senate Bill No. 119—By Mr. Wiseman)

AN ACT creating the Carnifex Ferry battle ground park com-
 mission, defining its purposes and duties; authorizing the
 commission to examine, survey and locate Carnifex Ferry
 battle ground park, determine the acreage thereof; to pro-
 cure an option or options thereon; and to contract for the

payment of the purchase price out of any moneys which may hereafter be appropriated for that purpose, and to erect suitable battleground markers.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

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| <p>SEC.
1. Carnifex Ferry battle ground park commission created; appointment, number and terms of members.</p> | <p>SEC.
2. Powers and duties of commission as to battle ground.
3. Majority of commission to act; filling of vacancies.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a commission to be
 2 known as the Carnifex Ferry battle ground park commission,
 3 consisting of three members to be appointed by the governor;
 4 their term of office shall be for four years and they shall
 5 serve without compensation.

Sec. 2. The commission is authorized to examine, survey
 2 and locate lines for a state park for the use and benefit of the
 3 public not exceeding one hundred acres, situate in Grant dis-
 4 trict in the county of Nicholas near Gauley river opposite
 5 the mouth of Meadow river, but so as to include the location
 6 of the batteries, rifle pits and terrain upon which the battle
 7 of Carnifex Ferry was fought between federal troops under
 8 General Rosencrans and confederate troops under General
 9 Floyd in the year one thousand eight hundred and sixty-one,
 10 which battle had large influence in determining separate state-
 11 hood for West Virginia. It is further authorized to procure
 12 an option or options, thereon; to contract for the payment of
 13 the purchase price, survey and battleground markers out of
 14 any moneys which may be appropriated for that purpose, but
 15 not to exceed an aggregate of five thousand dollars; to erect
 16 suitable markers showing the location of the batteries and
 17 troops; and to preserve the said battle ground for the benefit
 18 of the public and West Virginia history.

Sec. 3. A majority of the commission shall have the right
 2 to act in the premises, and vacancies thereon by reason of
 3 disability, death, resignation or otherwise shall be filled by the
 4 governor.

CHAPTER 10

(House Bill No. 186—By Mr. Norton)

AN ACT to amend and re-enact article thirteen, chapter thirty of the official code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.		SEC.	
1.	Requirements to practice professional engineering.	10.	Expiration date of certificates; renewals.
2.	Defaultions.	11.	Application of act to firms or corporations.
3.	Board of engineers created; terms of office.	12.	When certificate issued without examination; fee.
4.	Qualifications of members.	13.	What plans of state or political subdivisions to be approved by registered engineer.
5.	Power of governor to remove.	14.	Exemptions from registration.
6.	Qualifications to practice professional engineering.	15.	Reciprocal registration.
7.	Form of application; fee.	16.	Penalties for violation of act.
8.	Examinations for applicants; re-examinations.	17.	Sections of acts severable.
9.	Certificate of registration; seal for registrant; unlawful use of.	18.	Repeal of conflicting acts.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter thirty of the official code of West Virginia, one thousand nine hundred thirty-one, be amended and re-enacted so as to read as follows:

Section 1. That in order to safeguard life, health, and property, any person practicing or offering to practice the profession of engineering, shall hereafter be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice the profession of engineering, in this state, or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer, unless such person has been duly registered or exempted under the provisions of this article.

Sec. 2. The term, "professional engineer," as used in this article, shall mean a person who represents himself to be such a professional engineer, either through the use of the term, "engineer," with or without qualifying adjectives, or through the use of some other title implying that he is such a professional engineer.

The term, "board," as used in this article, shall mean the state registration board for professional engineers, provided for by this article.

Sec. 3. The board shall consist of five professional engineers, 2 who shall be appointed by the governor and shall have the 3 qualifications required by section four.

4 The members of the board as constituted under the present 5 law shall continue in office until the expiration of the term for 6 which each was appointed, and as the terms of present members 7 shall expire appointments shall be made for terms of five years, 8 and so made as to have the term of one member expire each year. 9 Each member shall hold office until the expiration of the term 10 for which such member is appointed or until a successor shall 11 have been duly appointed and shall have qualified.

Sec. 4. Each member of the board shall be a citizen of the 2 United States and a resident of this state, and shall have been 3 engaged in the practice of the profession of engineering for at 4 least ten years, and shall have been in responsible charge of 5 engineering work for at least five years.

Sec. 5. The governor may remove any member of the board 2 for misconduct, incompetency, neglect of duty, or for any other 3 sufficient cause.

Sec. 6. The following facts, established in the application, 2 shall be regarded as minimum evidence satisfactory to the board, 3 that the applicant is qualified to practice as a professional en- 4 gineer, to-wit:

5 (a) A specific record of seven or more years of active prac- 6 tice in engineering work of a character satisfactory to the 7 board and indicating that the applicant is competent to be 8 placed in responsible charge of such work; or,

9 (b) Graduation from a school or college approved by the 10 board as of satisfactory standing, having a course in engineering 11 of not less than four years; and a specific record of an addi- 12 tional three years of active practice in engineering work, of a 13 character satisfactory to the board, and indicating that the ap- 14 plicant is competent to be placed in responsible charge of such 15 work.

16 *Provided*, That no person shall be eligible for registration as 17 a professional engineer who is not of good character and repute.

18 In considering the qualifications of applicants, responsible 19 charge of engineering teaching may be construed as responsible 20 charge of work. Graduation in engineering from a school of 21 recognized standing shall be considered as equivalent to four 22 years of active practice and the satisfactory completion of each

23 year of work in such school without graduation shall be con-
24 sidered as equivalent to a half year of active practice. Grad-
25 uation in a course other than engineering from a college or uni-
26 versity of recognized standing shall be considered as equivalent
27 to two years of active practice: *Provided, however,* That no
28 applicant shall receive credit for more than four years of active
29 practice because of educational qualifications.

30 In cases where the evidence presented in the application
31 does not appear to the board to be conclusive or to warrant
32 the issuing of a certificate of registration, the applicant may
33 be required to present further evidence for the consideration
34 of the board, and may also be required to pass an oral or writ-
35 ten examination, or both, as the board may determine.

Sec. 7. Applications for registration shall be on forms pre-
2 scribed and furnished by the board, shall contain statements
3 made under oath showing the applicant's education and de-
4 tail summary of his technical work, and shall contain not less
5 than five references, of whom three or more shall have per-
6 sonal knowledge of his engineering experience.

7 The registration fee for professional engineers shall be twenty
8 dollars, ten dollars of which shall accompany application, the
9 remaining ten dollars to be paid upon issuance of certificate.
10 Should the board deny the issuance of a certificate of regis-
11 tration to any applicant the initial fee deposited shall be re-
12 tained as an examination fee.

Sec. 8. When oral or written examinations are required,
2 same shall be held at such time and place as the board shall
3 determine. The scope of the examinations and the methods
4 of procedure shall be prescribed by the board with special
5 reference to the applicant's ability to design and/or supervise
6 engineering works, which shall insure the safety of life, health
7 and property. Examinations shall be given for the purpose
8 of determining the qualifications of applicants for registra-
9 tion in professional engineering. A candidate failing on ex-
10 amination may, at the discretion of the board, be examined
11 again.

Sec. 9. The board shall issue a certificate of registration
2 upon payment of registration fee as provided for in this ar-
3 ticle, to any applicant who, in the opinion of the board, has
4 satisfactorily met all the requirements of this article. In case

5 of a registered engineer, the certificate shall authorize the
6 practice of "professional engineering."

7 The issuance of a certificate of registration by this board
8 shall be evidence that the person named therein is entitled to
9 all the rights and privileges of a registered professional en-
10 gineer, while the said certificate remains unrevoked or un-
11 expired.

12 Each registrant hereunder shall upon registration obtain
13 a seal of the design authorized by the board, bearing the regis-
14 trant's name and the legend, "registered professional engin-
15 eer." Plans, specifications, plats, and reports issued by a
16 registrant shall be stamped with the said seal during the life
17 of registrant's certificate, but it shall be unlawful for anyone
18 to stamp or seal any document with said seal after the certifi-
19 cate of the registrant named thereon has expired or has been
20 revoked, unless said certificate shall have been renewed or re-
21 issued.

Sec. 10. Certificates of registration shall expire on the last
2 day of the month of June following their issuance or removal
3 and shall become invalid on that date unless renewed. It shall
4 be the duty of the secretary of the board to notify every person
5 registered under this article, of the date of the expiration of
6 his certificate and the amount of the fee that shall be required
7 for renewal for one year; such notice shall be mailed at least
8 one month in advance of the date of the expiration of said
9 certificate. Renewal may be effected at any time during the
10 month of June by the payment of a fee of five dollars. The
11 failure on the part of any registrant to renew his certificate
12 annually in the month of June as required above shall not de-
13 prive such person of the right of renewal, but the fee to be paid
14 for the renewal of a certificate after the month of June shall
15 be increased ten per cent for each month or fraction of a
16 month that payment of renewal is delayed: *Provided, how-*
17 *ever,* That the maximum fee for delayed renewal shall not ex-
18 ceed twice the normal renewal fee.

Sec. 11. A firm, or a copartnership, or a corporation, or a
2 joint stock association may engage in the practice of profes-
3 sional engineering in this state only provided such practice is
4 carried on under the responsible direction of one or more
5 registered professional engineers.

Sec. 12. At any time within one year after this article be-

2 comes effective, upon due application therefor and the pay-
3 ment of a fee of twenty dollars, the board shall issue a certifi-
4 cate of registration, without oral or written examination, to
5 any professional engineer who shall submit evidence under oath
6 satisfactory to the board that he is of good character, has
7 been a resident of the state of West Virginia for at least one
8 year immediately preceding the date of his application, and
9 was practicing professional engineering at the time this ar-
10 ticle became effective, such work being of a character satisfac-
11 tory to the board.

12 After this article shall have been in effect one year, the board
13 shall issue certificates of registration only as provided for in
14 section six hereof.

Sec. 13. After the first day of January, one thousand nine
2 hundred thirty-two, it shall be unlawful for this state, or for
3 any of its political subdivisions, for any county, city, town,
4 or district to engage in the construction of any public work
5 involving professional engineering, unless the plans and spe-
6 cifications and estimates have been approved by, and the con-
7 struction supervised by, a registered professional engineer:
8 *Provided*, That nothing in this section shall be held to apply
9 to any public work wherein the contemplated expenditure for
10 the completed project does not exceed five thousand dollars.

Sec. 14. The following persons shall be exempted from regis-
2 tration under the provisions of this article, to-wit:

3 (a) A person not a resident of and having no established
4 place of business in this state, practicing or offering to prac-
5 tice herein the profession of engineering, when such practice
6 does not exceed in the aggregate more than sixty days in any
7 calendar year: *Provided*, That such person is legally qualified by
8 registration to practice the said profession in his own state or
9 country in which the requirements and qualifications for ob-
10 taining a certificate of registration are not lower than those
11 specified in this article;

12 (b) A person not a resident of and having no established
13 place of business in this state, or who has recently become a
14 resident thereof, practicing or offering to practice herein for
15 more than sixty days in any calendar year the profession of
16 engineering if he shall have filed with the board an application
17 for a certificate of registration and shall have paid the fee re-
18 quired by this article. Such exemption shall continue only for

19 such time as the board requires for the consideration of the
20 applicant for registration: *Provided*, That such a person is
21 legally qualified to practice said profession in his own state
22 or country;

23 (c) An employee of a person holding a certificate of regis-
24 tration in this state who is engaged in the practice of or pro-
25 fession of engineering and an employee of a person exempted
26 from registration by classes (a) and (b) of this section: *Pro-*
27 *vided*, That such practice does not include responsible charge of
28 design or supervision;

29 (d) Officers and employees of the government of the United
30 States while engaged within this state in the practice of the
31 profession of engineering, for said government;

32 (e) A person who practices the profession of engineering
33 exclusively as a regular employee of a public service company
34 by rendering to such company engineering service in connec-
35 tion with its facilities which are subject to regulation, super-
36 vision, and control, in order to safeguard life, health and prop-
37 erty by the public service commission of the state of West Vir-
38 ginia, so long as such person is thus actually and exclusively
39 employed and no longer.

Sec. 15. (a) The board shall, upon application therefor,
2 and the payment of a fee of five dollars, issue a certificate of
3 registration as professional engineer to any person who holds
4 an unexpired certificate of registration issued to him by the
5 proper authority in any state or territory or possession of the
6 United States or in any country in which the requirements
7 for the registration of professional engineers are of a standard
8 not lower than that specified in this article: *Provided, however*,
9 That the engineering registration boards of said states, terri-
10 tories, possessions, or countries shall grant full and equal
11 reciprocal registration rights and privileges to registrants of
12 this board. Agreements for reciprocity with other states, ter-
13 ritories, possessions, or countries may be entered into by the
14 board at its discretion.

15 (b) The board shall, upon application therefor and pay-
16 ment of a fee of five dollars, issue a certificate of registration
17 as professional engineer to any person who holds an unrevoked
18 card or certificate of national reciprocal registration, issued
19 by any state, province, or country in conformity with the regu-
20 lations of the national council of state boards of engineering

21 examiners, and who complies with the regulations of this board,
22 except as to qualifications and registration fee.

Sec. 16. Any person who shall practice, or offer to practice,
2 the profession of engineering in this state without being regis-
3 tered or exempted in accordance with the provisions of this
4 article, or any person presenting or attempting to use as his
5 own the certificate of registration of another, or any person
6 who shall give any false or forged evidence of any kind to the
7 board or to any member thereof in obtaining a certificate of
8 registration, or any person who shall falsely impersonate any
9 other registrant of like or different name, or any person who
10 shall attempt to use an expired or revoked certificate of regis-
11 tration, or shall violate any of the provisions of this article,
12 shall be guilty of a misdemeanor, and shall, upon conviction,
13 be sentenced to pay a fine of not less than one hundred dol-
14 lars, nor more than five hundred dollars, or suffer imprisonment
15 for a period not exceeding three months, or both.

16 It shall be the duty of all duly constituted officers of the law
17 of this state, or any political subdivision thereof, to enforce
18 the provisions of this article and to prosecute any persons
19 violating same. The attorney general of the state or his assist-
20 ant shall act as legal adviser of the board and render such legal
21 assistance as may be necessary in carrying out the provisions of
22 this article.

Sec. 17. If any section or sections of this article shall be
2 declared unconstitutional or invalid, this shall not invalidate
3 any other section of this article.

Sec. 18. All laws or parts of laws in conflict with the pro-
2 visions of this article shall be, and the same are hereby re-
3 pealed.

CHAPTER 11

(House Bill No. 332—By Mr. Poling)

AN ACT to repeal sections thirty-three, thirty-four, thirty-five,
thirty-six, thirty-seven, thirty-eight and thirty-nine, article
seven, of chapter eighteen, of the official code of West Vir-
ginia, relating to teachers' county institutes.

[Passed March 13, 1931; in effect ninety days from passage. Became a law without
the approval of the Governor.]

1. Teachers' county institutes abol-
ished.

Be it enacted by the Legislature of West Virginia:

Section 1. That sections thirty-three, thirty-four, thirty-five,

2 thirty-six, thirty-seven, thirty-eight and thirty-nine, article
3 seven, of chapter eighteen, of the code of West Virginia, relat-
4 ing to teachers' county institutes, be and the same are hereby
5 repealed.

CHAPTER 12

(House Bill No. 128—By Mr. Smith, of Marion)

AN ACT to amend and re-enact section one of article twelve of chap-
ter eighteen of the official code of West Virginia, pertaining to
state teachers' colleges, their continuation and management.

[Passed March 4, 1931; in effect ninety days from passage. Approved by the
Governor.]

SEC.

1. State teachers' colleges, change of	SEC.	names; continuation and man- agement.
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Be it enacted by the Legislature of West Virginia:

That section one, article twelve, chapter eighteen of the official
code of West Virginia, be amended and re-enacted so as to read as
follows:

Section 1. The state teachers' colleges heretofore established
2 and known as state normal schools shall be continued and shall
3 be known as state teachers' colleges, respectively, as follows:
4 "Fairmont State Teachers' College," "West Liberty State
5 Teachers' College," "Glenville State Teachers' College,"
6 "Shepherd State Teachers' College" and "Concord State
7 Teachers' College." The educational affairs of the afore-
8 said institutions shall be under the control, supervision
9 and management of the state board of education, as provided
10 in section thirteen, article two of this chapter, and their financial
11 and business affairs shall be under the charge and control of the
12 state board of control, as provided in section four, article one,
13 chapter twenty-five of this code. The function of the state teach-
14 ers' colleges shall be the preparation of teachers through such
15 courses of study as the faculties thereof may prescribe with the
16 approval of the state board of education. The rules and regu-
17 lations made by the president or other head and the teachers of

18 each of the state teachers' colleges for the general government of
 19 such college, for the admission of students thereto, the standards
 20 of scholarship to be maintained therein, and the graduation of
 21 students therefrom, shall be submitted to the state board of edu-
 22 cation for its approval. The president and the teachers of each
 23 of the state teachers' colleges shall be persons of broad and liberal
 24 education, as evidenced by the possession of a bachelor's degree
 25 from a standard college or university, or the equivalent thereof,
 26 as a minimum requirement.

CHAPTER 13

(Senate Bill No. 42—By Mr. Davis, of Lewis)

AN ACT to amend and re-enact section four of article seven of chapter eighteen of the code of West Virginia of one thousand nine hundred and thirty-one, relating to time lost through closing schools on account of diseases; holidays; school month; special exercises; and making Armistice Day a school holiday.

[Passed February 23, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>Sec. 4. When teacher not required to make up time lost when school closed on account of disease; school holidays to include Armistice</p>		<p>SEC. Day; length of school month; when schools shall assemble for instruction and ceremonies.</p>
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Be it enacted by the Legislature of West Virginia:

That section four of article seven of chapter eighteen of the code of West Virginia of one thousand nine hundred and thirty-one be, and the same is hereby amended and re-enacted so as to read as follows:

Section 4. If any school is closed by the proper authorities on account of the prevalence of any contagious or infectious disease, the time during which such school is closed shall be counted as if taught in determining whether a school has been maintained for the minimum term, and the teacher of such school shall not be compelled to make up such lost time: *Provided*, That he held himself in readiness to teach subject to the order of the board.

9 In making contracts with teachers and other employees of
10 the board, it shall be understood that schools are not to be kept
11 open for instruction on any Saturday or on the following days
12 which are hereby named and designated as school holidays,
13 namely: The fourth of July, commonly called "Independence
14 Day"; the eleventh of November, commonly called "Armistice
15 Day"; the last Thursday of November, commonly called
16 "Thanksgiving Day"; the twenty-fifth day of December, com-
17 monly called "Christmas Day"; any day on which a general
18 election is held throughout the state; and any day appointed
19 and set apart by the president or the governor as a day of
20 special observance by the people of the state.

21 The school month shall consist of twenty days on which school
22 is kept in session for the full number of hours prescribed by
23 law, but in any case where Independence Day, Armistice Day,
24 Thanksgiving Day, Christmas Day, or any day on which a
25 general election is held shall fall on a school day and the school
26 is taught on the day preceding or following, such day shall be
27 counted the same as taught in the report of the teacher for pay
28 for the school month in which it occurs. Schools shall be
29 assembled for instruction on Washington's Birthday and shall
30 devote a portion of the day to exercises commemorating the
31 life and services of the "Father of Our Country." Schools
32 shall be assembled on Armistice Day at the usual time, shall
33 devote not less than one hour to appropriate exercises commemor-
34 ating the victory of our country and its allies in the world war
35 and the ending of that war, and shall then be dismissed for the
36 day. Schools may also be assembled for instruction on such
37 days as Arbor Day, Labor Day, Memorial Day, Lincoln's Birth-
38 day, Columbus Day and other special days and devote a portion
39 of the day to appropriate ceremonies, but on such special days
40 the school must be kept open for the entire school day to en-
41 title the teacher to pay for that day.

42 The first day of the year, commonly called New Year's Day,
43 shall be a legal school day; but any board of education or
44 trustees of any school district shall have the right to provide
45 for the observance of the same as a holiday.

CHAPTER 14

(Com. Sub. for Senate Bill No. 10—Originating in the Committee on Banks and Corporations)

AN ACT to amend chapter thirty-one of the official code of West Virginia by adding thereto article ten relating to the incorporation, establishment and operation of loan and savings institutions known as "credit unions."

[Passed March 7, 1931; in effect from passage. Approved by the Governor.]

- | Sec. | Sec. |
|--|--|
| 1. Credit unions, who may form; agreement; by-laws; charter, approval by commissioner of banking, filing; certificate of authority; form of incorporation and by-laws prescribed by commissioner of banking. | 13. Shares held by minor or in trust. |
| 2. Approval of amendment to by-laws. | 14. Delinquency on payment on shares. |
| 3. Penalty of unlawful use of name "credit union." | 15. Amount and terms of receiving savings and deposits. |
| 4. Powers. | 16. Loans or investment of accumulated funds. |
| 5. Membership. | 17. Rediscounts and borrowings. |
| 6. Supervision by and reports to commissioner of banking; examinations; revocation of certificate. | 18. Investment of capital, undivided profits and reserve funds. |
| 7. Annual and special meetings; voting; proxy. | 19. Security for loans to members; application for loan by member of credit committee; illegal to loan to non-members. |
| 8. Election of directors and committees; oaths of office. | 20. Reserve fund, of what constituted; increase or decrease. |
| 9. Election of officers; powers and duties of board of directors. | 21. Dividends, when and how paid. |
| 10. Loans, how made by credit committee. | 22. Rediscounts. |
| 11. Supervisory committee, duties; may suspend credit committee or board of directors. | 23. Shares, dividends and deposits of expelled or withdrawn members. |
| 12. Capital; shares, par value, lien on | 24. Voluntary dissolutions. |
| | 25. Change of place of business. |
| | 26. What credit unions heretofore organized need not obtain new charter; actions validated. |
| | 27. Penalty for violation of article. |
| | 28. Inconsistent acts repealed. |

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the official code of West Virginia be amended by adding thereto article ten relating to the incorporation, establishment and operation of "credit unions" and reading as follows:

Section 1. Any eight persons, residents of the state of West Virginia and having a common bond of occupation or association, may apply to the secretary of state for permission to organize a credit union. A credit union shall be organized in the following manner:

- (a) The applicants shall execute in duplicate an incorporation agreement by the terms of which they agree to be bound. The agreement shall state:
- (1) The name of the proposed credit union;
 - (2) The post-office address of its principal office or place of business;
 - (3) The names and post-office addresses of the incorporators, and the number of shares subscribed by each;

14 (4) The total number of shares of stock which the credit
15 union shall have authority to issue and the par value of each
16 share, which par value shall not exceed ten dollars.

17 (b) The applicants shall then prepare and adopt by-laws
18 for the general government of the credit union consistent with
19 the provisions of this article, and execute the same in duplicate.
20 The by-laws shall specify:

21 (1) The date of the annual meeting, which shall be in Janu-
22 ary of each calendar year, requirements as to notice and man-
23 ner of conducting such meeting;

24 (2) The number of directors, which shall be not less than
25 five, all of whom must be shareholders and members of the
26 credit union, their powers and duties; and the compensation
27 and duties of all officers;

28 (3) The conditions and qualifications for membership;

29 (4) The number of members of the credit committee and of
30 the supervisory committee, with their respective powers and
31 duties;

32 (5) The conditions upon which shares may be issued, trans-
33 ferred and withdrawn;

34 (6) The charges, if any, to be made for failure to meet
35 obligations punctually;

36 (7) The conditions upon which deposits may be received and
37 withdrawn, and whether the credit union shall have the power
38 to borrow;

39 (8) The manner in which the funds of the credit union shall
40 be invested;

41 (9) The conditions upon which loans may be made and re-
42 paid;

43 (10) The method of receipting for money paid in on account
44 of shares, deposits and loans;

45 (11) The manner in which the reserve fund shall be accu-
46 mulated;

47 (12) The manner in which dividends shall be determined
48 and paid out.

49 (c) The agreement and by-laws, both executed in duplicate,
50 shall be forwarded to the secretary of state;

51 (d) The secretary of state, within thirty days after the re-
52 ceipt of such agreement, shall determine whether it conforms to
53 the provisions of this article, and whether or not the organiza-

54 tion of the credit union in question would benefit the organizers
55 of it, and be consistent with the purposes of this article;

56 (e) Thereupon the secretary of state shall notify the appli-
57 cants of his decision. If it is favorable, he shall issue a charter,
58 attach the charter to the duplicate of the agreement and return
59 the same, together with the duplicate of the by-laws to the appli-
60 cants: *Provided, however,* That the secretary of state shall issue
61 no charter to any credit union to do business in this state until
62 such incorporation agreement and by-laws have been approved
63 in writing by the commissioner of banking;

64 (f) The applicants shall thereupon file such charter in the
65 office of the clerk of the county court of the county in which the
66 principal office of the credit union is to be located, and such
67 clerk shall record such charters, the usual fees to be charged
68 for such recordation;

69 (g) When any credit union authorized by this article desires
70 to begin business, it must notify the commissioner of banking,
71 who shall at his earliest convenience make an examination of its
72 affairs. Having satisfied himself that all the conditions prece-
73 dent have in good faith been complied with, said commissioner
74 shall then issue to such credit union, under his hand and official
75 seal, a certificate of authority reciting that such examination
76 has been made and that the credit union is authorized to com-
77 mence business, which certificate shall be displayed in the busi-
78 ness place of such credit union and for which certificate of
79 authority said commissioner shall collect a fee of ten dollars,
80 which shall be paid into the state treasury as provided for other
81 fees. But the commissioner may withhold from any credit union
82 his certificate authorizing the commencement of business when-
83 ever he has reason to suppose that the members have formed the
84 same for any other than the legitimate objects contemplated in
85 this article.

86 In order to simplify the organization of credit unions, the
87 commissioner of banking shall cause to be prepared an approved
88 form of incorporation agreement and form of by-laws consistent
89 with this article, which may be used by credit union incorpor-
90 ators for their guidance and, upon written request of any resi-
91 dent of the state of West Virginia, the commissioner of banking
92 shall supply such resident with two blank incorporation agree-
93 ments and two copies of such form of suggested by-laws free
94 of charge.

Sec. 2. Any and all amendments to the by-laws must be
2 approved in writing by the commissioner of banking before they
3 shall become operative.

Sec. 3. The use by any person, copartnership, association
2 or corporation, except corporations formed under the provisions
3 of this article, of any name or title which contains the words
4 "credit union," shall be a misdemeanor, punishable by a fine
5 of not less than ten nor more than one hundred dollars for each
6 day of the illegal use of such name, and such use may be en-
7 joined by any court having equity jurisdiction over the party
8 or parties.

Sec. 4. A credit union shall have the following powers:

- 2 (a) To receive the savings of its members either as pay-
3 ment on shares, or as deposits (including the right to conduct
4 Christmas clubs, vacation clubs and other such thrift organiza-
5 tions within the membership);
- 6 (b) To make loans to members for provident or productive
7 purposes;
- 8 (c) To make loans to cooperative society or other organiza-
9 tion having membership in the credit union;
- 10 (d) To deposit funds in state and national banks;
- 11 (e) To invest in any investment legal for savings banks;
- 12 (f) To borrow money as hereinafter indicated.

Sec. 5. Credit union membership shall consist of the incor-
2 porators and such other persons as may be elected to member-
3 ship and subscribe to at least one share, pay the initial in-
4 stallment thereon and the entrance fee. Organizations (in-
5 corporated or otherwise) composed for the most part of the
6 same general group as the credit union membership may be
7 members. Credit union organizations shall be limited to groups
8 (of both large and small membership) having a common bond
9 of occupation or association.

Sec. 6. Credit unions shall be under the supervision of the
2 commissioner of banking. They shall report to him at least
3 semi-annually on or before the first day of January and the
4 first day of July of each calendar year, on blanks supplied by
5 the said commissioner for that purpose. Additional reports
6 may be required by said commissioner. Credit unions shall be
7 examined annually by the commissioner of banking, except that,
8 if a credit union has assets of less than twenty-five thousand
9 dollars, he may accept the audit of a certified public accountant

10 in place of such examination. The fee for such examination shall
11 be fifteen dollars for credit unions with assets less than twenty-
12 five thousand dollars and twenty-five dollars for credit unions
13 with more than twenty-five thousand dollars in assets. For fail-
14 ure to file reports when due, unless excused for cause, the credit
15 union shall pay to the treasurer of the state five dollars for
16 each day of its delinquency. If the commissioner of banking
17 determines that a credit union is violating any provision of this
18 article, or is insolvent, said commissioner may serve notice on
19 such credit union of his intention to revoke the certificate of
20 approval. If, for a period of fifteen days after such notice,
21 such violation continues, the commissioner of banking may re-
22 voke such certificate and take possession of the business and
23 property of such credit union and maintain possession until
24 such time as he shall permit it to continue business or its affairs
25 are finally liquidated. He may take similar action if such report
26 remains in arrears for more than fifteen days.

Sec. 7. The fiscal year of every such corporation shall end
2 at the close of business on the thirty-first day of December. The
3 annual meeting of the corporation shall be held in January.
4 Special meetings may be held by order of the directors or of the
5 supervisory committee, and shall be held upon request, in writ-
6 ing, of ten per cent of the members. Notice of all meetings
7 of the corporation shall be given in the manner prescribed in
8 the by-laws. At all meetings of members, a member shall have
9 but one vote, irrespective of the number of shares held. No
10 shareholder may vote by proxy, but a society, association, co-
11 partnership or corporation, having membership in a credit
12 union, may be represented by one person authorized by such
13 society, association, copartnership, or corporation to so repre-
14 sent it. At any meeting the members may decide upon any
15 question of interest to the corporation, and overrule the board
16 of directors; and, by a three-fourths vote of those present and
17 represented, may amend the by-laws, if the notice of the meeting
18 shall have specified the question to be considered.

Sec. 8. At the annual meeting the members shall elect a
2 board of directors of not less than five members, a credit com-
3 mittee and a supervisory committee of not less than three mem-
4 bers each. However, in the discretion of the members, the
5 board of directors as such may also be the credit committee.
6 Except as herein specified, no member of such board shall be a

7 member of either of such committees, nor shall one person be a
8 member of more than one of such committees, and all members
9 of committees and all directors, as well as all officers whom
10 they may elect, shall make oath as hereinafter provided, and
11 shall hold their several offices for such terms as may be de-
12 termined by the by-laws.

13 The oath required of each director, officer and member of a
14 committee shall be the oath of the individual making the same,
15 that he will, as far as the duty devolves upon him, diligently
16 and honestly administer the affairs of such corporation, and
17 will not knowingly violate, or willingly permit to be violated,
18 any of the provisions of law applicable to such corporation, and
19 that he is the owner in good faith and in his own right on the
20 books of the corporation of at least one share therein. Such
21 oath shall be subscribed by the individual making it, and certi-
22 fied by the officer before whom it is taken, and shall immedi-
23 ately be transmitted to the commissioner of banking and filed
24 and preserved in his office.

Sec. 9. At their first meeting, and at the first meeting in
2 each fiscal year, the board of directors shall elect from their
3 number a president, vice-president, a secretary and a treasurer.
4 The office of secretary and treasurer may, if the by-laws so pro-
5 vide, be held by one person; and other officers may be elected
6 in the discretion of the directors. The board of directors shall
7 have the general management of the affairs, funds and records
8 of the corporation, and shall meet as often as may be necessary.
9 Unless the by-laws specifically reserve all or any of these duties
10 to the members, it shall be the special duty of the directors:
11 (a) To act upon all applications for membership and the ex-
12 pulsion of members; (b) to fix the amount of the bond which
13 shall be required of each officer having the custody of funds,
14 which bond shall be signed as surty by some indemnity com-
15 pany duly licensed to transact business in West Virginia, the
16 amount thereof to be approved by the commissioner of banking;
17 (c) to determine from time to time the rate of interest which
18 shall be allowed on deposits and charged on loans; (d) to fix the
19 maximum number of shares which may be held by, and the
20 maximum amount which may be loaned to, any one member;
21 (e) to declare dividends; (f) to recommend amendments to the
22 by-laws; (g) to appoint persons to fill vacancies in the board
23 of directors or in the credit committee until the election and

24 qualification of their successors; (h) to have charge of the in-
25 vestment of the funds of the corporation; (i) to perform such
26 other duties as the members from time to time authorize.

27 No member of the board of directors or of the credit or
28 supervisory committee shall receive any compensation for his
29 services as a member of such board or committees.

Sec. 10. The credit committee shall approve every loan or
2 advance made by the corporation to members. Every applica-
3 tion for a loan shall be made in writing on a form prepared by
4 the board of directors and shall state the purpose for which the
5 loan is desired and the security offered. No loan shall be made
6 if it has not received the approval of the entire number of
7 such committee present when it was considered, which number
8 shall be at least a majority of the members of such committee,
9 nor if any member of such committee shall disapprove thereof,
10 but the applicant for a loan may appeal from the decision of
11 the credit committee to the board of directors. The credit
12 committee shall meet as often as may be required, after due
13 notice has been given to each member.

Sec. 11. The supervisory committee shall inspect the se-
2 curities, cash and accounts of the corporation and supervise the
3 acts of the board of directors, credit committee and officers. At
4 any time the supervisory committee, by a unanimous vote,
5 may suspend the credit committee or any member thereof, or
6 any member or members of the board of directors, or any offi-
7 cer or officers elected by the board, and by a majority vote they
8 may call a meeting of the shareholders to consider any violation
9 of this article or of the by-laws, or any practice of the corpora-
10 tion which, in the opinion of such committee, is unsafe and un-
11 authorized. Within seven days after the suspension of the credit
12 committee, or any member thereof or of any director or officer,
13 the supervisory committee shall cause notice to be given of a
14 special meeting of the members to take action relative to such
15 suspension. The supervisory committee shall fill vacancies in
16 their own number until the next meeting of the members.

17 At the close of each fiscal year, the supervisory committee
18 shall make or cause to be made a thorough audit of the receipts,
19 disbursements, income, assets and liabilities of the corporation
20 for such fiscal year, and shall make a full report thereon to
21 the directors. Such report shall be read at the annual meeting

22 of the members and shall be filed and preserved with the records
23 of the corporation.

Sec. 12. The capital of the credit union shall consist of the
2 payments that have been made to it by the several members
3 thereof on shares. The par value of the shares shall not exceed
4 ten dollars per share and shall be paid for in money only.
5 Shares may be subscribed for and paid in such manner as the
6 by-laws shall prescribe, not inconsistent with the provisions of
7 this article. A credit union shall have a lien on the shares of any
8 member and upon any dividends payable thereon for and to
9 the extent of any loan made to him and of any dues and fines
10 payable by him. A credit union may, upon the resignation or
11 expulsion of a member, cancel the shares of such member and
12 apply the withdrawal value of such shares toward the liqui-
13 dation of such member's indebtedness.

14 A credit union may, if the by-laws so provide, charge an en-
15 trance fee for each share subscribed, to be paid by the share-
16 holder upon his election to membership.

17 Fully paid shares of a credit union may be transferred to any
18 person on election to membership upon such terms as the by-
19 laws may provide, and the payment of a transfer fee which
20 shall not exceed twenty-five cents per share.

Sec. 13. Shares may be issued and deposits received in the
2 name of a minor, and such shares and deposits may be with-
3 drawn by such minor, and in such case payments made on such
4 withdrawals shall be valid. If shares are held or deposits made
5 in trust, the name and residence of the beneficiary shall be dis-
6 closed, and the account shall be kept in the name of such holder
7 as trustee for such person. Such shares and deposits may,
8 upon the death of the trustee, be withdrawn by the person for
9 whom the shares were held or for whom such deposits were
10 made, by his legal representatives.

Sec. 14. For failure by any member of a credit union to
2 meet his payments on shares when due, such charges and other
3 penalties may be imposed upon the delinquent member as the
4 by-laws provide. Such charges shall not exceed one and one-
5 half per cent per month or a fraction thereof on amounts due,
6 except that a minimum charge of five cents per month may be
7 imposed.

Sec. 15. A credit union may receive the savings and de-
2 posits of its members in such amounts and upon such terms

3 as the board of directors may determine and the by-laws shall
4 provide.

Sec. 16. A credit union may lend to its members at reason-
2 able rates, or invest as hereinafter provided, the funds accumu-
3 lated. The rates of interest shall not exceed one and one-half
4 per cent per month, computed on unpaid balances.

Sec. 17. If the by-laws so provide, a credit union shall have
2 the power to rediscount, as hereinafter provided, or to borrow
3 money from any source, in addition to receiving deposits, as
4 indicated in section fifteen, but the aggregate amount of such
5 rediscounts and borrowings shall at no time exceed twenty per
6 cent of the sum total of the capital, surplus and reserve funds
7 of such borrowing credit union.

Sec. 18. The capital deposits, undivided profits and reserve
2 funds of the corporation may be invested in the following ways,
3 and in such ways only: (a) Loaned to members of the corpor-
4 ation in accordance with the provisions of this article; (b) de-
5 posited to the credit of the corporation in a banking institution
6 incorporated under the laws of this state, or in national banks
7 operating in this state; (c) in any investment which is legal for
8 savings banks in the state of West Virginia.

Sec. 19. As provided in section eighteen of this article, a
2 credit union may loan to its members for such purposes and
3 upon such security and terms as the by-laws shall provide and
4 the credit committee shall approve; but security must be taken
5 for any loan in excess of fifty dollars. Endorsement of a note
6 or assignment of shares in any credit union shall be deemed
7 security within the meaning of this section.

8 A member who needs funds with which to purchase necessary
9 supplies for growing crops may receive a loan in fixed monthly
10 installments instead of in one sum.

11 If any member of the credit committee makes application to
12 borrow money from a credit union or becomes surety for any
13 other member whose application for a loan is under considera-
14 tion, the supervisory committee shall appoint a substitute to
15 act on the credit committee in the place of such member, during
16 the consideration of such applications. All officers and members
17 of any committee in any way knowingly permitting or partici-
18 pating in making a loan of funds of a credit union to a non-
19 member thereof shall be guilty of a misdemeanor. The credit
20 union shall have the right to recover the amount of any such

21 illegal loan from the borrower or from any officer or member
22 of a committee who knowingly committed or participated in the
23 making thereof, or from all of them jointly.

24 A borrower may repay the whole or any part of his loan on
25 any day on which the office of the corporation is open for the
26 transaction of business.

Sec. 20. All entrance fees, transfer fees and charges shall,
2 after the payment of organization expenses, be known as re-
3 serve income, and shall be added to the reserve fund of the
4 corporation.

5 At the close of each fiscal year there shall be set apart to
6 the reserve fund ten per cent of the net income of the
7 corporation which has accumulated during the year. But upon
8 the recommendation of the board of directors, the members at
9 an annual meeting may increase, and, whenever such funds
10 equal the amount of the capital, may decrease, the proportion
11 of profits which is required by this section to be set apart to the
12 reserve fund.

13 The reserve fund shall belong to the corporation and shall be
14 held to meet contingencies, and shall not be distributed to the
15 members, except upon dissolution of the corporation.

Sec. 21. At the close of the fiscal year a credit union may
2 declare a dividend upon the net earnings. Dividends shall be
3 paid on all fully paid shares outstanding at the close of the
4 fiscal year, but shares which become fully paid during the year
5 shall be entitled to a proportional part of such dividend calcu-
6 lated from the first day of the month following such payment
7 in full.

Sec. 22. Notes, drafts and bills of exchange, executed for
2 the purpose of this article, having a maturity not to exceed six
3 months, and endorsed by a national bank, a state bank or a trust
4 company, may be rediscounted in the open market. The total
5 of such paper outstanding shall at no time exceed the paid-in
6 capital and surplus: *Provided, however,* That the commissioner
7 of banking, in his discretion, may extend this limit tempor-
8 arily. *And provided further,* That the limitation here fixed
9 shall not be considered money borrowed under section seven-
10 teen.

Sec. 23. At any regularly called meeting, the members, by
2 a two-thirds vote of those present, may expel from the cor-
3 poration any member thereof; but such expulsion shall be made

4 only after a hearing on the part of the member to be expelled.
5 A member may withdraw from a credit union as hereinafter
6 provided, by filing a written notice of such intention.

7 All amounts paid in on shares of an expelled or withdrawn
8 member, with any dividends credited to his shares to the date
9 of expulsion or withdrawal, shall be paid to such member in
10 the order of expulsion or withdrawal but only as funds there-
11 for become available, after deducting any amounts due to the
12 corporation from such member. All deposits of an expelled or
13 withdrawn member, with any interest accrued, shall be paid to
14 such member, subject to sixty days' notice, and after deducting
15 any amounts due the corporation from such member. Such
16 member, when withdrawing shares or deposits, shall have no
17 other or further right in such credit union, or to any of its
18 benefits, but such expulsion or withdrawal shall not operate
19 to relieve such member from any remaining liability to the
20 corporation.

Sec. 24. The process of voluntary dissolution shall be as
2 follows:

3 (a) At a meeting called for the purpose (notice of which
4 purpose must be contained in the call) four-fifths of the entire
5 membership of the credit union may vote to dissolve the entire
6 union;

7 (b) Thereupon, there shall be filed with the secretary of state
8 a statement of their consent to dissolution, attested by a ma-
9 jority of the officers and including the names and addresses of
10 the officers and directors;

11 (c) The commissioner of banking shall determine whether
12 or not the credit union is solvent. If such is the fact, he shall
13 cause to be issued in duplicate a certificate to the effect that
14 this section has been complied with;

15 (d) The certificate shall be filed with the clerk of the county
16 court of the county in which the principal office of the credit
17 union is located, whereupon the credit union shall be dissolved
18 and shall cease to carry on business, except for the purpose of
19 liquidation;

20 (e) The credit union shall continue in existence for the
21 purpose of discharging its debts, collecting and distributing its
22 assets and doing all other acts required, in order to wind up
23 its business, and may sue and be sued for the purpose of en-

24 forcing such debts and obligations until its affairs are fully
25 adjusted and wound up, for three years.

Sec. 25. A credit union may change its place of business on
2 written notice to and approval of the commissioner of banking.

Sec. 26. All credit unions which have been heretofore legally
2 organized under chapter thirty-six of the acts of the legislature
3 of one thousand nine hundred twenty-five, and which were in
4 existence on the thirty-first day of December, one thousand nine
5 hundred thirty, shall, upon the passage of this act, be consid-
6 ered organized under the provisions of this act, and shall not
7 be required to obtain a new charter or to reorganize hereunder,
8 and all acts and things done by any such credit unions so
9 organized under chapter thirty-six of the acts of the legisla-
10 ture of one thousand nine hundred twenty-five, insofar as
11 such acts and things shall not have constituted any violation of
12 law or the provisions of said acts of the legislature of one
13 thousand nine hundred twenty-five, shall be as valid and as
14 effective as if the provisions of this act had taken effect on the
15 first day of January, one thousand nine hundred thirty-one.

Sec. 27. Any violation of this article shall be deemed a mis-
2 demeanor and any person convicted thereof shall be fined not
3 less than one hundred nor more than five hundred dollars and
4 imprisoned in the county jail not less than one month nor more
5 than six months.

Sec. 28. All acts and parts of acts inconsistent with this
2 act insofar as they affect credit unions only, are hereby re-
3 pealed.

CHAPTER 15

(Senate Bill No. 66—By Mr. Watkins)

AN ACT to expedite and simplify the collection and payment by
banks of checks and other instruments for the payment of
money.

[Passed March 11, 1931; in effect ninety days from passage. Became a law without
the approval of the Governor.]

SEC.

1. Definitions.
2. Banks as agent or sub-agents of depositor; if credit given by banks revoked, agency relation to continue.
3. Within what time provisional credit may be revoked.

SEC.

4. When bank is deemed agent for collection or owner of item.
5. Care required of initial or subsequent agent collecting bank.
6. "Ordinary care" defined.
7. When item deemed paid.
8. Liability for loss or destruction of item in transit.

<p>SEC.</p> <p>9. When agent collecting bank becomes liable or debtor for item.</p> <p>10. When agent collecting bank may receive check or draft of remitting bank; liability when unconditional credit requested or accepted.</p> <p>11. Dishonor for non-payment and recourse; exceptions.</p> <p>12. Notice of dishonor.</p> <p>13. Return of item by bank legally closed for business; when item</p>	<p>SEC.</p> <p>is a preferred claim on assets of drawee or payor; when item is preferred claim on assets of agent collecting bank, other than drawee or payor, failed or closed for business.</p> <p>14. Act not retroactive.</p> <p>15. In any case not covered by this act, what rules to apply.</p> <p>16. How act to be interpreted.</p> <p>17. How act cited.</p> <p>18. Inconsistent acts repealed.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. For the purposes of this act:

- 2 (a) The term "bank" shall include any person, firm or cor-
 3 poration engaged in the business of receiving and paying de-
 4 posits of money within this state. A branch or office of any
 5 such bank shall be deemed a bank for the purpose of this act;
 6 (b) The term "item" means any check, note or other in-
 7 strument providing for the payment of money.

Sec. 2. Except as otherwise provided by agreement and ex-
 2 cept as to subsequent holders of a negotiable instrument payable
 3 to bearer or indorsed specially or in blank, where an item is
 4 deposited or received for collection, the bank of deposit shall
 5 be agent of the depositor for its collection and each subsequent
 6 collecting bank shall be sub-agent of the depositor but shall be
 7 authorized to follow the instructions of its immediate forward-
 8 ing bank and any credit given by any such agent or sub-agent
 9 bank therefor shall be revocable until such time as the proceeds
 10 are received in actual money or an unconditional credit given
 11 on the books of another bank, which such agent has requested
 12 or accepted. Where any such bank allows any revocable credit
 13 for an item to be withdrawn, such agency relation shall never-
 14 theless continue except the bank shall have all the rights of an
 15 owner thereof against prior and subsequent parties to the extent
 16 of the amount withdrawn.

Sec. 3. A credit given by a bank for an item drawn on or
 2 payable at such bank shall be provisional, subject to revocation
 3 at or before the end of the day on which the item is deposited
 4 in the event the item is found not payable for any reason.
 5 Whenever a credit is given for an item deposited after banking
 6 hours such right of revocation may be exercised during the fol-
 7 lowing business day.

Sec. 4. An indorsement of an item by the payee or other
 2 depositor "for deposit" shall be deemed a restrictive indorse-

3 ment and indicate that the indorsee bank is an agent for collec-
4 tion and not owner of the item.

5 An indorsement "pay any bank or banker" or having equiva-
6 lent words shall be deemed a restrictive indorsement and shall
7 indicate the creation of an agency relation in any subsequent
8 bank to whom the paper is forwarded unless coupled with words
9 indicating the creation of a trustee relationship; and such in-
10 dorsement or other restrictive indorsement whether creating an
11 agency or trustee relationship shall constitute a guaranty by
12 the indorser to all subsequent holders and to the drawee or
13 payor of the genuineness of and the authority to make prior
14 indorsements and also to save the drawee or payor harmless in
15 the event any prior indorsement appearing thereon is defective
16 or irregular in any respect unless such indorsement is coupled
17 with appropriate words disclaiming such liability as guarantor.

18 Where a deposited item is payable to bearer or indorsed by
19 the depositor in blank or by special indorsement, the fact that
20 such item is so payable or indorsed shall not change the relation
21 of agent of the bank of deposit to the depositor, but subsequent
22 holders shall have the right to rely on the presumption that the
23 bank of deposit is the owner of the item. The indorsement of
24 an item by the bank of deposit or by any subsequent holder in
25 blank or by special indorsement or its delivery when payable
26 to bearer, shall carry the presumption that the indorsee or
27 transferee is owner provided there is nothing upon the face of
28 the paper or in any prior indorsement to indicate an agency or
29 trustee relation of any prior party. But where an item is
30 deposited or is received for collection indorsed specially or in
31 blank, the bank may convert such an indorsement into a re-
32 strictive indorsement by writing over the signature of the in-
33 dorser the words "for deposit" or "for collection," or other
34 restrictive words to negative the presumption that such bank of
35 deposit or indorsee bank is owner; and in the case of an item
36 deposited or received for collection payable to bearer, may
37 negative such presumption by indorsing thereon the words "re-
38 ceived for deposit" or "received for collection" or words of
39 like import.

Sec. 5. It shall be the duty of the initial or any subsequent
2 agent collecting bank to exercise ordinary care in the collection
3 of an item and when such duty is performed such agent bank
4 shall not be responsible if for any cause payment is not received

5 in money or an unconditional credit given on the books of an
6 other bank, which such agent bank has requested or accepted.
7 An initial or subsequent agent collecting bank shall be liable
8 for its own lack of exercise of ordinary care but shall not be
9 liable for the neglect, misconduct, mistakes or defaults of any
10 other agent bank or of the drawee or payor bank.

Sec. 6. (a) Where an item is received on deposit or by a
2 subsequent agent bank for collection, payable in another town
3 or city, it shall be deemed the exercise of ordinary care to for-
4 ward such item by mail, not later than the business day next
5 following its receipt either (1) direct to the drawee or payor
6 in the event such drawee or payor is a bank or (2) to an
7 other bank collecting agent according to the usual banking cus-
8 tom, either located in the town or city where the item is payable
9 or in another town or city;

10 (b) Where an item is received on deposit or by a subsequent
11 agent bank for collection, payable by or at another bank in the
12 same town or city in which such agent bank is located, it shall
13 be deemed the exercise of ordinary care to present the item for
14 payment at any time not later than the next business day fol-
15 lowing the day on which the item is received either (1) at the
16 counter of the drawee or payor by agent or messenger or
17 (2) through the local clearing house under the regular estab-
18 lished procedure, or according to the usual banking custom
19 where the collecting or payor bank is located in an outlying
20 district;

21 (c) The designation of the above methods shall not exclude
22 any other method of forwarding or presentment which under
23 existing rules of law would constitute ordinary care.

Sec. 7. Where the item is received by mail by a solvent
2 drawee or payor bank, it shall be deemed paid when the amount
3 is finally charged to the account of the maker or drawer.

Sec. 8. Where an agent bank forwards an item for collection,
2 it shall not be responsible for its loss or destruction in transit
3 or, when in the possession of others, for its inability to repossess
4 itself thereof, provided there has been no lack of ordinary care
5 on its part.

Sec. 9. Where ordinary care is exercised, any agent collecting
2 bank may receive in payment of an item without becoming
3 responsible as debtor therefor, whether presented by mail,
4 through the clearing house or over the counter of the drawee or

5 payor, in lieu of money, either (a) the check or draft of the
6 drawee or payor upon another bank or (b) the check or draft
7 of any other bank upon any bank other than the drawee or
8 payor of the item or (c) such method of settlement as may be
9 customary in a local clearing house or between clearing banks
10 or otherwise: *Provided*, That whenever such agent collecting
11 bank shall request or accept in payment an unconditional credit
12 which has been given to it on the books of the drawee or payor
13 or on the books of any other bank, such agent collecting bank
14 shall become debtor for such item and shall be responsible there-
15 for as if the proceeds were actually received by it in money.

Sec.-10. Where ordinary care is exercised, any agent collect-
2 ing bank may receive from any subsequent bank in the chain of
3 collection in remittance for an item which has been paid, in
4 lieu of money, the check or draft of the remitting bank upon
5 any bank other than itself or the drawee or payor of the item
6 or such other method of settlement as may be customary: *Pro-*
7 *vided*, That whenever such agent collecting bank shall request
8 or accept an unconditional credit which has been given to it on
9 the books of the remitting bank or on the books of any other
10 bank, such agent collecting bank shall become debtor for such
11 item and shall be responsible therefor as if the proceeds were
12 actually received by it in money.

Sec. 11. Where an item is duly presented by mail to the
2 drawee or payor, whether or not the same has been charged to
3 the account of the maker or drawer thereof or returned to such
4 maker or drawer, the agent collecting bank so presenting may,
5 at its election, exercised with reasonable diligence, treat such
6 item as dishonored by non-payment and recourse may be had
7 upon prior parties thereto in any of the following cases:

8 *First*: Where the check or draft of the drawee or payor bank
9 upon another bank received in payment therefor shall not be
10 paid in due course;

11 *Second*: Where the drawee or payor bank shall without re-
12 quest or authority tender as payment its own check or draft
13 upon itself or other instrument upon which it is primarily
14 liable;

15 *Third*: Where the drawee or payor bank shall give an un-
16 requested or unauthorized credit therefor on its books or the
16-a books of another bank: or

17 *Fourth*: Where the drawee or payor shall retain such item

18 without remitting therefor on the day of receipt or on the day
19 of maturity if payable otherwise than on demand and received
20 by it prior to or on such day of maturity:

21 *Provided, however,* That in any case where the drawee or
22 payor bank shall return any such item unpaid not later than
23 the day of receipt or of maturity as aforesaid in the exercise
24 of its right to make payment only at its own counter, such item
25 cannot be treated as dishonored by non-payment and the delay
26 caused thereby shall not relieve prior parties from liability:

27 *Provided further,* That no agent collecting bank shall be
28 liable to the owner of an item where, in the exercise of ordinary
29 care in the interest of such owner, it makes or does not make
30 the election above provided or takes such steps as it may deem
31 necessary in cases two, three and four above.

Sec. 12. In case of the dishonor of an item duly presented
2 by mail as provided for in the next preceding section, notice
3 of dishonor of such item to prior parties shall be sufficient if
4 given with reasonable diligence after such dishonor; and further
5 in the event of failure to obtain the return of any such item
6 notice of dishonor may be given upon a copy or written par-
7 ticulars thereof, and delay in giving notice of dishonor caused
8 by an attempt with reasonable diligence to obtain return of such
9 item shall be excused.

Sec. 13. *First:* When the drawee or payor, or any other
2 agent collecting bank shall fail or be closed for business by
3 (official to be designated) or by action of the board of directors
4 or by other proper legal action, after an item shall be mailed
5 or otherwise entrusted to it for collection or payment but be-
6 fore the actual collection or payment thereof, it shall be the
7 duty of the receiver or other official in charge of its assets to
8 return such item, if same is in his possession, to the forwarding
9 or presenting bank with reasonable diligence;

10 *Second:* Except in cases where an item or items is treated as
11 dishonored by nonpayment as provided in section eleven, when
12 a drawee or payor bank has presented to it for payment an
13 item or items drawn upon or payable by or at such bank and
14 at the time has on deposit to the credit of the maker or drawer
15 an amount equal to such item or items and such drawee or
16 payor shall fail or close for business as above, after having
17 charged such item or items to the account of the maker or
18 drawer thereof or otherwise discharged his liability thereon but

19 without such item or items having been paid or settled for by
20 the drawee or payor either in money or by an unconditional
21 credit given on its books or on the books of any other bank,
22 which has been requested or accepted so as to constitute such
23 drawee or payor or other bank debtor therefor, the assets of
24 such drawee or payor shall be impressed with a trust in favor
25 of the owner or owners of such item or items for the amount
26 thereof, or for the balance payable upon a number of items
27 which have been exchanged, and such owner or owners shall be
28 entitled to a preferred claim upon such assets, irrespective of
29 whether the fund representing such item or items can be traced
30 and identified as part of such assets or has been intermingled
31 with or converted into other assets of such failed bank;

32 *Third:* Where an agent collecting bank other than the drawee
33 or payor shall fail or be closed for business as above, after
34 having received in any form the proceeds of an item or items
35 entrusted to it for collection, but without such item or items
36 having been paid or remitted for by it either in money or by an
37 unconditional credit given on its books or on the books of any
38 other bank which has been requested or accepted so as to con-
39 stitute such failed collecting or other bank debtor therefor, the
40 assets of such agent collecting bank which has failed or been
41 closed for business as above shall be impressed with a trust in
42 favor of the owner or owners of such item or items for the
43 amount of such proceeds and such owner or owners shall be
44 entitled to a preferred claim upon such assets, irrespective of
45 whether the fund representing such item or items can be traced
46 and identified as part of such assets or has been intermingled
47 with or converted into other assets of such failed bank.

Sec. 14. The provisions of this act shall not apply to trans-
2 actions taking place prior to the time when it takes effect.

Sec. 15. In any case not provided for in this act the rules
2 of law and equity, including the law merchant and those rules
3 of law and equity relating to trusts, agency, negotiable instru-
4 ments and banking, shall continue to apply.

Sec. 16. 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. 17. This act may be cited as the bank collection code.

Sec. 18. All acts or parts of acts inconsistent with this act
2 are hereby repealed.

CHAPTER 16

(Sen. Com. Sub. for House Bill No. 24—By Mr. Barnhart)

AN ACT to amend and re-enact section twenty-nine of article eight of chapter thirty-one of the code of West Virginia, relating to consolidations of banking institutions.

[Passed March 11, 1931; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
29. When liquidating banking institutions may reorganize and continue in business; when banking institutions may consolidate;

SEC. powers and duties of merger institutions; capitalization of surplus and undivided profits; voluntary liquidation.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine, article eight, chapter thirty-one, of the code of West Virginia, relating to consolidations of banking institutions, be amended and re-enacted so as to read as follows:

Section 29. In any voluntary or compulsory proceeding to liquidate a banking institution such banking institution, if the proceeding be not in court, with the consent in writing of the commissioner of banking, and if the proceeding be in court, with the consent in writing of the commissioner of banking and the approval of the court, may reorganize, reclaim possession of its assets, and continue in business. Any banking institution may at any time, with the consent in writing of the commissioner of banking, take over the business and assets and assume the liabilities of another banking institution, all of the terms and conditions of any such purchase, merger or consolidation to be first approved by the commissioner of banking; and after such purchase, merger or consolidation, no other corporation shall be allowed to take or use the name of any institution participating in such purchase, merger or consolidation.

Unless in conflict with a law of the United States of America, at the completion of any purchase, merger or consolidation, whether heretofore or hereafter effected under any past, present or future law of this state or of the United States of America, and whether such banking institution be organized under the provisions of the laws of this state or of the United States of America, or both, the purchasing, merged or consolidated banking institution shall be deemed to have been substituted by operation of law in the place and stead of each of the participating institutions in all fiduciary relationships, and all and singular

26 the titles, properties, offices, appointments, rights, powers, du-
27 ties, obligations and liabilities of each participating institution
28 as trustee, executor, administrator, guardian, depository, reg-
29 istrar, transfer agent or other fiduciary shall be deemed to have
30 become vested in and devolved upon the purchasing, merged
31 or consolidated institution, and such purchasing, merged or
32 consolidated institution shall be entitled to take, receive, accept,
33 hold, administer and discharge any and all grants, gifts, be-
34 quests, devises, conveyances, trusts and appointments made by
35 deed, will, agreement, order of court or otherwise to, in favor
36 of, or in the name of, any such participating institution, whether
37 made; executed or entered before or after such purchase, merger
38 or consolidation, and whether to vest or become effective before
39 or after such purchase, merger or consolidation, as fully and
40 to the same effect as if the purchasing, merged or consolidated
41 institution had been named in such deed, deed of trust, will,
42 agreement, order or other instrument instead of another par-
43 ticipating institution; and all acts heretofore taken or per-
44 formed in its own name or in the name of, or in behalf of, any
45 institution participating in any such purchase, merger or con-
46 solidation by any purchasing, merged or consolidated institu-
47 tion as trustee, executor, administrator, guardian, depository,
48 registrar, transfer agent, or other fiduciary shall be as good,
49 valid, and effectual as if this section had been in force at the
50 time of the taking or performance of such acts.

51 Any banking institution may capitalize its surplus and un-
52 divided profits by issuing shares of stock against the same at
53 par and distributing such shares among its stockholders, when
54 and to the extent that any such proceeding may be authorized
55 in writing by the commissioner of banking.

56 Any banking institution may, after thirty days' notice to
57 the commissioner of banking, cease to transact business and go
58 into voluntary liquidation and convert its assets into money and
59 pay the same to the persons entitled thereto.

CHAPTER 17

(House Bill No. 56—By Mr. Matthews)

AN ACT to amend and re-enact section ten of article four, chapter twelve of the nineteen hundred thirty-one official code of West Virginia, enacted by the nineteen hundred twenty-nine extraordinary session of the legislature.

[Passed January 28, 1931; in effect from passage. Approved by the Governor.]

SEC.
10. State not preferred as to unsecured
claim after February 1, 1933.

Be it enacted by the Legislature of West Virginia:

That section ten of article four, chapter twelve of the nineteen hundred thirty-one official code of West Virginia, enacted by the extraordinary session of the legislature of nineteen hundred twenty-nine, relating to the state as a preferred creditor, be amended and re-enacted so as to read as follows:

Section 10. On and after February first, one thousand nine hundred thirty-three, the state shall not, by virtue of prerogative or any other right, have any priority or preference of any claim or demand in its favor which is not made a lien and given such priority and preference by statute, over any other unsecured or common creditor of any person, firm or corporation against the property or assets or any part thereof of the debtor.

CHAPTER 18

(House Bill No. 4—By Mr. Barnhart)

AN ACT to amend and re-enact section six, article two, chapter fifty-six, official code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 11, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.
6. Notice of motion for judgment, return, docketing, hearing, continuance, return day; procedure when plaintiff files with notice

SEC.
affidavit concerning claims; proceeding not discontinued if not docketed.

Be it enacted by the Legislature of West Virginia:

That section six, article two, chapter fifty-six, official code of

West Virginia, one thousand nine hundred thirty-one, be amended and re-enacted so as to read as follows:

Section 6. Any person entitled to recover money by action on 2 any contract may, on motion before any court which would have 3 jurisdiction in an action, obtain judgment for such money after 4 not less than twenty days' notice, which notice shall be in writ- 5 ing, signed by the plaintiff or his attorney, and shall be returned 6 to the clerk's office of such court at least five days before the re- 7 turn day of such notice, and when so returned shall be forth- 8 with filed and the date of filing noted thereon, and shall be 9 placed upon the docket for hearing. Such notice may be served, 10 returned as aforesaid, filed and docketed at any time before or 11 during the term of court at which the motion for judgment is to 12 be made, and shall be heard at such term if the term continues 13 for a period of twenty days after the service of such notice, unless 14 good cause for a continuance thereof be shown. If the court be 15 not in session on the return day as set out in the notice, and the 16 term of court be not ended, the motion shall be considered con- 17 tinued until the next court day of the term and if the term be 18 ended, then the motion shall stand continued. The return day 19 of a notice under this section shall not be more than ninety days 20 from its date, unless the commencement of the next succeeding 21 term of court be more than ninety days from such date, in which 22 case the return day may be the first day of such term.

23 In any such motion, if the plaintiff shall file with his notice, 24 and shall serve upon the defendant at the same time and in the 25-26 same manner as the notice is served, an affidavit of himself, or 27 some other credible person, stating distinctly the several items 28 of the plaintiff's claim, and that there is, as the affiant verily 29 believes, due and unpaid from the defendant to the plaintiff up- 30 on the demand or demands stated in the notice, including prin- 31 cipal and interest, after deducting all payments, credits and 32 sets-off made by the defendant, or to which he is entitled, a sum 33 certain to be named in the affidavit, no plea shall be filed in the 34 case unless the defendant shall file with his plea the affidavit of 35 himself, or some other credible person, that there is not, as the 36 affiant verily believes, any sum due by the defendant to the 37 plaintiff upon the demand or demands stated in the plaintiff's 38 notice, or stating a sum certain less than that stated in the af- 39 fidavit filed by the plaintiff, which the affiant verily believes is all 40 that is due from the defendant to the plaintiff upon the demand

41 or demands stated in the plaintiff's notice. If such plea and
 42 affidavit be not filed, on motion of the plaintiff judgment shall,
 43 without further proof, be entered for the plaintiff by the court
 44 for the sum stated in his affidavit, with interest thereon from the
 45 date of the affidavit until paid: *Provided*, That before entering
 46 judgment on any negotiable instrument, the court shall require
 47 the plaintiff to file the same in such proceeding. If such plea
 48 and affidavit be filed by the defendant and it be admitted in such
 49 affidavit that any sum is due from the defendant to the plaintiff,
 50 judgment may be taken by the plaintiff for the sum so admitted
 51 to be due, with interest thereon from the date of the affidavit
 52 filed by the plaintiff until paid, and the case tried as to the
 53 residue.

54 A proceeding under this section shall not be discontinued by
 55 reason of the failure of the clerk to docket the same, or by reason
 56 of no order of continuance being entered in it from one day to
 57 another, or from term to term. Defense to any such motion may
 58 be made in the same manner and to the same extent as to an
 59 action at law.

CHAPTER 19

(House Bill No. 143—By Mr. Barnhart)

AN ACT to amend and re-enact sections eight and eleven of article seven, of chapter thirty-eight, of the code of West Virginia, of nineteen hundred thirty-one, in relation to bonds in attachment cases.

[Passed March 6, 1931; in effect ninety days from passage. Approved by the Governor.]

Sec. 8. Procedure when plaintiff in attachment proceeding gives bond; minimum penalty.

Sec. 11. When attached property to be returned by officer and attachment quashed.

Be it enacted by the Legislature of West Virginia:

That sections eight and eleven, of article seven, chapter thirty-eight, of the code of West Virginia of nineteen hundred thirty-one, be amended and re-enacted so as to read as follows:

Section 8. If the plaintiff shall, at the time of suing out an
 2 attachment, or afterwards, give bond with good security, ap-
 3 proved by the clerk issuing the attachment, in a penalty of at
 4 least double the estimated value of the property to be attached,
 5 as shown by the affidavit of the plaintiff or some reliable person,

6 with condition to pay all costs and damages which may be
 7 awarded against him, or sustained by any officer or other person
 8 by reason of the suing out of the attachment or levying the same,
 9 and to pay, to any claimant of any property seized or sold under
 10 or by virtue of such attachment, all damages which he may sus-
 11 tain in consequence of such seizure or sale, such officer shall
 12 take possession of the personal property levied upon by virtue
 13 of such attachment. But the clerk shall in no case accept such
 14 bond, the penalty of which shall be less than five hundred
 15 dollars.

Sec. 11. Any defendant in the case, or any person interested
 2 in the property so attached, who shall consider the bond so given
 3 not proper in form, or the penalty or security insufficient, may
 4 apply at once, by petition to the court from which the attachment
 5 issued, if in session, and if not, to the judge thereof, in vaca-
 6 tion, and shall be permitted to except to such bond, on any or
 7 all grounds aforesaid, and if any of such exceptions be sustained,
 8 the attached property shall be returned to the person from whom
 9 it was taken by the officer and the attachment shall be quashed
 10 unless the plaintiff shall within such time as the court shall pre-
 11 scribe, give a proper bond, in a sufficient penalty and with surety
 12 sufficient, all to be approved by the court or judge hearing the
 13 exceptions. If such new bond be not given, the principal and
 14 surety in such original bond, who signed the same, shall be
 15 liable to any person who shall suffer any damage by reason of
 16 the suing out and levy of such attachment, to the extent of the
 17 penalty thereof.

CHAPTER 20

(House Bill No. 364—By Mr. Hiner)

AN ACT to amend and re-enact section five, article seven, chapter
 fifty-five, of the revised code of West Virginia, one thousand
 nine hundred thirty-one, relating to actions for wrongful
 death.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the
 Governor.]

<p>Sec. 5. Action for damages for wrongful death; when confirmed before</p>		<p>Sec. death; right of action to survive death of wrong-doer.</p>
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Be it enacted by the Legislature of West Virginia:

That section five of article seven of chapter fifty-five of the re-

vised code of West Virginia of one thousand nine hundred thirty-one, relating to actions for wrongful death be amended and re-enacted so as to read as follows:

Section 5. Whenever the death of a person shall be caused by wrongful act, neglect, or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action to recover damages in respect thereof, then, and in every such case, the person who, or the corporation which, would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to murder in the first or second degree, or manslaughter. No action, however, shall be maintained by the personal representative of one who, not an infant, after injury, has compromised for such injury and accepted satisfaction therefor previous to his death. Any right of action which may hereafter accrue by reason of such injury done to the person of another shall survive the death of the wrong-doer, and may be enforced against his executor or administrator, either by reviving against such personal representative a suit which may have been brought against the wrong-doer himself in his lifetime, or by bringing an original suit against his personal representative after his death, whether or not the death of the wrong-doer occurred before or after the death of the injured party.

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

CHAPTER 21

(House Bill No. 284—By Mr. Barnhart)

AN ACT to amend and re-enact section nine of article two of chapter fifty-four of the official code of West Virginia, relating to reports of commissioners and elements of damages in condemnation cases.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 9. Commissioners to ascertain compensation and assess damages; re-</p>	}	<p>SEC. port damages when property taken by railroad; cost of removal of building.</p>
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Be it enacted by the Legislature of West Virginia:

That section nine of article two of chapter fifty-four of the official code of West Virginia, relating to reports of commissioners and the elements of damages in condemnation cases be and the same is hereby amended and re-enacted so as to read as follows:

Section 9. The commissioners, after viewing the property and hearing any proper evidence which is offered, shall ascertain what will be a just compensation to the person entitled thereto for so much thereof as is proposed to be taken, or for the interest therein, if less than a fee, and for damage to the residue of the tract, beyond the peculiar benefits to be derived, in respect to such residue, from the work to be constructed, or the purpose to which the land to be taken is to be appropriated, including, when less than the fee is taken, the actual damage, if any, done, or that may be done, to the fee by such construction, and make report to the following effect:

“We, the commissioners, appointed by the circuit court of county, (or by the judge thereof in vacation, as the case may be) by an order made on the day of, on the application of, respectfully report, that having been first duly sworn, we have viewed the real estate owned by, mentioned in the said application, and are of opinion that dollars will be a just compensation for so much of the said real estate as is proposed to be taken by the said applicant, that is to say: (here describe the part to be taken, and the interest therein, if less than a fee, so as to identify the same with reasonable certainty, which description may be supplemented by reference to a plat annexed to the report, or in any manner that would be sufficient in a conveyance) as well as for damages to the residue of the said real estate beyond the peculiar benefits which will be derived in respect to such residue from the work to be constructed (or from the purposes to which the part to be taken by said applicant is to be appropriated). Given under our hands this day of”

But if the property is proposed to be taken by a company incorporated for the construction of a railroad, no damages shall be ascertained for the construction of any farm crossings, fences or cattle guards, or for keeping the same in repair. The report shall be signed by at least three of the commissioners, and forth-

36 with returned to the clerk's office of the court, to be filed with
37 the papers of the case.

38 In ascertaining what will be a just compensation to the per-
39 son entitled thereto for land on which is situated any building,
40 structure or improvement or part thereof, the commissioners, or
41 a jury, where there is a trial by jury, shall take into considera-
42 tion the cost of the removal of such building, structure or im-
43 provement to a suitable place, if any such place there be on the
44 residue of the land from which the property is sought to be
45 taken.

CHAPTER 22

(Senate Bill No. 185—By Mr. Mathews)

AN ACT fixing the time for holding terms of court in the fifth
judicial circuit of West Virginia.

[Passed March 5, 1931; in effect from passage. Approved by the Governor.]

SEC. 1(e).	Time for holding terms of cir- cuit court in Calhoun, Jack-		SEC. son, Mason and Roane coun- ties.
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Be it enacted by the Legislature of West Virginia:

That section one(e) of article two, chapter fifty-one, of the of-
ficial code of West Virginia, one thousand nine hundred and
thirty-one, be amended and re-enacted to read as follows:

Section 1(e). For the county of Calhoun, on the third Mon-
2 day in April, August and November.

3 For the county of Jackson, on the first Monday in April,
4 August and November.

5 For the county of Mason, on the first Monday in January,
6 May and September.

7 For the county of Roane, on the third Monday in January,
8 May and September.

CHAPTER 23

(Senate Bill No. 94—By Mr. Watkins)

AN ACT to amend and re-enact sub-section one(s), of article two, of chapter fifty-one of the official code of West Virginia, of one thousand nine hundred and thirty-one, fixing the time for holding the regular terms of court for the nineteenth judicial circuit.

[Passed February 20, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC. 1(s). Time for holding terms of cir-		SEC. cult court in Barbour and Taylor counties.
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Be it enacted by the Legislature of West Virginia:

That sub-section one(s), of article two, of chapter fifty-one of the code of West Virginia, of one thousand nine hundred and thirty-one, be amended and re-enacted so as to read as follows:

Section 1(s). For the county of Barbour, on the first Monday in 2 January and April, and the fourth Monday in September.

3 For the county of Taylor, on the third Monday in February 4 and May, and the first Monday in November.

5 All acts inconsistent with this act are hereby repealed.

CHAPTER 24

(House Bill No. 82—By Mr. Ferrell)

AN ACT fixing a time of holding circuit court in the seventh and twenty-fourth judicial circuits of West Virginia, as established by chapter one hundred thirty-one of the acts of the legislature of West Virginia, session one thousand nine hundred twenty-nine, which said chapter amended and re-enacted section one (g), and lines seven, eight, and nine of section one (h), of chapter fifty-one, of the acts of the legislature of the state of West Virginia, regular session one thousand nine hundred twenty-seven.

[Passed February 17, 1931; in effect from passage. Approved by the Governor.]

SEC. 1. Terms of court, in seventh circuit.		SEC. 2. Terms of court, in twenty-fourth circuit.
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Be it enacted by the Legislature of West Virginia:

That chapter one hundred thirty-one, of the acts of the legisla-

ture of the state of West Virginia, one thousand nine hundred twenty-nine, relating to the time of holding regular terms of the circuit courts in the seventh and twenty-fourth judicial circuits, be it amended and re-enacted, so as to read as follows:

Section 1. For the county of Logan, on the second Monday in 2 January, the second Monday in May, and the second Monday in 3 September.

Sec. 2. For the county of Wayne, on the second Monday in 2 March, the second Monday in July and the fourth Monday in 3 November.

CHAPTER 25

(House Bill No. 61—By Mr. Scott, of Morgan)

AN ACT to amend and re-enact section seven of article six of chapter twenty of the code of West Virginia, relating to game, fish and forestry.

[Passed February 5, 1931; in effect from passage. Approved by the Governor.]

SEC.	7.	Operation of fish hatcheries and feeding station by commission;		SEC.	fish cultural operations in waters of state by United States.
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Be it enacted by the Legislature of West Virginia:

That section seven of article six of chapter twenty of the code of West Virginia, relating to game, fish and forestry, be amended and re-enacted so as to read as follows:

Section 7. The commission may establish, operate, conduct and 2 maintain fish hatcheries and feeding stations for fish, and may 3 employ and appoint such persons and assistants at such salaries 4 and for such time as it may deem necessary to operate, conduct 5 and care for them, and may discharge such employees and 6 appointees at will. It may, in the name of the state, purchase 7 or lease lands and water necessary for the establishment, opera- 8 tion, conduct and maintenance of such hatcheries and feeding 9 stations.

10 The United States commissioner of fisheries and his duly 11 authorized agents are hereby accorded the right to conduct fish 12 cultural operations and scientific investigations in the waters

13 of this state in such manner and at such times as may be con-
 14 sidered necessary and proper by the said commissioner and his
 15 agents, any laws of the state to the contrary notwithstanding.

16 All acts or parts of acts inconsistent with the provisions of
 17 this act are hereby repealed.

CHAPTER 26

(House Bill No. 118—By Mr. Scott, of Randolph)

AN ACT to amend and re-enact chapter twenty, article three, sec-
 tion thirteen of the official code of West Virginia, one thousand
 nine hundred thirty-one.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.

13. Bounties by commission and certain

SEC.

counties for killing wild nongame
 animals.

Be it enacted by the Legislature of West Virginia:

That chapter twenty, article three, section thirteen, of the official
 code of West Virginia, one thousand nine hundred thirty-one, relat-
 ing to bounties for killing wild nongame animals, be amended
 and re-enacted to read as follows:

Section 13. The commission shall have the authority to offer
 2 and pay, from time to time, under such regulations as are here-
 3 inafter prescribed, such bounties for the killing and destruction
 4 of wild nongame animals which prey upon and destroy game
 5 animals and game, song, and insectivorous wild birds and fowls
 6 of this state, as the commission shall deem necessary; and the
 7 county courts of the counties of Grant, Greenbrier, Monroe,
 8 Pendleton, Pocahontas, Randolph, Harrison and Webster may,
 9 in their discretion, upon petition of not less than one hundred
 10 citizens and voters of such counties offer and pay from time to
 11 time under such regulations as they may prescribe, such ad-
 12 ditional bounty as such courts may deem necessary for the kill-
 13 ing and destruction of wild nongame animals and fowls as they
 14 may by order entered of record designate.

CHAPTER 27

(House Bill No. 147—By Mr. Mott)

AN ACT to amend and re-enact section eight of article three, sections three and five of article four, section six of article five and sections two and eight of article seven, all of chapter twenty of the code of West Virginia, relating to the powers of the game, fish and forestry commission, open season on game and fees for hunting licenses.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the Governor.]

ARTICLE 3.

SEC. 5. Suspension or change of open seasons for catching fish in any stream; publication of order; limitation or suspension of open season for killing game in any county; publication of order; modification or change of bag limits; publication of order; penalty for violation of order.

ARTICLE 4.

SEC. 3. Open season on deer; commission may close; right of owner to kill; unlawful to kill more than one deer in any one season or to kill deer other than bucks; unlawful killing or hunting of deer; exceptions as to open season in certain counties; report by per-

SEC.

son killing deer; penalty for violation.

5. Open season on squirrels; bag limit.

ARTICLE 5.

SEC.

6. Open season on quail or Virginia partridge; bag limit.

ARTICLE 7.

SEC.

2. District resident licenses; territory covered and fee for; state wide resident licenses, territory covered and fee for; non-resident hunting and fishing license and non-resident fishing license; fee for; courtesy hunting and fishing license.

8. Carrying uncased guns without special permit; carrying uncased gun by owner, etc., on own land; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That section eight of article three, sections three and five of article four, section six of article five and sections two and eight of article seven, all of chapter twenty of the code of West Virginia, relating to the powers of the game, fish and forestry commission, open season on game and fees for hunting licenses, be amended and re-enacted so as to read as follows:

ARTICLE 3.

Section 8. The commission shall have the power, by a proper order made and entered in its record book, to limit or suspend for a fixed and definite period, or change the dates of the open seasons for the catching of fish in any stream or part of a stream in this state. The order shall definitely fix such stream by a proper description and shall state therein the period of such suspension. Before such suspension shall become effective, the commission shall give notice thereof by the publication of such order once

9 a week for two successive weeks in the newspapers of the county,
10 or each county wherein such stream is located.

11 The commission shall have the power by a proper order made
12 and entered in its record book, to limit or suspend for a definite
13 and fixed period, the open season for the killing of any game ani-
14 mals or birds, mentioned in this chapter, in any county in this
15 state. Such order shall state the period of such suspension and
16 name the birds and animals, the killing of which is prohibited.
17 Before such suspension shall become effective, the com-
18 mission shall give notice thereof by the publication of such order,
19 in two newspapers of general circulation throughout the state,
20 at least once a week for two successive weeks before the date of
21 the beginning of such suspension.

22 The commission shall also have the power by a proper order
23 made and entered in its record book, when it is deemed necessary
24 to protect game animals, fur bearing animals, fish and frogs,
25 game birds and fowls and forests, to modify and change the bag
26 limits on game animals, birds, fish and frogs. Before any such
27 change in the open season or bag limits is made effective, the
28 commission shall give notice thereof by publication of such
29 order, in two newspapers of general circulation throughout the
30 state, at least once a week for two successive weeks, the last
31 publication to be not later than two weeks in advance of the date
32 the change shall become effective.

33 When the commission shall have entered any such order and
34 given the notice required herein, then anyone fishing in such
35 stream, or hunting or killing in such county any of the animals
36 or birds the killing of which is prohibited, or fishing or hunting
37 in violation of such changes made in the open seasons and bag
38 limits, shall be guilty of a misdemeanor and upon conviction
39 thereof shall be punished as provided in section fourteen of this
40 article.

ARTICLE 4.

Sec. 3. No person shall hunt, capture or kill any deer in this
2 state at any time before the first day of December, one thousand
3 nine hundred and thirty, after which it shall be lawful to hunt,
4 capture or kill any buck deer with one or both horns branched,
5 from the first day of December to the tenth day of December,
6 both inclusive, of each year: *Provided*, That the state game,
7 fish and forestry commission may at any time open or close

8 the season against the killing of all deer in manner and form
9 as provided in this chapter: *Provided further*, That the owner
10 of any deer which shall be kept in any park or field sufficiently
11 enclosed to reasonably prevent its escape therefrom shall have
12 the right to kill any such deer.

13 No person shall kill more than one deer in any one season
14 of each year; nor shall any person at any time hunt, pursue,
15 shoot at or kill any fawn, doe or any other deer than bucks with
16 one or both horns branched, or have the fresh skin or any other
17 part of any doe or fawn or illegally killed buck in his possession.
18 No person shall chase or hunt deer with dogs in this state at
19 any time, nor permit his dogs to hunt or chase deer; nor shall
20 any person kill any deer that has been chased by dogs. No per-
21 son shall at any time catch, capture or kill any deer by means of
22 any poison, bait, salt lick, natural or artificial, trap or snare,
23 or like device of any kind. No person shall hunt, pursue, catch
24 or kill any deer between nightfall on one day and daylight of
25 the next day, and no one shall kill or wound any deer while the
26 said deer is in any stream, lake or pond in this state: *And pro-*
27 *vided further*, That no person shall hunt, capture or kill any
28 deer in the counties of Mingo, Marion, Marshall and Mercer
29 in this state until the first day of December, one thousand nine
30 hundred and thirty-four, and that on and after said date the
31 provisions of this chapter shall govern the hunting, capturing
32 or killing of deer in said counties.

33 Any person killing a deer in this state in any season when it is
34 lawful so to do shall, within twenty days thereafter, inform the
35 commission in writing of such fact, and shall also specify in writ-
36 ing the date and place of such killing, the person by whom
37 killed, the person or persons hunting with him at such time, the
38 length and branching of its horns or antlers, and what was done
39 with such deer.

40 Any person violating any provision of the first two para-
41 graphs of this section shall be guilty of a misdemeanor, and,
42 upon conviction thereof, shall be fined not less than one hun-
43 dred nor more than three hundred dollars and confined in the
44 county jail not less than thirty nor more than sixty days. Any
45 person violating any provision of the third paragraph of this
46 section shall be guilty of a misdemeanor, and, upon conviction
47 thereof, shall be punished as provided in section fifteen of this
48 article.

Sec. 5. No person shall hunt, capture or kill any gray, black, 2 or fox squirrel between the first day of December and the four- 3 teenth day of October of the following year, both inclusive. No 4 person shall kill more than six squirrels in any one day nor 5 more than thirty in any one open season.

ARTICLE 5.

Sec. 6. No person shall hunt, pursue, catch, capture or kill 2 any quail or Virginia partridge between the first day of December 3 and the fourteenth day of October of the following year, both 4 inclusive. No person shall kill more than eight quail in one day 5 nor more than fifty quail in any one open season.

ARTICLE 7.

Sec. 2. A district resident hunting and fishing license shall 2 entitle the licensee to hunt and fish in the county in which the 3 licensee is a resident and all counties bordering on the county in 4 which such district resident hunting and fishing license is is- 5 sued.

6 The fee for such license shall be one dollar.

7 A state-wide resident hunting and fishing license shall entitle 8 the licensee to hunt and fish in all counties in this state. The fee 9 for such license shall be three dollars.

10 A non-resident hunting and fishing license shall entitle the 11 licensee to hunt and fish in all counties of the state. The fee for 12 such license shall be fifteen dollars.

13 A non-resident fishing license shall entitle the licensee to fish 14 in all counties of the state. The fee for such license shall be five 15 dollars.

16 The commission is empowered to issue courtesy hunting and 17 fishing license for which there shall be no charge, to members 18 and agents of the United States Biological Survey and Bureau 19 of Fisheries and to members of state Game, Fish and Forestry 20 Commissions or conservation commissions of states extending 21 similar courtesies, for the purpose of scientific research: *Pro-* 22 *vided, however,* That such courtesy license shall not exceed 23 twenty-five in one year.

Sec. 8. No person shall carry any uncased gun in any of the 2 fields or woods of this state, between the thirty-first day of 3 December and the fifteenth day of October of the following year, 4 unless he shall have received a special permit in writing from

5 the local game warden setting forth the purpose of carrying such
6 gun, which in no case shall be for the purpose of killing game
7 birds or game animals. The bona fide owner of such field or
8 woods, or his child, tenant or lessee, shall not be prohibited from
9 carrying a gun on his own land.

10 All acts or parts of acts inconsistent with these acts are here-
11 by repealed.

CHAPTER 28

(House Bill No. 254—By Mr. Hiner)

AN ACT to amend and re-enact section two of article two of chapter twelve of the code of West Virginia, relating to method of payment by state officials, credits to state fund and exceptions therefrom.

[Passed March 11, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 2. Officials and employees to deposit state money with treasurer to be credited to state fund; exceptions; how excepted funds handled; triplicate reports of collections; treasurer to designate</p>	<p>SEC. depositories for public utility corporation taxes and state funds held by county officials; certificate by auditor to treasurer of public utility companies and taxes due from each.</p>
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Be it enacted by the Legislature of West Virginia:

That section two of article two of chapter twelve of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 2. All officials and employees of the state shall promptly deposit with the state treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. When so paid, such moneys shall be credited to the state fund and treated by the auditor and treasurer as a part of the general revenue of the state, and shall not be used for any purpose whatsoever unless and until authorized and directed by the legislature, except the following funds:

(a) All moneys received out of appropriations made by the congress of the United States;

(b) All funds derived from the sale of farm and dairy products;

(c) All endowment funds, bequests, donations, executive emergency funds, and death and disability funds;

(d) All fees and funds collected at state educational institutions for student activities;

17 (e) All funds derived from collections from dormitories,
18 boarding houses, cafeterias and road camps;

19 (f) All moneys received from counties by institutions for
20 the deaf and blind on account of clothing for indigent pupils;

21 (g) All insurance collected on account of losses by fire and
22 refunds;

23 (h) All funds derived from bookstores and sales of blank
24 paper and stationery, and collections by the chief inspector of
25 public offices;

26 (i) All moneys collected and belonging to the capitol build-
27 ing fund, state road fund, state road sinking funds, general
28 school fund, school fund, state fund (moneys belonging to
29 counties, districts and municipalities), state interest and sink-
30 ing fund for payment of the Virginia debt, state interest and
31 sinking fund, state compensation funds, the fund maintained
32 by the public service commission for the investigation and
33 supervision of applications and licensees under article nine,
34 chapter thirty-one of this code, and all funds and moneys pay-
35 able to or received by the West Virginia game, fish and forestry
35-a commission.

36 All moneys excepted as aforesaid shall be paid into the state
37 treasury in the same manner as collections not so excepted, and
38 shall be carried in separate accounts to be used and expended
39 only for the purposes for which the same are authorized to be
40 collected by law. The gross amount collected in all cases shall
41 be paid into the state treasury, and commissions, costs and
42 expenses of collection authorized by general law to be paid
43 out of the gross collection are hereby authorized to be paid
44 out of the moneys collected and paid into the state treasury in
45 the same manner as other payments are made from the state
46 treasury.

47 The officials or employees depositing such moneys with the
48 state treasurer shall prepare reports in triplicate, upon blank
49 forms approved by the chief inspector of public offices, of all
50 moneys received, giving the name and address of the payer,
51 the amount and the purpose for which such payment is made.
52 One copy of this report shall be kept by the official or em-
53 ployee making such report and shall become a part of his
54 permanent record. The original and one copy of such report
55 shall be transmitted to the treasurer, together with the checks,
56 money orders or drafts listed thereon.

57 The treasurer shall have authority to require all public utility
 58 corporations doing business in this state to make payment of
 59 all taxes due the state, and various counties, districts and
 60 municipalities in the state, by depositing the amounts due in one
 61 or more state depositories. He may also permit any county
 62 official to deposit in one or more depositories all money payable
 63 by such official to the state or its order. In all such
 64 cases, however, the treasurer shall designate the depository or
 65 depositories in which such deposits are to be made and the
 66 amount to be deposited in each. All such deposits shall be made
 67 upon blanks and in the manner prescribed by the treasurer.
 68 A duplicate copy of all such deposits shall be immediately for-
 69 warded to the state auditor by the taxpayer or official making
 70 the same. The auditor shall, upon December first of each year,
 71 or as soon thereafter as possible, certify to the treasurer the
 72 names and addresses of all public utility companies doing busi-
 73 ness in the state and the amount of taxes due to be paid by each.

CHAPTER 29

(House Bill No. 255—By Mr. Hiner)

AN ACT to amend and re-enact section ten of article seven and sec-
 tions one, nine, ten and twelve of article nine of chapter twenty
 of the code of West Virginia, relating to forests, game and
 fish and the game, fish and forestry commission.

[Passed March 13, 1931; in effect from passage. Approved by the Governor.]

ARTICLE 7.

SEC.

10. License fees to be paid to commis-
 sion and by it to state treasurer;
 how credited and expended.

ARTICLE 9.

SEC.

1. Protection of forests; appointment
 and qualifications of chief fore-
 ster; chief forester to appoint
 and remove local protector; sal-
 aries.

SEC.

9. Commission to meet requirements
 of Weeks and Clarke-McNary
 laws; appropriations for same.
 10. Patrol and lookout stations, how
 maintained; use of game and fish
 license funds for forest; protec-
 tion and restocking fish or game.
 12. When owner fails, commission may
 establish patrol, cost of, how col-
 lected and expended.

Be it enacted by the Legislature of West Virginia:

That section ten of article seven and sections one, nine, ten and
 twelve of article nine of chapter twenty of the code of West Vir-
 ginia, relating to forests, game and fish and the game, fish and
 forestry commission, be amended and re-enacted so as to read as
 follows:

ARTICLE 7

Section 10. All moneys received by or paid to any officer
2 or other person of this state for licenses as aforesaid shall be
3 paid to the commission, in the manner and at the times as herein-
4 after provided, and the commission shall, on receipt of the same,
5 forthwith pay over to the state treasurer such money so received,
6 accompanying it with a statement showing in detail the sources
7 of such money and the purposes for which the same was original-
8 ly paid, and the same shall be credited forthwith to the game,
9 fish and forestry fund. Such officers and other persons so re-
10 ceiving such money shall, on the first day of each month, pay
11 over to the commission all moneys so paid to them during the
12 preceding month, and each officer and person shall accompany
13 such payment with a report showing, in the case of license
14 money, the name of the county, the class of licenses sold, the
15 names and addresses of the persons paying the same, and the
16 date of the receipt thereof. All such money so paid for licenses
17 shall be credited to the commission, as hereinbefore provided,
18 and shall be further credited to and kept in a separate fund
19 designated "License fund—game, fish and forestry," and shall
20 be used and paid out, upon the order of the commission, solely
21 for the conservation, protection, propagation and distribution of
22 the fish, frogs, wild game and wild birds and fowls in this state,
23 in the enforcement of the fish and game laws of this state, for
24 any of the purposes in this chapter provided; for the operation
25 of the commission, and as provided for by section ten of article
26 nine of this chapter.

27 All money so credited to and kept separately in "License fund
28 —game, fish and forestry," and applicable as aforesaid, and
29 also all other moneys to the credit of the commission in the
30 state treasury whether derived from the fifty thousand dollar
31-32 annual appropriation from the general revenue of the state or
33 from financial assistance received from the owners of forest land,
34 or from recoveries against persons giving origin to forest fires, or
35 from the federal government, by appropriation under the Weeks
36 and the Clarke-McNary laws or otherwise, shall be withdrawn
37 from the state treasury and expended at the sole discretion of
38 the commission in accordance with the provisions hereof, only
39 upon the written requisition of the commission duly authorized
40 by it at a meeting duly held, and signed by the chairman of such
41 commission, but the unused portion, if any, of said funds or

42 credits derived from said fifty thousand dollar annual appro-
43 priation from the general revenues of the state remaining un-
44 expended or undrawn at the end of the year for which made,
45 shall be carried over as a balance to the next year, and from year
46 to year thereafter, and the appropriation therefor shall not be
47 deemed to have expired at the end of the year.

ARTICLE 9

Sec. 1. The game, fish and forestry commission shall have
2 power and authority to protect the forests of the state against
3 injury or destruction by fire, insects, fungus, or other disease,
4 to study and make recommendations as to proper methods for
5 such protection and for forest culture, and to disseminate any
6 such information throughout the state. For such purposes the
7 commission shall appoint a chief forester, duly qualified with
8 technical forestry training, a graduate of a reputable college
9 or university supplemented by actual experience in handling
10 forestry field organization. The chief forester shall appoint
11 local protectors for such forest fire districts as the commission
12 may deem it necessary to designate, each of whom shall be sub-
13 ject to approval and confirmation by the commission. Such
14 local forest protectors shall hold office at and during the pleas-
15 ure of the chief forester, who may, at his discretion, subject
16 however to the approval of the commission, with or without
17 cause, summarily remove any person appointed by him, and
18 fill any vacancy so, or otherwise, created. The commission
19 shall fix the salary to be paid to the chief forester, and shall
20 fix and pay reasonable compensation to local forest protectors
21 and other employees of the commission.

Sec. 9. The commission may do all things required to meet
2 the conditions and requirements of the federal government in
3 securing federal cooperation under the provisions of the Weeks
4 law and the Clarke-McNary law, and any law amendatory there-
5 of or supplemental thereto, for the purpose of preventing for-
6 est fires and the advancement of forestry practices. The sum
7 of fifty thousand dollars is hereby appropriated annually and
8 the board of public works shall include said sum of fifty thou-
9 sand dollars for said purpose in its biennial budget to the legis-
10 lature as provided in section fifty-one, article six of the consti-
11 tution of this state and/or in such other budgets as it may pre-
12 sent to the legislature as may be necessary to provide the said
13 sum of fifty thousand dollars for the purposes of this section.

14 which sum of fifty thousand dollars annually shall be paid into
15 the state treasury to the credit of the game, fish and forestry
16 commission and be expended and drawn upon by it for the
17 aforesaid purposes, in the manner herein elsewhere provided.

Sec. 10. The commission may cooperate with the owners of
2 forest lands and receive financial assistance from them for the
3 purposes aforesaid and do any and all things necessary therefor,
4 including the establishment and maintenance of patrol and
5 lookout stations: *Provided*, That the commission shall expend
6 for forestry purposes only such moneys as shall be appropriated
7 therefor by the state, and such moneys as may be contributed
8 therefor by the private owners, and such moneys as may be
9 recovered from persons giving origin to forest fires, and such
10 moneys as may be received from the federal government by ap-
11 propriation under the Weeks and the Clarke-McNary laws,
12 or otherwise, and in addition for the aforementioned purposes,
13 shall provide twenty-five per cent of the funds derived annual-
14 ly from the sale of game and fish licenses: *Provided further*,
15 That the commission shall, upon the written request of twenty or
16 more taxpayers of any county, expend in that county at least
17 twenty per cent of all money received from such county in
18 hunting and fishing license fees for the purpose of restocking
19 and propagating fish or game.

Sec. 12. If the owner of any forest land fails properly to
2 patrol his lands, the commission may cause the same to be
3 patrolled and charge the cost thereof against such owner: *Pro-*
4 *vided*, That the aggregate amount so charged shall not exceed
5 one cent per acre per year. If the amount so charged against
6 such owner as cost and expense of such patrol is not paid upon
7 presentation of a bill therefor, it shall be the duty of the prose-
8 cuting attorney of the county in which such land or the greater
9 part thereof is situated, at the instance of the commission or
10 some one of its agents, to institute, in the name of the state of
11 West Virginia, action for the recovery thereof. All moneys
12 collected from owners of forest lands, either by suit or voluntary
13 payment, shall be paid into the state treasury, to the credit of
14 the game, fish and forestry commission to be expended and
15 drawn upon in its discretion as herein elsewhere provided. But
16 the foregoing provisions shall not apply to corporations, firms
17 or individuals who are members of and contributing to the vari-
18 ous fire protective associations of this state, now in existence.

CHAPTER 30

(Senate Bill No. 152—By Mr. Smith)

AN ACT to amend and re-enact section fourteen of article one of chapter fifty of the official code, relating to the appointment of special constables by justices of the peace, and the authority of such special constables to carry revolvers, pistols and other dangerous or deadly weapons of like kind or character.

[Passed March 7, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>Sec. 14. Appointment as special constable</p>		<p>Sec. not to authorize the carrying of deadly weapons.</p>
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Be it enacted by the Legislature of West Virginia:

That section fourteen of article one of chapter fifty of the official code, relating to the appointment of special constables by justices of the peace and the authority of such special constables to carry revolvers, pistols and other dangerous or deadly weapons of like kind or character, be amended and re-enacted so as to read as follows:

Section 14. Whenever it shall satisfactorily appear to a justice issuing a summons, attachment or warrant of arrest in a civil action, or a warrant in a criminal proceeding, that a necessity exists therefor, he may appoint a special constable to execute the same, either by directing such process to such special constable by name as follows:

“To A..... B..... who is hereby appointed a special constable to execute this process,” or by endorsing such appointment on such process: *Provided*, That nothing herein contained shall be construed as empowering a justice to confer upon any special constable, so appointed by him, authority to carry revolvers, pistols or other dangerous or deadly weapons of like kind or character, nor shall any such authority be so conferred by any justice; and no special constable shall have or exercise such authority by virtue of such appointment, nor shall such authority be pleaded as a defense by any such special constable to any indictment for carrying such weapons.

CHAPTER 31

*(Senate Bill No. 153—By Mr. Smith)

AN ACT to amend and re-enact section six of article seven of chapter sixty-one of the official code relating to the carrying of revolvers, pistols or other dangerous or deadly weapons of like kind or character by special officers and posses, and the liability of such officers and posses using such weapons.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>Sec. 6. When sheriff may authorize deputy or posse to carry deadly weapons; good faith of such carrier; lia-</p>	<p>Sec. bility of such carrier for negligent or unlawful use of weapon.</p>
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Be it enacted by the Legislature of West Virginia:

That section six of article seven of chapter sixty-one of the official code, relating to the carrying of revolvers, pistols or other dangerous or deadly weapons of like kind or character by special officers and posses, and the liability of such officers and posses using such weapons, be amended and re-enacted so as to read as follows:

Section 6. In case of riot, public danger or emergency, a sheriff may authorize a deputy or posse to carry revolvers, pistols or other dangerous or deadly weapons of like kind or character, upon filing with the clerk of the county court the reasons and causes for such authority and the name or names of the persons so authorized, and the same shall always be open to public inspection. Such authority shall authorize such deputies and posses to carry weapons in good faith and only for the specific purposes and times named in such authority, and upon the trial of any indictment for carrying such weapon or weapons, the jury shall inquire into the good faith of the person attempting to defend such indictment under the authority granted by such sheriff. Any person or persons so authorized to carry such weapon or weapons shall be personally liable for the injury caused to any person by the negligent or unlawful use thereof.

*This is the same as House Bill No. 283 introduced by Mr. Barnhart and passed on March 6, 1931.

CHAPTER 32

(Senate Bill No. 4—By Mr. Hatfield)

AN ACT providing for security against old age want, creating a county system of old age pension relief, prescribing the qualifications of the beneficiaries thereof, providing for public funds by tax levy to maintain the same, prescribing the powers and duties of county courts and administrative officers in relation thereto, and providing penalties for violations of the provisions thereof.

[Passed March 11, 1931; in effect ninety days from passage. Approved by the Governor.]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. Old age pension relief defined and established. 2. How county courts may establish; when established, how discontinued; proclamation of discontinuance; how reestablished. 3. Amount of pension not to exceed one dollar per day. 4. To whom pension granted. 5. Amount and nature of relief to be determined by county court; what relief may include. 6. Application for relief; investigation by county court; protest; appeal by applicant or protestant to circuit court, whose judgment is final. 7. Penalty for attempting to obtain or obtaining relief by fraudulent | <p>SEC.</p> <ol style="list-style-type: none"> 8. device; procedure, if beneficiary, at death, owned property. 8. Procedure by county court upon complaint that relief is improperly or fraudulently obtained. 9. Records of pensions; duties of county clerk; discontinuance of pension upon conviction of crime; if pensioner non compos mentis. 10. Pensions exempt from tax or levy. 11. County pension agent, salary, powers and duties. 12. Audit by and annual report to tax commissioner. 13. Estimates and levies by county court for pensions; duties of sheriff-treasurer as to pension fund. |
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Be it enacted by the Legislature of West Virginia:

That a new article, creating a county system of old age pension relief, be and the same is hereby added to chapter nine of the code of West Virginia of one thousand nine hundred and thirty-one, to be known as Article III, "Old Age Pensions", to follow immediately after Article II of said code, and to read as follows:

Section 1. The care and relief of aged persons who are in need and whose physical or other conditions or disabilities seems to render permanent their inability to provide properly for themselves is hereby declared to be a special matter of public concern and a necessity in promoting the public health and welfare. To provide such care and relief at public expense, a county system of old age pension relief is hereby established, to operate in a uniform manner with due regard to the varying living conditions and costs of living. The terms "pension relief" or "relief", whenever used in this article, shall be construed to include assistance, aid, care or support to the class of

12 persons affected thereby; and whenever the masculine pronoun
13 is used it shall be deemed to include the feminine gender.

Sec. 2. Every county court of the state of West Virginia is
2 hereby authorized to establish a system of old age pensions
3 in accordance with the provisions of this article; but before
4 said county pension system shall be established and placed into
5 effect, the county court of any county shall submit to a vote of
6 the people of the county, at any general election held therein,
7 or at any special election called for the purpose, the question
8 of whether or not said system of old age pension relief shall be
9 established. If a majority of the qualified voters voting at any
10 such election favor old age pension relief, the county court
11 shall provide and maintain said relief beginning with the next
12 fiscal year after the holding of said election. When old age
13 pension relief shall be established in any county, it shall con-
14 tinue therein until changed by a vote of the people. After it
15 becomes effective in any county and has continued therein for
16 a period of two years, the county court thereof may, upon its
17 own motion, and shall, upon the written petition of five hun-
18 dred taxpayers of the county, who are legal voters thereof, sub-
19 mit to a vote of the people of the county, at a general or special
20 election therein, the question of whether or not said system
21 of old age pension shall be continued. If a majority of the
22 qualified voters voting at such election shall vote against the
23 continuance of said old age pension relief, then the county
24 court shall discontinue said system as of the thirtieth day of
25 June next following the date of said election, and the rights of
26 all persons receiving the benefits of such relief shall cease and
27 determine as of that date, and the county court shall cause
28 written notice, by due course of mail, to be given to the bene-
29 ficiaries of pension relief, to the effect that the pension relief
30 system has been discontinued by a vote of the people, and in
31 addition thereto, the county court shall publish for two suc-
32 cessive weeks in two newspapers published in the county and
33 representing opposite political parties, if there be such, a pro-
34 clamation to the effect that the old age pension system of the
35 county has been discontinued by a vote of the people. If there
36 be but one political party represented in the county by a
37 newspaper published therein, then said proclamation shall be
38 published in one of the papers of said party. If there be no
39 newspaper published in said county, then same shall be pub-

40 lished in some newspaper of general circulation therein. If at
41 any said election said county pension system is discontinued
42 by a majority of the voters thereof, the question of maintaining
43 a system of old age pension relief shall not again be submitted
44 to a vote of the people within a period of five years from the
45 date of the last election, at which said question was submitted.
46 But where the system is discontinued by a vote of the people
47 of the county, the county court may, upon its own motion, and
48 shall, upon the written petition of five hundred taxpayers of
49 the county who are qualified voters therein, again submit the
50 question of establishing an old age pension system to the voters
51 of the county, after the expiration of five years from the time
52 said election was held, in which said old age pension system
53 was discontinued, and if reestablished by a vote of the people,
54 it shall continue unless again suspended as herein provided.

Sec. 3. Any person while residing in any county, which
2 maintains a system of old age pension relief, who shall comply
3 with the provisions of this article, shall be entitled to a pension
4 in old age. The amount of such pension shall be fixed with due
5 regard to the conditions in each case, but in no case shall it be
6 an amount which shall exceed a total of one dollar per day.

Sec. 4. An old age pension hereunder may be granted only
2 to an applicant who (1) has attained the age of sixty-five years
3 or more; (2) has been a citizen of the United States for at least
4 fifteen years before making application for a pension; (3) has
5 resided in the state of West Virginia and the county in which
6 he makes application continuously for at least ten years imme-
7 diately preceding the date of application, but continuous resi-
8 dence in the state and county shall not be deemed to have been
9 interrupted by periods of absence therefrom, if the total of such
10 periods does not exceed three years. And absence in the service
11 of the state of West Virginia or the United States shall not
12 be deemed to interrupt residence in the state and county if a
13 domicile be not acquired outside of the state or county; (4) is
14 not at the time of his application an inmate of any public or
15 private home for the aged, or any public home, or any public
16 or private institution of a custodial, correctional or curative
17 character, except in the case of temporary medical or surgical
18 care in a hospital; (5) is not because of his physical or mental
19 condition in need of continued institutional care; (6) during
20 the period of ten years immediately preceding such date has

21 not been imprisoned for a felony; (7) has not, within one year
22 preceding such application for pension, been an habitual tramp
23 or beggar; (8) has no child or other person responsible under
24 the law of this state for his support, and able to support him;
25 (9) has no property, income or other means of support; (10)
26 has not disposed of or deprived himself, directly or indirectly,
27 of any property for the purpose of qualifying for old age
28 pension relief; (11) does not receive a pension from the United
29 States, or any state or foreign government, or compensation
30 under the laws of the state of West Virginia.

Sec. 5. It shall be the duty of the county court to provide
2 adequately for those eligible for old age pension relief, and who
3 apply therefor, under the provisions of this article. The amount
4 and nature of the relief which any such person shall receive,
5 and the manner of providing it, shall be determined by the
6 county court with due regard to the conditions existing in each
7 case, in accordance with reasonable rules and regulations made
8 by said court not inconsistent with the provisions of this article.
9 Relief may include, among other things, medical and surgical
10 care and nursing, in the discretion of the court. The relief
11 granted under this article shall whenever practicable be pro-
12 vided for the recipient in his own or some other suitable family
13 home. The court shall determine in each instance the amount
14 of regular relief to which the applicant is entitled and enter
15 an order fixing the same, and issue to the beneficiary thereof
16 a certificate showing the amount of the monthly allowance to
17 which he is entitled during the continuance of said relief allow-
18 ance. Where a pensioner under this article is seriously ill and
19 in actual need of medical and surgical care and nursing, and
20 the amount of the regular relief provided for him is not suffi-
21 cient to provide for any such medical, surgical and nursing
22 care, the county court may provide such additional allowance
23 as may be absolutely necessary to pay the expense thereof, and
24 shall enter an order authorizing the payment of such extra-
25 ordinary expense.

Sec. 6. Any person requesting, or applying for pension re-
2 lief under this article, shall make his application therefor to
3 the county court of the county in which he resides. The ap-
4 plicant may apply in person, or the application may be made
5 by another in his behalf. The application shall be made in writ-
6 ing, or reduced to writing, and it shall specify that it is made for

7 old age pension relief under the provisions of this article. The
8 application shall be verified by the person making the same, or by
9 some other reputable person who is acquainted with the facts
10 stated in the petition, and the petition or application should be
11 supported by other competent testimony if available. In consider-
12 ing any such application, the commissioners of the court may
13 make a personal investigation of the condition and circumstances
14 of the applicant, or the court may, in its discretion, appoint some
15 reputable person to make such an investigation in its behalf.
16 Upon any such application being filed, as aforesaid, any citizen
17 or group of citizens of the county may file with the court objec-
18 tions to the granting of any old age pension relief prayed for
19 in the application, and it shall be the duty of the court to hear
20 evidence offered either in support of or in opposition to the
21 granting of such relief. Any applicant or protestant feeling
22 aggrieved by the action of the court, may, as a matter of right,
23 appeal to the circuit court of the county for further relief. On
24 any such appeal, the original papers filed with the county court,
25 including a transcript of the evidence taken therein, shall con-
26 stitute the record before the circuit court, and the court shall
27 determine the case upon the original record thus presented; or,
28 in lieu of the original record, a complete transcript of the record
29 in the county court certified by the clerk thereof, may be used
30 on appeal at the option of the appellant. The decision of the
31 circuit court shall be certified by the clerk thereof to the clerk
32 of the county court wherein application was made, and the
33 original record, if used, on appeal, shall be returned to the
34 clerk of the county court for its files; and the judgment of the
35 circuit court in any such appeal shall be final.

Sec. 7. Any person who by means of wilful false statement
2 or representation or by impersonation or other fraudulent de-
3 vice obtains or attempts to obtain or aids or abets any person
4 to obtain any old age pension relief, to which he is not entitled,
5 shall be guilty of a misdemeanor, and on conviction thereof,
6 shall be fined not more than five hundred dollars, or imprisoned
7 in the county jail not more than one year, or be punished by
8 both such fine and imprisonment. And if, upon the death of
9 any beneficiary under this article, it is ascertained that there is
10 any property or estate of which the beneficiary died seized or
11 possessed, or to which he was otherwise lawfully entitled in his
12 lifetime, other than household goods and personal property not

13 exceeding in value the sum of three hundred dollars, the county
14 court shall have a prior lien, second only to taxes, upon such
15 estate, if any, to the amount of the aggregate payments made
16 to the beneficiary under this article, plus three per cent interest
17 on payments so made. In the event of the existence and dis-
18 covery of any such estate upon the death of any such bene-
19 ficiary, it shall be the duty of the prosecuting attorney of the
20 county to proceed, in the name and on behalf of the county
21 court for the use and benefit of the old age pension relief fund,
22 to collect from any such estate any funds so found to be due.

Sec. 8. Any person who has knowledge that old age pension
2 relief is being improperly granted or administered under this
3 article, may file a complaint in writing with the county court
4 setting forth the particulars of such violation. Upon receipt
5 of such complaint, the county court shall make an investigation
6 of the allegations set forth in such complaint; or if at any time
7 the county court has reason to believe that any such relief has
8 been improperly granted, or fraudulently obtained, it shall
9 cause an investigation to be made. Upon the filing of any such
10 complaint, or upon the determination of the court to make an
11 investigation, it shall be the duty of the court to notify the
12 pensioner of the time and place of the hearing to be held by
13 the court thereon; and the petitioner, or the complainant, may
14 appear in person or by counsel at any such investigation and
15 hearing. If it shall appear as a result of the filing of such com-
16 plaint or investigation that the relief was improperly granted,
17 or that the pensioner has come into the possession of property
18 or estate or other means of support and is no longer in need of
19 such relief, the county court may revoke any certificate thereto-
20 fore issued by it to the pensioner and discontinue any further
21 payments for old age relief under this article, and make any
22 other order that it may deem necessary in the premises. Either
23 party feeling aggrieved by the action of the court shall have
24 the right of appeal to the circuit court of the county in the
25 manner and form provided in section six hereof.

Sec. 9. The county court of every county which maintains
2 a system of old age pension relief under this article shall keep
3 and maintain an accurate permanent record of all proceedings
4 relating to old age pensions. The clerk of the county court shall
5 do all necessary clerical work in connection with said pension
6 system, and keep and preserve permanent and accurate records

7 and accounts pertaining to the same, and without any additional
8 compensation therefor. Said records and accounts, including
9 the order book, shall be kept separate, distinct and apart from
10 all other fiscal records and accounts of the office of the county
11 clerk, and shall be open to inspection during office hours by
12 any citizen or taxpayer of the county. In addition to the rec-
13 ords and accounts and files of papers kept and preserved by
14 the county court in the clerk's office thereof, it shall be the
15 duty of the clerk to keep and preserve a book of accounts in
16 which he shall open a separate account in the name of each
17 person receiving old age relief under this article, and the clerk
18 shall enter on the debit side of said account the amount of each
19 separate payment made to the beneficiary thereof, together with
20 the date of the payment and the number of the draft, voucher
21 or check issued for each payment. The account of each pen-
22 sioner shall bear the number of his pension certificate; and said
23 book of accounts shall be carefully indexed by arranging the
24 names of the pensioners in alphabetical order, and giving the
25 page reference to the personal account of each. When pension
26 relief has been allowed by the court and proper orders entered
27 directing the same, it shall be the duty of the clerk of the county
28 court to issue drafts or vouchers on the last day of each month,
29 payable to the beneficiaries thereof and to deliver the same. If
30 any beneficiary under this article is convicted of any crime, mis-
31 demeanor, or felony, or other offense, punishable by imprison-
32 ment for one month or a longer period, the county court shall
33 direct that payment be not made during such period. Upon the
34 conviction of any beneficiary of old age pension herein provided,
35 of a heinous offense involving imprisonment for a period of
36 more than ninety days, his right to receive further relief shall,
37 ipso facto, cease and determine. Furthermore, if the bene-
38 ficiary is found incapable of taking care of his money or him-
39 self, on the testimony of reputable witnesses, the county court
40 may direct any installment or payment of pension relief to said
41 beneficiary to be paid to any reputable person for his benefit,
42 or the court may suspend payment for such period of time as
43 it deems fit.

Sec. 10. All pensions provided for hereunder shall be exempt
2 from any tax levied by the state or any subdivision thereof, and
3 exempt from levy and sale, garnishment, attachment or other
4 process whatsoever, and shall be inalienable in any form.

Sec. 11. In aid of the effective administration and enforcement of the provisions of this article, the county court of any county having a population, according to the last decennial census of the United States, of thirty-five thousand or more, may, in its discretion, appoint some reputable and discreet person to be known as "county pension agent", and fix his salary in an amount not to exceed the sum of two hundred fifty dollars per month. Such county pension agent shall hold said appointment at the will and pleasure of the county court, and may be removed at any time with or without cause. The county court may allow reasonable actual expenses of said agent incurred in and about the performance of his duties as such. The salary and expenses of said pension agent shall be paid out of the old age pension fund hereinafter provided for. It shall be the duty of any such county pension agent to investigate, supervise and enforce the provisions of this article under the direction and authority of the county court.

Sec. 12. The pension records and accounts of each county court and the clerk thereof shall be subject to inspection, supervision and audit by the tax commissioner of West Virginia in the same manner and with the same effect as provided by law for other public funds; and the clerk of the county court of each county maintaining a system of old age pension relief shall annually make report to the tax commissioner of all receipts and disbursements of the county pension relief fund, and in such manner and upon such forms as the tax commissioner may require. Said report shall be made by said clerk within a period of thirty days after the end of each fiscal year.

Sec. 13. Every county court which maintains a system of old age pension relief under this article shall each year at the levy estimate and levy period provided by general law for the making up of estimates and the laying of levies, make up an estimate of the necessary and probable amount needed for old age pension relief, and lay a special levy sufficient for said relief fund, not to exceed the sum of five cents on each one hundred dollars of assessed valuation of property in the county. The estimates and levies herein provided shall be published in the manner provided by law for general county levies. Said special levy shall apply to all of the taxable property of the county, including that in incorporated cities and towns. Said special levy shall be in addition to all other county levies pro-

14 vided by general law. The fund arising from said special levy
 15 shall be known and designated as "the old age pension fund",
 16 and no part of said fund shall be expended for any other pur-
 17 pose than that for which the same is provided. The sheriff-
 18 treasurer of the county shall keep and preserve said fund in a
 19 separate and distinct account from all other funds, and shall
 20 not pay out of said fund any sum of money for any purpose
 21 than the old age pension relief system. The sheriff-treasurer
 22 and the sureties on his bond shall be held responsible and account
 23 for this fund, and the sheriff-treasurer shall make settlement and
 24 account therefor in the manner provided by law for other funds
 25 in his hands.

CHAPTER 33

*(Senate Bill No. 25—By Mr. Johnson)

AN ACT to amend and re-enact section one of article three of chap-
 ter thirty-nine of the code of West Virginia, relating to admis-
 sion to record of a certified copy of a lost instrument.

[Passed February 17, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.
 1. Recordation of certified copy of lost
 or destroyed writing; effect.

Be it enacted by the Legislature of West Virginia:

That section one of article three of chapter thirty-nine of the
 code of West Virginia, relating to admission to record of a certified
 copy of a lost instrument, be amended and re-enacted so as to read
 as follows:

Section 1. If any writing be admitted to record in any county
 2 of this state or of any other state, and it be proper for such
 3 writing to be admitted to record in a county of this state, and
 4 the same before having been admitted to record in such county
 5 be lost, mislaid or destroyed, on affidavit of such fact, the clerk
 6 of the county court of such county wherein such writing is to
 7 be recorded may admit to record a copy of such writing from
 8 the records of any county of any state wherein it is recorded
 9 properly certified by the clerk of such county court or other
 10 officer corresponding thereto; and the record of the copy so
 11 admitted shall have the same effect as if the original had been
 12 admitted to record at the time when the copy was admitted.
 13 The clerk of the county court of any county shall also admit to

14 record such copy of a record or paper as is mentioned in section
15 nine, article one of chapter fifty-seven of this code.

*This is the same as House Bill No. 47, introduced by Mr. Barnhart and passed on February 6, 1931.

CHAPTER 34

(Com. Sub. for Senate Bill No. 46—Originating in the Committee on the Judiciary)

AN ACT to amend and re-enact section eleven of article one of chapter thirty-nine of the code of West Virginia relating to the recordation of writings and plats and papers annexed.

[Passed March 11, 1931; in effect July 1, 1931. Approved by the Governor.]

SEC.	11. Recordation of writings by clerk of county court; interlineations	SEC.	or erasures; legal effect; size of type in printed instrument.
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Be it enacted by the Legislature of West Virginia:

That section eleven of article one of chapter thirty-nine of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 11. Every writing authorized by law to be recorded, 2 when admitted to record, shall, with all certificates of acknowl- 3 edgment, and all plats, schedules and other papers thereto annex- 4 ed or thereon indorsed, be recorded by, or under the direction of, 5 the clerk of the county court, in a well-bound book, to be care- 6 fully preserved; and there shall be an index to such book as 7 well in the name of the grantee as of the grantor. After being 8 so recorded, such writing may be delivered to the party entitled 9 to claim under the same. If there appear upon such writing, or 10 any paper or certificate annexed thereto, any interlineation, 11 erasure or alteration, of which no memorandum is contained in 12 the writing, paper or certificate, the clerk shall append to the 13 record thereof a memorandum describing as accurately as may 14 be such interlineation, erasure or alteration; and such memoran- 15 dum shall be copied into every certified copy of such writing, 16 paper or certificate. Every such memorandum, or a duly cer- 17 tified copy thereof, shall be prima facie evidence of what is 18 therein stated: *Provided, however,* That the clerk of the county 19 court may refuse to accept for recordation any printed instru- 20 ment printed in whole or in part in smaller than ten point type

21 with at least two points separating each line. Any failure of
22 such instrument to be so accepted by the clerk of the county
23 court shall not affect the validity thereof as to the parties there-
24 to: *Provided further*, That any such instrument shall be
25 accepted by the clerk for recordation at two times the legal fee
26 therefor.

CHAPTER 35

(Senate Bill No. 61—By Mr. Smith)

AN ACT to provide for a uniform system of fees of clerks of circuit courts; providing rates and manner of collection of such fees, and relating to fees, costs and accounts of other officers and parties.

[Passed March 11, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.
11. Fees of clerks of circuit courts.

Be it enacted by the Legislature of West Virginia:

That section eleven, of article one, chapter fifty-nine of the code of West Virginia, one thousand nine hundred and thirty-one, be amended and re-enacted so as to read as follows:

Section 11. The clerk of a circuit court shall charge and
2 collect for services rendered as such clerk the following fees,
3 and such fees shall be paid in advance by the parties for whom
4 such services are to be rendered:

5 For instituting or docketing any action, suit or other pro-
6 ceeding, by original process, removal or otherwise, and for any
7 services the clerk may perform therein except as hereinafter
8 set out, where there are not more than five defendants and not
9 more than five witnesses, the fee of the plaintiff shall be,

10 For confession of judgment, motion for judgment, civil ap-
11 peal to such court (appellant—to accompany transcript), ac-
12 tion on suggestion, or any summary proceeding at law, five
13 dollars;

14 For any condemnation proceeding, ten dollars;

15 For any action at law not otherwise herein provided for,
16 ten dollars;

17 For any interpleader, five dollars;

18 For any summary proceeding in chancery, five dollars;

- 19 For any divorce suit, ten dollars;
- 20 For any suit in equity not otherwise herein provided for,
21 fifteen dollars;
- 22 For entering appearance or for any services the clerk may
23 perform therein except as hereinafter set out, where there are
24 not more than five witnesses, the fee of the defendant or of all
25 defendants (appellees on civil appeal) in any such action, suit
26 or other proceeding, shall be three dollars.
- 27 In addition to the foregoing fees the following fees shall like-
28 wise be charged and collected:
- 29 For each additional defendant more than five there shall be
30 added to the fee of the plaintiff for institution or for services
31 as provided for above, fifty cents;
- 32 For each additional witness more than five, on the part of
33 either plaintiff or defendant, to be paid by the party requesting
34 such witness, fifty cents;
- 35 For any transcript, copy or paper made by the clerk for use
36 in any other court or otherwise to go out of the office, for each
37 one hundred words, ten cents;
- 38 Minimum fee, fifty cents;
- 39 (Where copy is made of checks, notes, bills of lading, or
40 other matter the character of which warrants a different rate,
41 a reasonable fee;)
- 42 For proof-reading or comparison of records made outside the
43 office, for each one thousand words, ten cents;
- 44 For annexing seal of the court to any paper and adding
45 certificate thereto, fifty cents;
- 46 For taking a bond, one dollar;
- 47 For issuing an execution, one dollar;
- 48 For issuing an execution on a transcript of judgment from
49 a justice's court, one dollar and fifty cents;
- 50 For entering an order of probation, three dollars;
- 51 For arranging the papers in a certified question, writ of
52 error, appeal or removal to any other court, three dollars;
- 53 For any retrial, fees in the same amount as for the same
54 services rendered on original institution and trial;
- 55 For postage and express and for sending or receiving de-
56 crees, orders or records, by mail or express, three times the
57 amount of the postage or express charges;
- 58 For additional services (plaintiff or appellant) where any

59 case remains on the docket longer than three years, for each
60 additional year or part year, five dollars.

61 The clerk shall tax the following fees for services in any
62 criminal case against any defendant convicted in such court:

63 In the case of any misdemeanor, ten dollars;

64 In the case of any felony, twenty dollars;

65 For any service not provided for above, the same fee as a
66 clerk of a county court for service of similar nature or extent.

67 No such clerk shall be required to handle or accept for dis-
68 bursement any fees, costs or accounts, of any other officer or
69 party not payable into the county treasury, except it be on
70 order of the court or in compliance with the provisions of law
71 governing such fees, costs or accounts.

CHAPTER 36

(Senate Bill No. 73—By Mr. Reynolds, of Mineral)

AN ACT to amend and re-enact section three, article one, of chapter thirteen, of the official code of West Virginia, one thousand nine hundred and thirty-one, relating to the amount of indebtedness for which bonds may be issued by political divisions.

[Passed March 6, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>Sec. 3. Limitation on bonded indebtedness of political divisions; additional</p>		<p>Sec. indebtedness, by what political divisions and for what purposes.</p>
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Be it enacted by the Legislature of West Virginia:

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

Section 3. No political division authorized by this article to
2 issue bonds, shall, by any bond issue, become indebted to an
3 amount, including all other indebtedness, exceeding two and
4 one-half per cent of the value of the taxable property therein,
5 as shown by the last assessment thereof, for state and county
6 purposes, next prior to the issuing of such bonds: *Provided,*
7 *however,* That any school district for the acquisition of land
7-a and the erection and equipment of school buildings and
7-b any county, magisterial district or any group of mag-
8 isterial districts, for the construction, reconstruction, locat-
9 ing, relocating, draining or grading of any county-district road,

10 or bridges thereon, and any municipal corporation of three
 11 hundred inhabitants or more, for the purpose of grading, paving,
 12 sewerage and otherwise improving or reimproving its streets
 13 and alleys, and for municipally owned water and light plants,
 14 and other municipally owned utilities, may become indebted
 15 and issue bonds in an additional sum not exceeding two and
 16 one-half per cent of the value of the taxable property therein,
 17 ascertained as aforesaid.

18 The term "sewerage", as used herein, shall be treated in a
 19 comprehensive sense, so as to include all mains, laterals, con-
 20 nections, traps, incinerating and disposal plants, and other
 21 necessary and convenient accessories to a modern, sanitary and
 22 efficient sewerage system, and shall include storm sewers.

23 The term "municipally owned water plants", as used herein,
 24 shall also be treated in a comprehensive sense, so as to include
 25 all reservoirs, mains, laterals, connections and other necessary
 26 and convenient accessories to a modern and efficient municipal
 27 water system.

28 All acts or parts of acts in conflict with the provisions of this
 29 act are hereby repealed.

CHAPTER 37

(Senate Bill No. 76—By Mr. Beneke)

AN ACT to amend and re-enact section five of article five, chapter
 thirty-five, code of West Virginia, one thousand nine hundred
 and thirty-one, relating to trustees of cemetery associations.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the
 Governor.]

Sec. 5. Trustee of cemetery associations, appointment, bond, qualifications		Sec. and compensation; how vacancy filled.
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Be it enacted by the Legislature of West Virginia:

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

Section 5. The board of directors of any such cemetery asso-
 2 ciation shall appoint a trustee, who shall be a responsible busi-
 3 ness man or some solvent and reliable bank or trust company,
 4 to act as such trustee for a period of two years, or until his, or
 5 its, successor is appointed. Such trustee shall be known as the

6 trustee of the permanent endowment fund of such cemetery
7 association, and shall immediately upon his, or its, appointment
8 and acceptance of the trust, give bond to the said cemetery
9 association, with some solvent and reliable bonding company
10 authorized to do business in this state, in a sum equal to the
11 amount which may come into the hands of such trustee, which
12 bond shall be increased or diminished from time to time so as
13 always to equal at least the amount of the trust funds in the
14 hands of such trustee; and the premium upon such bond shall
15 be paid out of the income of the trust funds in the trustee's
16 hands and as part of the cost of the administration of the trust
17 fund. No trustee appointed under this section shall enter
18 upon the discharge of his, or its, duties until such bond is
19 given and approved by the board of directors of such cemetery
20 association: *Provided, however,* That if the trustee so appointed
21 by any such cemetery association be a banking institution auth-
22 orized and qualified to engage, and engaging, in the business of a
23 trust company under and subject to the provisions of article
24 four of chapter thirty-one of the West Virginia code, one thou-
25 sand nine hundred and thirty-one, it shall not be required to
26 give the bond hereinbefore provided, excepting and unless re-
27 quired by the provisions of section twelve, article four, chapter
28 thirty-one of the code of West Virginia, one thousand nine hun-
29 dred and thirty-one. The board of directors of such cemetery
30 association shall not allow to such trustee, for service as such,
31 a sum in excess of two per cent of the annual net income from
32 such trust funds. In the event of a vacancy in such trustee-
33 ship, or failure of the board of directors of any such cemetery
34 association to appoint such trustee, after being requested so to
35 do by any stockholder of any such cemetery association, or its
36 successor, or any citizen interested, application may be made
37 to the circuit court of the county wherein such cemetery asso-
38 ciation is located, and it shall be the duty of the circuit court
39 of such county to appoint a trustee, who, when so appointed
40 and qualified, shall have all the powers and perform all the
41 duties of such trustee as provided in this section.
42 All acts or parts of acts or laws inconsistent herewith are
43 hereby repealed.

CHAPTER 38

(Senate Bill No. 130—By Mr. Hatfield)

AN ACT to provide for the payment of taxes and redemption of real estate, delinquent and forfeited, for the non-payment of taxes thereon for the year one thousand nine hundred and twenty-seven and for the years prior thereto upon the payment of the original tax thereon; providing for time, limitations thereon, and exceptions; and relating to charges, claims and rights arising through such delinquency.

[Passed March 14, 1931; in effect from passage. Approved by the Governor.]

SEC.

1. How real estate delinquent and forfeited for non-payment of taxes for nineteen hundred and twenty-seven and prior years taxes may be redeemed; amount to be paid

SEC.

to, and duties and powers of auditor; effect of redemption; delinquent municipal real estate; when effect of act ceases.

Be it enacted by the Legislature of West Virginia:

Section 1. The owner of real estate delinquent and forfeited 2 for the non-payment of taxes for the year one thousand nine 3 hundred and twenty-seven, and/or for the non-payment of 4 taxes for any year prior thereto, where such real estate has 5 not heretofore been sold to any party other than the state of 6 West Virginia, may have the right to redeem the same as here- 7 inafter set out.

8 The state auditor, having received proof of title when such 9 proof is deemed necessary, and required by him that the person 10 requesting the right of redemption has a legal right to so re- 11 deem such real estate, is hereby expressly authorized and re- 12 quired to permit redemption in his office of all such lands for- 13 feited to the state for the year one thousand nine hundred and 14 twenty-seven and any year prior thereto against which such 15 forfeited lands proceedings in the circuit courts have not been 16 instituted as required by the constitution and the statutes of 17 this state.

18 The owners of all such lands may, on or before the thirtieth 19 day of June, one thousand nine hundred and thirty-one redeem 20 all such lands by the payment to the auditor of the original 21 amount of taxes charged with interest at the rate of twelve per

22 centum per annum and no other fees, percentages, commis-
23 sions, penalties or costs of any kind whatsoever shall be added
24 to the original amount of taxes.

25 When such payment is made the auditor shall properly ac-
26 count for such taxes in the manner provided by general law,
27 relating to delinquent and forfeited real estate and redemptions
28 applicable to such taxes in effect at the time of the passage of
29 this act; and the auditor may require from the commissioners
30 of school lands, the circuit and county clerks such information
31 as may be necessary to carry out the provisions of this act.

32 Upon such payment such taxes and all fees, percentages,
33 commissions, penalties and costs, which might have been added
34 under the provisions of such general law, and all claims thereon
35 of the state of West Virginia and of any county, district or
36 municipality thereof, which might have arisen under such gen-
37 eral law, against such owner shall be discharged; and all rights
38 that might have been acquired by compliance with the pro-
39 visions of such general law shall vest in such owner. Such
40 owner aforesaid, may, in like manner, pay such taxes after the
41 thirtieth day of June, one thousand nine hundred and thirty-
42 one, but not later than November thirtieth, one thousand nine
43 hundred and thirty-one, with interest thereon at the rate of
44 ten per centum per annum from January first, one thousand
45 nine hundred and thirty-one until paid, with the same rights
46 and privileges otherwise herein provided for.

47 The provisions of this act are applicable likewise to de-
48 linquent municipal real estate not certified to the state auditor
49 when delinquent, and the municipal taxes thereon remaining
50 unpaid may be paid to the municipal collector and the real
51 estate so redeemed.

52 This act shall be in effect until, and including November
53 thirtieth, one thousand nine hundred and thirty-one and shall
54 not be in effect after that date.

CHAPTER 39

(Senate Bill No. 131—By Mr. Hatfield)

AN ACT to provide for the redemption of real estate, delinquent
for the non-payment of taxes thereon for the year one thou-
sand nine hundred and twenty-eight and one thousand nine

hundred and twenty-nine, by the payment of the original tax thereon within specified limitations of time; and relating to charges, claims and rights arising through such delinquency.

[Passed March 14, 1931; in effect from passage. Approved by the Governor.]

SEC.

1. How real estate delinquent for non-payment of taxes for years nineteen hundred and twenty-eight and nineteen hundred and twenty-nine may be redeemed;

SEC.

amount to be paid to auditor; effect of redemption; redemption of delinquent municipal real estate; when effect of act ceases.

Be it enacted by the Legislature of West Virginia:

Section 1. The owner of real estate delinquent for the non-payment of taxes for the years one thousand nine hundred and twenty-eight and one thousand nine hundred and twenty-nine may have the right to redeem the same as hereinafter set out. The owner of such delinquent real estate for the years aforesaid may, on or before May thirty-first, one thousand nine hundred and thirty-one, redeem such real estate by the payment to the state auditor, as provided by general law relating to delinquent real estate and redemptions applicable to such taxes in effect at the time of the passage of this act, of the original amount shown by the tax ticket for the taxes for which said real estate is delinquent; and no fees, percentages, commissions, penalties or costs of any kind whatsoever shall be added to the original amount aforesaid. Such payment shall discharge in full the liabilities of such owner on all fees, percentages, commissions, penalties and costs which might have been added under the provisions of such general law, and all claims thereon of the state of West Virginia and of any county, district or municipality thereof, which might have arisen under such general law against such owner; and thereupon all rights that might have been acquired by compliance with the provisions of such general law, shall vest in such owner. The general provisions of this act likewise applies to delinquent municipal real estate not certified to the state auditor when delinquent and the delinquent taxes on such real estate, now in the hands of the municipal collector, may be paid to such collector and such real estate so redeemed. Such owner aforesaid may in like manner pay such taxes after May thirty-first, one thousand nine hundred and thirty-one, but not later than November thirtieth, one thousand nine hundred and thirty-one, with interest at the rate of ten per

32 centum per annum from January first, one thousand nine hun-
 33 dred and thirty-one, until paid, with the same rights and privi-
 34 leges otherwise provided for herein. Such taxes as may be
 35 paid shall be paid to the state auditor until October one, one
 36 thousand nine hundred and thirty-one, and after that date to
 37 the sheriff.

38 This act shall be in effect until and including November
 39 thirtieth, one thousand nine hundred and thirty-one, and shall
 40 not be in effect after that date.

CHAPTER 40

(Senate Bill No. 136—By Mr. Henshaw)

AN ACT to amend and re-enact sections two, three, four, five and
 twenty-nine of article four of chapter nineteen of the official
 code of West Virginia, relating to cooperative and agricultural
 credit associations.

[Passed February 25, 1931; in effect from passage. Approved by the Governor.]

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|--|--|
| <p>SEC.
 2. Who may form cooperative and agricultural credit associations.
 3. For what purposes cooperative association may be organized.
 4. Powers of cooperative association; powers of agricultural credit association.</p> | <p>SEC.
 5. Admission of members, or issuance of common stock, by cooperative association; membership of association in another association.
 20. When provisions of general corporation laws apply to associations organized hereunder.</p> |
|--|--|

Be it enacted by the Legislature of West Virginia:

That sections two, three, four, five and twenty-nine of article four of chapter nineteen of the official code of West Virginia be, and they are, hereby amended and re-enacted to read as follows:

Section 2. Five or more persons engaged in the production
 2 of agricultural products may form a nonprofit, cooperative asso-
 3 ciation, and/or agricultural credit association, with or without
 4 capital stock, and five or more cooperative associations may form
 5 an agricultural credit association, and/or cooperative associa-
 6 tion, with or without capital stock, under the provisions of this
 7 article.

Sec. 3. A cooperative association may be organized to engage
 2 in any activity in connection with the marketing or selling of
 3 the agricultural products of its members or those purchased
 4 from other persons, or with the harvesting, preserving, drying,
 5 processing, canning, packing, grading, storing, handling, ship-
 6 ping or utilization thereof, or the manufacturing or marketing
 7 of the by-products thereof; or in connection with the manu-

8 facturing, selling or supplying to its members of machinery,
9 equipment or supplies; or in securing and disseminating market
10 information; or in the financing directly, through agricultural
11 credit associations, and/or otherwise, the above enumerated ac-
12 tivities; or in any one or more of the activities specified herein.
13 An agricultural credit association may be organized hereunder
14 to finance persons engaged in the production of agricultural
15 products and/or to finance any cooperative association, whether
16 formed under the laws of this or any other state.

Sec. 4. A cooperative association shall have the following
2 powers:

3 (a) To engage in any activity in connection with the market-
4 ing, selling, preserving, harvesting, drying, processing, manu-
5 facturing, canning, packing, grading, storing, handling or utili-
6 zation of any agricultural products produced or delivered to
7 it by its members or purchased or received by consignment
8 from other persons, or the manufacturing or marketing of the
9 by-products thereof; or any activity in connection with the
10 purchase, hiring, or use by its members of supplies, machinery,
11 or equipment; or in securing and disseminating market in-
12 formation; or in the financing, directly, through agricultural
13 credit associations, and/or otherwise, any such activities; or in
14 any one or more of the activities specified in this section: *Pro-*
15 *vided, however,* That all transactions with nonmembers shall be
16 on terms fixed by the association, and such nonmembers shall
17 not otherwise participate in any benefits derived from such
18 transactions;

19 (b) To borrow money without limitation as to amount of
20 corporate indebtedness or liability, and to make advance pay-
21 ments and advances to members; to execute, issue, draw, make,
22 accept, endorse, and guarantee, without limitation, promissory
23 notes, bills of exchange, drafts, warrants, certificates, mortgages,
24 and any other form of obligation or negotiable or transferable
25 bills of any kind; to become the surety, guarantor, maker,
26 and/or endorser for accommodation or otherwise of bills, notes,
27 securities, and other evidences of debt of any association or
28 person, anything in any other statute or law of this state to the
29 contrary notwithstanding;

30 (c) To act as the agent or representative of any member or
31 members in any of the above mentioned activities;

32 (d) To purchase or otherwise acquire, and to hold, own, and

33 exercise all rights of ownership in, and to sell, transfer or
34 pledge, or guarantee the payment of dividends or interest on,
35 or the retirement or redemption of, shares of the capital stock
36 or bonds of any corporation or association engaged in any re-
37 lated activity or in the warehousing or handling or marketing
38 of any of the products handled by the association;

39 (e) To establish reserves and to invest the funds thereof in
40 bonds or in such other property as may be provided in the by-
41 laws;

42 (f) To buy, hold and exercise all privileges of ownership
43 over real or personal property as may be necessary or con-
44 venient for the conduct and operation of any of the business of
45 the association, or incidental thereto;

46 (g) To establish, secure, own and develop patents, trade-
47 marks and copyrights;

48 (h) To do each and every thing necessary, suitable or proper
49 for the accomplishment of any one of the purposes or the
50 attainment of any one or more of the subjects herein enumer-
51 ated, or conducive to or expedient for the interest or benefit of
52 the association; and to contract accordingly; and, in addition,
53 to exercise and possess all powers, rights and privileges neces-
54 sary or incidental to the purposes for which the association is
55 organized or to the activities in which it is engaged, and any
56 other rights, powers, and privileges granted by the laws of this
57 state to ordinary corporations, except such as are inconsistent
58 with the purposes of this article; and to do any such thing any-
59 where. An agricultural credit association shall have all of the
60 powers given to a cooperative association under the provisions
61 of subdivision (b) of section four of this article and in general
62 shall have power to do and perform any act or thing, not in-
63 consistent with law, which may be appropriate to promote and
64 attain the objects and purposes of such credit association.

Sec. 5. Under the terms and conditions prescribed in the
2 by-laws adopted by it, a cooperative association may admit as
3 members, or issue common stock to, only persons engaged in the
4 production or cooperative marketing of the agricultural prod-
5 ucts to be handled by or through the association, and any lessor
6 or landlord who receives as rent all or any part of the crop
7 raised on the leased premises; and under the terms and condi-
8 tions prescribed in the by-laws adopted by it, an agricultural
9 credit association may admit any person as a member.

10 . If a member of a nonstock association be other than a natural
 11 person, such member may be represented by an individual, asso-
 12 ciate, officer or manager or member thereof, duly authorized in
 13 writing.

14 One association organized hereunder may become a member
 15 or stockholder of any other association or associations organized
 16 under this article or similar laws of any state.

Sec. 29. The provisions of the general corporation laws of
 2 this state and all powers and rights thereunder shall apply to
 3 the associations organized under this article and may be used
 4 by them, except where such provisions are in conflict with or
 5 inconsistent with the express purposes of this article.

CHAPTER 41

(Senate Bill No. 148—By Mr. Helmick)

AN ACT providing for the distribution and expenditure of moneys
 received from the United States of America as proceeds of
 national forests.

[Passed March 10, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.

1. Proceeds of National Forest, how
 distributed by auditor.

SEC.

2. Receipts and distribution by county
 courts.

Be it enacted by the Legislature of West Virginia:

Section 1. That the state auditor is hereby directed to turn
 2 over to the sheriffs of the respective counties in which a na-
 3 tional forest is situated, the amount of money belonging to
 4 such counties, received from the government of the United
 5 States of America as proceeds of such national forests, in ac-
 6 cordance with an act of congress approved May twenty-four,
 7 one thousand nine hundred and eight, (35 Statutes at Large,
 8 260; section 500, title 16, of the Code of Laws of the United
 9 States of America). Where the national forest is situated in
 10 more than one county the money shall be distributed in pro-
 11 portion to the area of the national forest situated in the respec-
 12 tive counties interested, and to that end the state auditor is
 13 hereby authorized and required to obtain the necessary infor-
 14 mation to enable him to make the distribution on such basis.
 15 It shall also be the duty of the state auditor, upon the payment
 16 of such moneys to the sheriffs of the respective counties, to

17 report such payments to the county courts of the respective
18 counties.

Sec. 2. The county courts of the respective counties to which
2 the money is distributed are hereby authorized and directed to
3 distribute and expend said moneys for the benefit of the public
4 schools and public roads in the districts of the respective coun-
5 ties in proportion to the area of the national forest situated in
6 the respective districts interested, and not otherwise, and to
7 that end the county courts of the respective counties are author-
8 ized and required to obtain the necessary information to enable
9 them to make the distribution on such basis.

CHAPTER 42

(Senate Bill No. 175—By Mr. Roberts)

AN ACT amending and re-enacting sections six and seven, article
one, chapter thirty, of the code of West Virginia, with refer-
ence to the examination and registration of nurses.

[Passed March 9, 1931; in effect from pasasge. Approved by the Governor.]

SEC.
6. Fee for examination: fee for regis-
tration; reexamination.

SEC.
7. Form of and fee for license or cer-
tificate of registration; when no
charge for; non-assignable.

Be it enacted by the Legislature of West Virginia:

That sections six and seven, article one, chapter thirty, of the
code of West Virginia, be amended and re-enacted to read as
follows:

Section 6. Every applicant for license or registration shall
2 apply therefor in writing to the proper board at least ten days
3 before the date of any examination, and shall transmit with
4 his application an examination fee of twenty dollars, unless a
5 different fee is specially provided by law, which sum the board
6 is authorized to charge for an examination or investigation into
7 his qualifications to practice: *Provided, however,* That an ap-
8 plicant for registration as nurse shall pay a fee of ten dollars.
9 An applicant failing to pass an examination satisfactory to the
10 board shall, at either the first or second succeeding examination
11 conducted by the board, be entitled to a reexamination without
12 further cost, but one such reexamination shall exhaust his privi-
13 lege under his original application.

Sec. 7. Every license or certificate of registration issued by

2 such board shall bear a serial number, the full name of the
 3 applicant, the date of issuance, the seal of the board, and shall
 4 be signed by a majority of the members and attested by its
 5 president and secretary. Unless otherwise specially provided,
 6 the board shall charge a fee of five dollars for every license or
 7 certificate of registration issued by it, and a fee of five dollars
 8 for every duplicate thereof, which fee shall be paid before such
 9 license or certificate of registration, or duplicate, is issued:
 10 *Provided*, That an applicant for registration as nurse shall be
 11 granted a certificate of registration on passing the examination
 12 of said board, without any charge therefor. No license or cer-
 13 tificate of registration granted or issued under the provisions
 14 of this chapter shall be assignable.

CHAPTER 43

(Senate Bill No. 178—By Mr. Weissenburger)

AN ACT to provide for the preparation of a list of the names or roster of the officers and men who participated in the battle of the revolution fought at Point Pleasant, October ten, one thousand seven hundred and seventy-four, between colonial troops and Indians, as nearly complete as possible, for preservation by inscription thereof on bronze tablets to be affixed to the Point Pleasant battle monument, at Point Pleasant, West Virginia, or to a base of said monument, if and when constructed.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the Governor.]

Sec.	1. Point Pleasant battle monument commission to prepare roster of	} Sec.	officers and men who participated in battle.
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Be it enacted by the Legislature of West Virginia:

Section 1. That a list of the names, or roster, of the officers and men who participated in the battle of the revolution fought at Point Pleasant, between colonial troops and Indians, on the tenth day of October, one thousand seven hundred and seventy-four, as nearly complete as is now possible, be prepared, or caused to be prepared, by the Point Pleasant battle monument commission, as a patriotic service and without expense to the state, for the purpose of inscribing the said names on bronze plates or tablets to be attached to the Point Pleas-

10 ant battle monument at Point Pleasant, West Virginia, in
 11 alphabetical order, for preservation of the said names and
 12 commemoration of the heroism of the said officers and men,
 13 or to be attached for the purpose aforesaid, to a base of the
 14 said monument, if and when the same shall be constructed;
 15 which list, when so prepared, shall be deemed and held to
 16 be an official list of the said officers and men.

CHAPTER 44

*(Senate Bill No. 208—By Mr. Beneke)

AN ACT to amend and re-enact section twenty-two of article seventeen of chapter seventeen of the code of West Virginia, one thousand nine hundred and thirty-one, as amended and re-enacted by House Bill No. Seventy-one, passed by the West Virginia legislature at the session of one thousand nine hundred and thirty-one, relating to tolls to be charged on state toll bridges generally and on state toll bridges in the counties of Ohio and Marshall, and the disposition thereof.

[Passed March 12, 1931; in effect from passage. Approved by the Governor.]

SEC.

22. When single issue of bonds issued, how tolls fixed and collected; any applicable law or regulation of the United States to govern; intrastate and interstate bridges not to be included in single issue of bonds; when existing bridge may not be purchased; when ex-

SEC.

isting interstate bridges in Ohio and Marshall counties may be purchased and part between Wheeling and Wheeling Island made toll free; tolls transmitted monthly to state sinking fund commission; how used for redemption of bonds.

Be it enacted by the Legislature of West Virginia:

That section twenty-two of article seventeen, chapter seventeen, of the code of West Virginia, one thousand nine hundred and thirty-one, be amended and re-enacted so as to read as follows:

Section 22. Tolls shall be fixed, charged and collected for
 2 transit over such bridges and shall be so fixed and adjusted, in
 3 respect of the aggregate of tolls from the bridge or bridges for
 4 which a single issue of bonds is issued, as to provide a fund
 5 sufficient to pay the principal and interest of such issue of bonds
 6 and to provide an additional fund to pay the cost of maintain-
 7 ing, repairing and operating such bridge or bridges, subject,
 8 however, to any applicable law or regulation of the United
 9 States of America now in force or hereafter to be enacted or
 10 made: *Provided*, That in case a single issue of bonds is issued

11 for the purchase and/or construction of two or more interstate
12 bridges, only such bridges shall be included as the bridge com-
13 mission shall determine to be competitive, and in no case shall
14 any intrastate bridge be included in any issue of bonds with
15 any interstate bridge: *Provided further*, That no existing
16 bridge shall be purchased unless the commission shall have de-
17 termined that the income therefrom, based upon the toll re-
18 ceipts for the next preceding fiscal or calendar year will be
19 sufficient to pay all expenses of operating and maintaining such
20 bridge in addition to the interest and sinking fund require-
21 ments of the bonds to be issued to pay the purchase price
22 thereof: *And provided further*, That whenever interstate bridges
23 are included in one project for financing purposes the commis-
24 sion is hereby authorized to group the existing interstate
25 bridges in Ohio and Marshall counties and purchase same with
26 the proceeds of one bond issue, and when sufficient revenue
27 shall have been determined to be available from the collection
28 of tolls on the bridges terminating in the state of Ohio to pay
29 interest and maintenance charges and to provide a sinking fund
30 ample to retire the bonds at maturity as issued for the acquire-
31 ment of all said bridges, the commission is authorized to make
32 free of tolls the interstate bridges between the city of Wheeling
33 proper and Wheeling Island. The tolls from the bridge or
34 bridges for which a single issue of bonds is issued, except such
35 part thereof as may be necessary to pay such cost of maintain-
36 ing, repairing and operating during any period in which such
37 cost is not otherwise provided for (during which period the
38 tolls may be reduced accordingly), shall be transmitted each
39 month to the state sinking fund commission and by it placed
40 in a special fund which is hereby pledged to and charged with
41 the payment of the principal of such bonds and the interest
42 thereon, and to the redemption or repurchase of such bonds,
43 such special fund to be a fund for all such bonds without dis-
44 tinction or priority of one over another. The moneys in such
45 special fund, less a reserve for payment of interest, if not used
46 by the sinking fund commission within a reasonable time for
47 the purchase of bonds for cancellation at a price not exceeding
48 the market price and not exceeding the redemption price, shall
49 be applied to the redemption of bonds by lot at the redemption
50 price then applicable.

*This bill supersedes House Bill No. 71, introduced by Mr. Barnhart and passed on February 16, 1931.

CHAPTER 45

(House Bill No. 3—By Mr. Wilkinson)

AN ACT to amend article three of chapter thirty-five of the official code of West Virginia, one thousand nine hundred thirty-one, by adding thereto an additional section, designated as section seven, making it an offense for any person to entice or attempt to entice away from any home maintained by any of the fraternal organizations specified in said article, any resident of any such home; or to aid or abet any such resident in leaving the same without proper authority; or to harbor, conceal, or aid or abet in harboring or concealing any resident who shall leave such home without proper authority; or to cause or influence or attempt to cause or influence any resident of any such home to rebel against the rules or government of said home, or to have or attempt to have any improper or unlawful communication or intercourse with any female resident of such home, and providing penalties therefor.

[Passed March 3, 1931; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.

7. Penalties for enticement of inmates away from fraternal home; for harboring one, leaving without authority or influencing inmate to violate rules of home:

SEC.

or for having improper intercourse with female resident of home; penalty for aiding and abetting.

Be it enacted by the Legislature of West Virginia:

That article three of chapter thirty-five of the official code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto an additional section designated as section seven, as follows:

Section 7. Any person who shall entice or attempt to entice
 2 away from any home maintained or kept by any of the fraternal
 3 organizations specified in section one of this article, or any other
 4 organization of like character, any resident of any such home; or
 5 shall aid or abet any resident of any such home to leave the same
 6 without proper authority; or shall harbor, conceal or aid or abet
 7 in harboring or concealing any resident of any such home who
 8 shall have left such home without proper authority; or shall in
 9 any way knowingly cause or influence or knowingly attempt to
 10 cause or influence any resident in any such home to violate any
 11 rule of the home, or to rebel against the government of the home

12 in any particular ; or shall have or attempt to have any improper
 13 or unlawful communication or intercourse with any female resi-
 14 dent of such home, knowing her to be a resident thereof, shall be
 15 guilty of a misdemeanor, and, on conviction thereof, shall be
 16 fined not less than ten dollars nor more than five hundred dol-
 17 lars, or imprisoned not exceeding one year, or, in the discretion
 18 of the court, both fined and imprisoned.

19 If any person shall aid or abet the commission of any of the
 20 offenses named in this section, or aid or abet an attempt to com-
 21 mit the same, he shall be punished as herein provided the same
 22 as if he were the principal. In the trial of any indictment for
 23 committing any of the offenses named in this section, the ac-
 24 cused may be found guilty of an attempt to commit the same,
 25 or of aiding or abetting another in committing or attempting to
 26 commit the same.

CHAPTER 46

(House Bill No. 12—By Mr. Sutherland)

AN ACT to amend and re-enact section sixty-six of article twelve of chapter eleven of the official code of West Virginia, relating to the tax to be paid by corporations for the privilege of acquiring and holding land in this state in excess of ten thousand acres.

[Passed February 12, 1931; in effect from passage. Approved by the Governor.]

Sec. 66. Tax on corporation holding land in excess of ten thousand acres ; when and to whom paid ; penal- ties for non-payment ; report and		SEC. payment into treasury by secre- tary of state ; corporations ex- cepted.
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Be it enacted by the Legislature of West Virginia:

That section sixty-six of article twelve of chapter eleven of the official code of West Virginia, which became effective January first, one thousand nine hundred thirty-one, relating to the tax to be paid by corporations for the privilege of acquiring and holding land in this state in excess of ten thousand acres, be amended and re-enacted so as to read as follows:

Section 66. Every corporation, including railroad and other
 2 corporations, holding more than ten thousand acres of land in
 3 this state shall pay to the state a tax of five cents per acre for
 4 the privilege of acquiring and holding of land so acquired and
 5 held by it in addition to ten thousand acres. Such corporations

6 shall, under the hand of the president and seal of the corpora-
7 tion, and attested by the secretary, apply to the secretary of
8 state for a certificate authorizing the holding of the number of
9 acres stated in such application, and pay the tax thereon;
10 and it shall be the duty of the secretary of state to issue to
11 such corporation a certificate stating the amount of tax paid
12 and the number of acres on which paid, and the number of
13 acres the corporation is thereby entitled to hold. Hereafter a
14 domestic corporation shall state in its agreement for incorpora-
15 tion and a foreign corporation shall state in its application for
16 authority to hold property and transact business in this state,
17 the number of acres it desires to hold, and pay the taxes there-
18 on to the secretary of state before the certificate of incorpora-
19 tion or of authority is issued. If any corporation desires to in-
20 crease the number of acres it may hold, it shall make applica-
21 tion therefor to the secretary of state. Such application shall
22 be signed by the president of the corporation, sealed with its
23 corporate seal, and attested by the secretary, and shall state
24 the number of acres it then holds and the number of acres it
25 desires to hold. The secretary of state shall collect the proper
26 amount of tax and shall issue to the corporation a certificate
27 reciting the number of acres the corporation may hold and the
28 amount of tax paid to him. If any corporation shall fail to
29 comply with the provisions of this section it shall be liable to
30 a fine of not less than twenty-five nor more than five hundred
31 dollars, and be liable to pay such tax due to the state with a
32 penalty of ten per cent on the total amount due, and be liable
33 to all the provisions of sections seventy-seven and seventy-
34 eight of this article so far as they are applicable. All moneys
35 received by the secretary of state under the provisions of this
36 section shall be reported to the auditor, and paid into the state
37 treasury in the manner prescribed for the payment of other
38 moneys received by him.

39 No corporation shall be required to pay the said tax of five
40 cents per acre for license to hold any land in this state in ex-
41 cess of ten thousand acres for which such corporation shall have
42 already paid a license tax at the time this act takes effect.

CHAPTER 47

(House Bill No. 69—By Mr. Hinerman)

AN ACT making it unlawful for non-residents of the state of West Virginia to buy any furs in the state without first having secured a license therefor, and fixing the amount of said license and the manner of securing the same.

[Passed March 12, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. License for non-resident dealers in furs. |

Be it enacted by the Legislature of West Virginia:

Section 1. That no person who is a non-resident of the state shall, without a state license therefor, buy or offer to buy, any fur, pelt, hide, or skins, within the state of West Virginia.

License shall be secured in the same manner and from the same source as other state licenses, and the license fee shall be fifty dollars; and any violation of this section will be subject to the same punishment as provided in section two, of article twelve, of chapter eleven, of the code.

CHAPTER 48

(House Bill No. 70—By Mr. Cummins)

AN ACT to amend and re-enact section seventeen, article three, chapter twenty-nine, official code of West Virginia, nineteen hundred thirty-one, relating to exit doors of public buildings and buildings to which the general public has access; to regulate unsafe conditions in buildings, and to provide for a review by the state fire marshal of the orders of certain officers.

[Passed March 3, 1931; in effect from passage. Approved by the Governor.]

SEC.

17. What exit doors to swing outward; discretion of fire marshal; penalty for violation; order for removal of combustible material or

SEC.

repair or removal of unsafe buildings; appeal to state fire marshal.

Be it enacted by the Legislature of West Virginia:

That section seventeen, article three, chapter twenty-nine of the official code of West Virginia, nineteen hundred thirty-one, be amended and re-enacted to read as follows:

Section 17. All the exit doors of all school houses, churches

2 and theatres, excepting one and two-room school houses and
3 country churches, and all other buildings used for public as-
4 semblages, shall swing outward; all the exit doors, of all other
5 buildings which are open to the general public and to which
6 the general public have access may, in the discretion of the fire
7 marshal, be required to swing outward, if, in the judgment of
8 said fire marshal, the public welfare and safety, may require:
9 *Provided, however,* That the provisions of this section shall not
10 apply to exit doors of rooms used for mercantile stores and shops.
11 Any owner of such property, his agent, lessee, or trustee, or
12 any other person who shall violate any of the provisions of this
13 paragraph, or any order of the said fire marshal shall be guilty
14 of a misdemeanor, and, upon conviction thereof, before any
15 justice of the peace or other court of competent jurisdiction,
16 shall be fined not less than ten or more than fifty dollars, and
17 every day such violation continues, after notice from said fire
18 marshal, shall constitute a separate offense.

19 If any officer named in the preceding section shall find any
20 building or other structure, which, for want of repairs, or by
21 reason of age, or dilapidated condition, or for any other cause,
22 is especially liable to fire, and which is so situated as to en-
23 danger other buildings or property, or if any such officer shall
24 find in any building or upon any premises any combustible or
25 explosive material or inflammable conditions dangerous to the
26 safety of such building on premises, he shall have power to make
27 reasonable orders for the repair or removal of the same, and
28 such orders shall forthwith be complied with by the owner or
29 occupant of such building or premises.

30 If any person deems himself aggrieved by an order of any
31 subordinate officer named in the preceding section, he may,
32 within twenty-four hours, apply to the state fire marshal for a
33 review of such order, and the cause of the complaint shall at
34 once be investigated by the direction of the state fire marshal;
35 and if such order is found to be necessary by the state fire
36 marshal for the reasonable protection of any property, it shall
37 remain in full force and shall be forthwith complied with by
38 such owner or occupant.

CHAPTER 49

(Com. Sub. for House Bill No. 107—Originating in the Committee on Education)

AN ACT to amend and re-enact sections four, five, eight, nine, ten, nineteen, twenty-two, twenty-four, twenty-five, twenty-six and twenty-nine of article three, chapter thirty-seven, of the official code and adding thereto section thirty-seven.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.	SEC.
<p>4. Commissioner of school lands; appointment and term; vacancies; oath and bond; records.</p>	<p>22. Terms and report of sale; judgment on notes for deferred payments.</p>
<p>5. Records by auditor of real estate forfeited or purchased by state; legal effect of records; duty of county clerk; certificate by auditor to commissioner of school lands; suits by commissioner.</p>	<p>24. Compensation and expenses of commissioner; compensation and attorney fees in case of redemption.</p>
<p>9. Copy of report to clerk of county court; recordation and index; proceedings in pending suits to be certified to clerk of county court.</p>	<p>25. Payment of costs, commissioner and expenses; when pro rated; amount of fees; larceny by commissioner and penalty; commissioner not to become purchaser.</p>
<p>10. Recordation and filing of report: chancery suits upon; suits upon escheated land; when shall be made or may become defendants in suit.</p>	<p>26. Yearly report by commissioner to auditor, circuit court and clerk of county court; contents; penalty for failure to make; annual credit by state tax commissioner of records of commissioner of school lands.</p>
<p>19. When decree of reference made; notice to parties to suit; publication and form of notice.</p>	<p>29. Fees for redemption; report to circuit court of redemption; petition for redemption; effect of redemption upon title to land.</p>

Be it enacted by the Legislature of West Virginia:

Section 4. The circuit court of every county shall, at its first regular term in the year nineteen hundred thirty-three and in every fourth year thereafter, appoint a commissioner of school lands, who shall maintain an office at the county seat which may be furnished by the county court, and whose term shall begin on the first day of July following and continue for four years and until his successor is appointed and qualified. Every such commissioner, holding office at the time this act takes effect, shall continue to hold office until his successor is appointed and qualified under the provisions of this section. Vacancies, occurring at any time after the adoption of this act, shall be filled by appointment by the circuit courts for the unexpired term. Such commissioner shall perform the duties and exercise the powers hereinafter provided for. Every such commissioner shall, before entering upon the duties of his office, take an oath in open court that he will faithfully, to the best of his skill and judgment, execute the duties of his office, and shall give bond to be

18 issued by a reliable surety company and approved by the court
19 in a penalty to be fixed by the court, but at least five thousand
20 dollars, a duplicate copy thereof to be filed with the state aud-
21 itor, conditioned that he will faithfully and impartially dis-
22 charge the duties of his office, and will pay over and account
23 for, according to law, all moneys, bonds, and other securities,
24 which may come to his hands by virtue of his office. Where such
25 commissioner is not now so bonded he, before proceeding further
26 in the discharge of his duties, shall give bond as herein required.
27 He shall, as far as possible, see that every officer, having any
28 duty to perform under this chapter, perform the same as herein
29 required and report any failure of such officer to do so to the
30 circuit court of his county. The court may, whenever in its
31 opinion it is proper to do so, require such commissioner to give
32 a new or additional bond, as prescribed by section fourteen, ar-
33 ticle two, chapter six of this act and all provisions of said section,
34 and of sections fifteen and sixteen of said article shall be ap-
35 plicable to such new and additional bond when given.

36 It shall be the further duty of every commissioner of school
37 lands to install and keep a uniform system of accounts, reports
38 and records, the forms and methods thereof to be prescribed and
39 furnished by the tax commissioner.

Sec. 5. A record of all real estate forfeited for any cause to
2 the state of West Virginia, under the constitution and laws
3 thereof, or purchased for the state at a sale for taxes and not
4 redeemed or released according to law, which has or shall come
5 to the knowledge of the auditor of the state, shall be kept by him
6 in a well-bound book in his office, in which shall be shown the
7 name of the former owner thereof, if known, and if not, that
8 fact shall be stated, the quantity or supposed quantity of such
9 real estate, the local or other description thereof, as certified to
10 him, for what year the owner thereof was not charged with taxes
11 thereon, and when such real estate became forfeited. Such rec-
12 ord shall be prima facie evidence that the owner of such real
13 estate was not charged with taxes thereon for any of the years
14 stated therein and that he did not cause such real estate to be
15 entered and charged with taxes as required by law, and that
16 such real estate was forfeited, and title thereto vested in the state
17 at the time specified. In order to enable the auditor to make
18 such record, it shall be the duty of the clerk of the county court
19 of each county in which any such real estate ought to have been,

20 but was not, entered on the land books and charged with taxes
21 thereon upon discovering such failure to certify the same, and
22 all facts in relation thereto, to the auditor. The auditor shall
23 certify to the commissioner of school lands of the proper coun-
24 ties, copies of all the certificates of any such clerk received by
25 him within sixty days after receiving the same, except lands
26 purchased for the state at a sale thereof for taxes, which shall be
27 certified to the commissioner of school lands immediately after
28 the expiration of twelve months after the purchase thereof. The
29 commissioner of school lands shall, as expeditiously as possible,
30 cause proceedings to be started against all forfeited lands to be
31 sold or otherwise disposed of within a period of three years un-
32 less the court for good reasons otherwise order and direct.

Sec. 8. The commissioner of school lands of each county
2 shall tender and file a written report to the circuit court of his
3 county from time to time and, at least once in each year, a list
4 of all tracts and parcels of land lying in whole or in part in his
5 county, reported to him by the auditor and surveyor and
6 escheator as required by sections five, six and seven of this
7 article, or which shall otherwise come to his knowledge, which
8 in his opinion are liable to be sold for the benefit of the school
9 fund. Such report shall be tendered and filed immediately
10 upon the receipt thereof from the auditor. All reports pre-
11 viously certified to the commissioners of school lands and not
12 so filed, shall be filed forthwith.

13 The commissioner of school lands, in such report as herein
14 provided for, shall show, as far as practicable, the following:

15 (a) If such report describes any real estate as forfeited for
16 nonentry on the land books of the proper county and district,
17 as provided in section six, article thirteen of the constitution
18 of West Virginia, such report shall show the name of the party,
19 parties, firms or corporations claiming title of such land at the
20 time such report is made; the number of the lot or acres as the
21 case may be; the town, city, district, road, street or waters, in
22 or on which such real estate is located, and such other descrip-
23 tion as may reasonably be given in such report that will aid in
24 identifying or locating the land and the years constituting such
25 forfeiture; the name or names of all known claimants, or ad-
26 verse claimants, and all known occupants of such real estate, or
27 any part thereof;

28 (b) If such report describes any real estate as waste and

29 unappropriated, such report shall also state that such tracts
30 of real estate were waste and unappropriated and that the
31 title thereto had not passed from the commonwealth of Vir-
32 ginia or the state of West Virginia, and the names of all claim-
33 ants or occupants thereof;

34 (c) If such report describes any real estate as escheated,
35 the report shall also state that such tracts of real estate were
36 escheated to this state by reason of the owner named therein
37 having died intestate and without any heir, owning an estate of
38 inheritance which shall be specifically described in such report;

39 (d) If such report describes any real estate as forfeited for
40 the nonpayment of the taxes due thereon for any year, the re-
41 port shall show the same parties, firms or corporations; de-
42 scription; location and year constituting such forfeiture, as is
43 shown in the certificate of the auditor, certifying such land to the
44 commissioner of school lands.

Sec. 9. When the report mentioned in the preceding sec-
2 tion is filed, the clerk of the circuit court shall transmit to the
3 clerk of the county court of such county an attested copy of
4 such report, which shall be by the clerk of the county court
5 recorded in his office in a well-bound book, which shall be labeled
6 on the back thereof "report of commissioner of school lands."
7 Such clerk of the county court shall index each tract or parcel
8 of land so reported in the name of the party or parties from
9 whom the same became forfeited; or, if such parcel or parcels
10 should be waste and unappropriated, the name shall be indexed
11 as to their location; if such parcel or parcels should be escheated,
12 the same shall be indexed as to the person from whom such
13 lands escheated and if the name of such persons be unknown
14 then as to their location.

15 In any suit pending in the circuit court upon report made
16 by the commissioner of school lands, when redemption of a tract
17 or parcel of land has been made under a decree of such court,
18 or where a tract or parcel of land has been decreed and sold, or
19 where the court has decreed a tract or lot of land not forfeited
20 to the state as waste and unappropriated, or not escheated to
21 the state, the clerk of such court shall, after each term thereof,
22 report each tract or parcel of land so adjudicated by such court,
23 to the clerk of the county court, who shall, upon the copy of such
24 report so recorded in his office, in the marginal space therein
25 to be provided therefor, note in red ink opposite each tract the
26 disposition thereof made by any decree, showing the date of

27 such decree; the chancery order book and page number where
28 recorded; and its purport in respect to such tract by the words,
29 "redeemed," "decreed and sold" or "not liable to sale," as the
30 case may be.

Sec. 10. Every such report shall be recorded in the chan-
2 cery order book of such court and filed and preserved by the
3 clerk of such court in his office, and thereupon a suit or suits
4 in chancery shall be commenced and prosecuted by and in the
5 name of the state of West Virginia for the sale of every such
6 tract and parcel of land, so reported, as required by section
7 four of article thirteen of the constitution of this state. All
8 tracts or parcels of land mentioned in such report, which are
9 claimed to have escheated, shall be proceeded against in a sepa-
10 rate suit. All other tracts or parcels of land mentioned in any
11 such report shall, as far as practicable, be included in one suit,
12 but a separate suit may be brought and prosecuted for the sale
13 of each tract of land exceeding in quantity one thousand acres;
14 and the former owner of any such tract of land at the time of
15 the forfeiture thereof, or the person in whose name the same
16 is forfeited, shall, if known, be made a defendant therein, and
17 all persons claiming title to or interest in any such lands shall
18 also, as far as known, be made defendants therein. And there
19 shall be filed as an exhibit with such bill, which shall be treated
20 as part of the allegations thereof, a certified copy of the com-
21 missioner's report as mentioned in section eight of this article.
22 And any person claiming an interest in any such land or the
23 proceeds thereof, not so made defendant, may file his petition
24 in any suit stating what interest he claims therein, either in
25 open court or before a commissioner in chancery where a
26 reference to such commissioner has been made, while suit is
27 pending before him, or at rules, if the case be pending at rules,
28 and shall thereupon become a defendant therein, and may de-
29 fend and protect his interest, if he has any therein, to the same
30 extent as if he had originally been made a party defendant
31 therein.

Sec. 19. If the court shall be of the opinion that any party
2 to such suit has a clear right of redemption in any land in-
3 volved in such suit, a decree of reference shall not be made as
4 to such lands. In all cases where the title is contested, or the
5 amount of taxes, interest and cost is disputed, a decree of ref-
6 erence shall be made to determine the rightful owner and/or

7 the amount of taxes, interest and cost. When a decree of ref-
 8 rence is made in any such suit, the commissioner before pro-
 9 ceeding to the discharge of his duties, under such decree, shall
 10 give notice to all parties to such suit and to all unknown owners
 11 and claimants of the lands, or any part, of them, mentioned in
 12 the bill, and referred to such commissioner, by publication in
 13 some newspaper printed in the county in which the suit is
 14 brought, or if no such paper be printed therein, then in some
 15 newspaper of general circulation in such county once in each
 16 week for four successive weeks, and by posting at the front door
 17 of the courthouse of such county at least four weeks before
 18 proceeding to discharge his duties under such decree, of the
 19 time and place at which he will so proceed. And such notice,
 20 when so published and posted, shall be equivalent to the per-
 21 sonal service thereof on all the parties to the record in such
 22 suit, and on all unknown owners and claimants of any tract
 23 or parcel of land mentioned in the bill, or any part thereof.
 24 Such notice may be in form or effect as follows:

25 "The State of West Virginia, vs. A., B., C., D., (naming
 26 all the defendants mentioned in the bill having an interest in
 27 such tracts referred to such commissioner).

28 "The plaintiff and each and all of the above-named defend-
 29 ants, and all unknown owners and claimants of any part or
 30 parcel of the following tract (or tracts) of land (here give a
 31 general description of each tract of land proceeded against and
 32 give the name of the owner or owners in whose name such land
 33 is alleged in the bill to be forfeited) mentioned in the plain-
 34 tiff's bill in the above styled cause, will take notice that, on
 35day of....., 19...., at.....,
 36 in the county of....., I will commence
 37 the discharge of my duties under a decree of reference entered
 38 in said cause on the.....day of....., 19....,
 39 directing me to ascertain and report (here insert briefly what
 40 is required by the decree to be ascertained and reported) at
 41 which time and place you, and each of you, can attend and
 42 protect and defend any interest you may have in the lands,
 43 or any of them, in question in this suit.

44 "Given under my hand this....day of.....,
 45Commissioner."

Sec. 22. Every such sale shall be made by the commissioner
 2 of school lands, upon terms, conditions and notice, provided

3 for in the decree of sale. The commissioner, making such sale,
4 shall take from the purchaser of each parcel of land so pur-
5 chased his notes with good security, payable to the state of
6 West Virginia, for the deferred payments of purchase money
7 provided for in the decree of sale, with interest from date
8 thereof, and shall make report thereof to the court which de-
9 creed the sale, in which he shall state the name of each pur-
10 chaser and the particular tract or tracts, lot or lots, or part or
11 parcels, of any tract or lot purchased by him, and the quantity,
12 as near as may be, so purchased by such purchaser; the amount
13 of the purchase money of each tract, lot or parcel, or the part
14 thereof so purchased; the amount of the purchase money paid
15 on each at the time of the purchase, and the amount of the
16 notes taken for the residue of the purchase money; the name
17 of the surety in such notes and the time at which they will
18 become due and payable; the gross amount of money in hand
19 arising from such sales, and the cost and legal expenses there-
20 of, exclusive of his commissions. He shall return with his
21 report all notes and securities taken by him for the purchase
22 money of the real estate sold by him, and the clerk of the court
23 shall indorse thereon the day they will respectively become
24 due and payable, and file and preserve the same in his office;
25 and such notes and securities shall be a lien upon the real estate
26 for which they were given; and, if not paid when due, the clerk
27 shall, without process or further proceeding, enter in the law
28 order book a judgment against the makers and obligors therein
29 and sureties thereon, in favor of the state of West Virginia,
30 upon such note for the amount remaining unpaid, with in-
31 terest. Such judgment shall be as final and valid as if entered
32 by the court, except only that the court shall have such control
33 of it as is given by article two, chapter fifty-eight of this act.
34 Execution may issue upon such judgment, or a rule may be
35 awarded and the land resold as in other chancery suits.

Sec. 24. Every commissioner of school lands shall collect
2 both the proceeds of all sales of school lands made as aforesaid
3 and the proceeds of all redemptions; and for his service as such
4 commissioner, he shall receive the following compensation,
5 to-wit:

6 For all money collected and paid over by him, as such com-
7 missioner, a commission of not less than five nor more than ten
8 per cent on the amount thereof; for each deed to a purchaser

9 of any part of such lands, his heirs, devisees or assigns, five
10 dollars, and for each report of a tract made and filed by him,
11 if sold or redeemed, one dollar, to be taxed as part of the costs;
12 and if such commissioner be a practicing attorney, and shall
13 prosecute suits for the collection of the purchase money of the
14 land so sold, he shall have the attorney's fee taxed in the costs
15 of such cases for the state, if they be collected from the defend-
16 ant, but not otherwise; and if he be not a practicing attorney,
17 such suits shall be prosecuted by an attorney employed by
18 him to prosecute the suit for the sale of the lands for the state.
19 But the money recovered shall be collected and accounted for
20 by the commissioner of school lands. The court in which any
21 suit is prosecuted under this article, shall allow the attorney,
22 prosecuting the same for the state, a fair and reasonable com-
23 pensation for all the services rendered by him therein for the
24 state, including the regular statute fees as provided in section
25 twenty-five of this article, and the same shall be paid him out
26 of the proceeds of the lands sold or redeemed in every such
27 suit. And in addition to the compensation above allowed the
28 commissioner of school lands, he shall be allowed all reasonable
29 and proper expenses necessarily incurred and actually paid
30 by him in the proper discharge of the duties of his office under
31 this article, to be fixed and adjusted by the court upon the
32 production of vouchers showing the amount paid and upon what
33 account. And in case of the redemption of any such real
34 estate by the former owner thereof, as provided in section
35 twenty-nine of this article, such commissioner shall be entitled
36 to the same commission on the money as if such real estate had
37 been sold and the proceeds thereof collected by him; and the
38 attorney shall receive the same fee in case of redemption as
39 he would have received in case said real estate had been sold,
40 but such attorney's fee shall not exceed the sum of the statute fee
41 assessed as costs against the tract redeemed, plus the interest
42 on the taxes collected on the tract redeemed.

Sec. 25. The cost per tract of every such suit shall be ascer-
2 tained and taxed by the clerk as hereinafter provided, and shall
3 be paid out of the proceeds of the sale or redemption of such real
4 estate, and not otherwise, to the several persons entitled thereto,
5 if sufficient for the purpose; but if such proceeds are not suffi-
6 cient to pay the whole of such costs and commissions and the

7 expenses aforesaid of the commissioner of school lands, the same
8 shall be paid therefrom to the several persons entitled thereto
9 pro rata. If the residue of such proceeds after the payment of
10 such costs and commissions and expenses of the commissioner of
11 school lands, as provided in the next preceding section, be suf-
12 ficient to pay all the state, county, municipal and district taxes
13 that may be due on such lands, such commissioner of school lands
14 shall, when ordered by the court to do so, pay any taxes on such
15 lands that may be due to the county, municipality and district
16 in which the real estate is situated, to the sheriff of such county
17 and into the treasury of such municipality, and he shall pay the
18 balance of such proceeds into the treasury of the state for the
19 benefit of the school fund; but if such proceeds are not suffi-
20 cient to pay all the taxes aforesaid, then they shall be paid to
21 such sheriff and into the treasury of such municipality and to
22 the state pro rata; and such sheriff, in either event, shall at his
23 regular settlements with the county court and the respective
24 boards of education of his county, account for and pay over all
25 money paid to him under the provisions of this chapter. If
26 the land be either sold or redeemed, fees, not to exceed the fol-
27 lowing, shall be assessed as costs against each tract: Clerk of
28 the circuit court, one dollar fifty cents; clerk of the county
29 court, for noting disposition as provided for in section nine
30 of this article and certifying to assessor, fifty cents; the com-
31 missions allowed the school land commissioner; a statute fee
32 of ten dollars if the amount of the taxes due on the land
33 forfeited is less than fifty dollars; fifteen dollars, if the amount
34 of the taxes due on the land forfeited is more than fifty dol-
35 lars and less than one hundred dollars; or twenty dollars if
36 the amount of the taxes due on the land is more than one
37 hundred dollars; the school land commissioners' report fee,
38 one dollar; if a reference is made the fee of the commis-
39 sioner in chancery shall be determined and taxed as costs
40 the same as in other chancery causes; the sheriff's fee of
41 seventy-five cents for each process executed on persons who are
42 or may be interested in the particular tract being redeemed or
43 sold; if a survey is had, the surveyor and chairman shall be paid
44 as for other work done for the county and the costs assessed to
45 the tract surveyed; a printers' fee of five dollars per tract if
46 service is had by order of publication and an additional printers'
47 fee of five dollars per tract, if commissioner in chancery's notice

48 has been published; and in cases of sale, the printer's fee for
49 advertising such sale; a five dollar deed fee for the commissioner
50 of school lands, and publication fees incident to the forfeiture.
51 Any commissioner of school lands who shall fail to pay over to
52 the parties entitled thereto and account for, at the time of mak-
53 his annual report to the auditor, any moneys which shall have
54 come into his hands and possession, when thereto lawfully re-
55 quired, shall be deemed guilty of larceny, or at the discretion of
56 the court, be fined not exceeding double the amount he so failed
57 to pay and account for, and be imprisoned in the county jail not
58 exceeding one year. And no commissioner of school lands shall
59 become the purchaser of any school lands at the sale thereof, or
60 be interested therein, and upon so doing shall forfeit his office
61 and at the discretion of the court be fined not exceeding five hun-
62 dred dollars.

Sec. 26. The commissioner of school lands of each county
2 shall, on or before the thirty-first day of July of each year, make
3 out in triplicate a report as of the thirtieth day of June of each
4 year, showing all the tracts of land that have been forfeited to
5 the state, or purchased for the state at a sale for taxes, disposed
6 of by the commissioner, and not heretofore reported. The com-
7 missioner of school lands, in such report as herein provided for,
8 shall show in relation to each tract the following:

9 The name or names in which each tract was certified to him,
10 as forfeited; the number of the lot or acres as the case may be;
11 the town, city, district, road, street or waters in or on which real
12 estate is located; the year or years for which taxes due thereon
13 had not been paid; the amount of all taxes due the state, the
14 county, and any district or municipality; whether redeemed, sold
15 or not liable to sale; by whom redeemed or to whom sold; total
16 amount of sale or redemption, and an itemized statement of all
17 disbursements.

18 He shall also report, in like manner, all lands for which he has
19 instituted proceedings in the name of the state for lands for-
20 feited to the state by reason of not being on the land books for
21 five years or more, and all lands which have escheated to the
22 state. The report hereby required to be made shall be made upon
23 blank forms to be furnished by the auditor.

24 The commissioner of school lands shall certify and forward
25 the original of the report herein provided for to the state auditor;
26 the second copy thereof shall be certified and filed with the cir-

27 cuit court at the first regular term of said court thereafter, and
28 the third copy shall be certified and filed with the clerk of the
29 county court.

30 Every commissioner, failing to make any report required by
31 this section, shall be guilty of a misdemeanor and be fined not
32 less than one hundred nor more than one thousand dollars, to be
33 deposited to the credit of the general school fund and be removed
34 from office. It shall be the duty of the state tax commissioner
35 to make an annual audit of the records of the commissioners of
36 school lands, and report the findings thereof to the circuit court.
37 It shall be the further duty of the state tax commissioner
37a to take steps to enforce in conjunction with the circuit court
38 the provisions of this section, and to collect any moneys which
39 any commissioner of school lands may have received and have
40 failed to pay to the state or county, or any district or mu-
41 nicipality. The state tax commissioner shall, as far as possible,
42 see that every officer having any duty to perform under this
43 article, shall perform the same as herein required and report
44 any failure of such officer to the proper authority.

Sec. 29. The former owner, his heirs, devisees or assigns, of
2 any real estate forfeited for any cause to the state of West Vir-
3 ginia, may, before suit is instituted, redeem such real estate by
4 payment of commissions, a title fee of not more than five dol-
5 lars, publication fees and taxes and interest properly charge-
6 able thereon to the commissioner of school lands, but no other
7 fees and costs shall be allowed; such redemption shall be reported
8 by the commissioner of school lands to the circuit court at its
9 first term thereafter at which time an order shall be entered by
10 the circuit court, showing the disposition of such tracts so re-
11 deemed in like manner as if redemption had been made pending
12 suit; or the former owner, his heirs, devisees or assigns, or any
13 real estate, forfeited for any cause to the state of West Virginia,
14 may at any time during the pendency of the suit for the sale
15 thereof, and before a decree for the confirmation thereof has
16 been made and entered by the court, file his petition therein in
17 manner and form as provided in the next preceding section in
18 relation to the excess of the proceeds of such sale, praying to be
19 allowed to redeem so much only of such real estate as to which
20 the title still remains in the state; and upon the filing of such
21 petition, and upon such proof being made as would entitle the
22 petitioner to the excess of the purchase money of such real estate

23 if the same had been sold, the court may, by a proper decree,
 24 permit the petitioner upon the payment into court, or to the
 25 commissioner of school lands, the costs, taxes and interest prop-
 26 erly chargeable thereon, to be fixed by the court in its decree,
 27 to redeem the real estate mentioned in his petition. And upon
 28 such payment being made as aforesaid, the court shall enter its
 29 decree declaring the redemption of such real estate by such peti-
 30 tioner, so far only as the title thereto is in the state, as provided
 31 in this chapter, and so far as the petitioner has shown himself
 32 entitled to redeem the same; which decree shall operate as a
 33 release of such forfeiture of such real estate to the extent de-
 34 clared therein, and of all former taxes and interest charged and
 35 chargeable thereon. And such petitioner shall acquire no other
 36 title to the lands so redeemed than was vested in him imme-
 37 diately before such forfeiture, but such redemption shall in no
 38 wise effect or impair any right, title or interest any other person
 39 may have in such real estate or any part thereof, by purchase
 40 from the state, or under and by virtue of section three, article
 41 thirteen of the constitution of this state.

CHAPTER 50

(House Bill No. 110—By Mr. Kenna)

AN ACT to amend and re-enact section forty-eight, of article three, of chapter sixty-one, of the code of West Virginia, prescribing penalties for the damaging or carrying away, without permission, of trees, flowers, etc., growing within one hundred yards of public roads.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>Sec. 48. Unlawful to damage trees, flowers, etc., growing within one hundred yards of public road without written permission; unlawful to</p>		<p>Sec. have same in possession without written permission; exceptions as to public service companies; penalties for violation of section.</p>
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Be it enacted by the Legislature of West Virginia:

That section forty-eight, of article three, of chapter sixty-one, of the code of West Virginia be amended and re-enacted so as to read as follows:

Section 48. It shall be unlawful to break, cut, take or carry 2 away, or in any manner to damage any of the trees, shrubbery 3 or flowers, including everything under the title of flora, whether

4 wild or cultivated, growing within one hundred yards on either
5 side of any public road in this state, without the permission in
6 writing of the owner or owners of record, the agent, or tenants,
7 of the land upon which such trees, shrubbery or flowers, includ-
8 ing everything under the title of flora, shall be growing.

9 It shall be unlawful for any person wilfully or knowingly to
10 have in his possession, or to haul along any public road in this
11 state, any trees, shrubbery or flowers, including everything under
12 the title of flora, which are protected by this section, unless such
13 person so having in his possession or hauling the same shall
14 have permission in writing so to do from the owner, agent or
15 tenant of record of the land from which the same have been
16 taken.

17 Nothing herein contained shall be construed as affecting the
18 right of public service companies operating under franchise,
19 their agents or employees, to keep the railroad tracks, lines,
20 wires or other equipment free from interference in the satisfac-
21 tory operation of their properties, or the right of the public au-
22 thorities in the maintenance of the public roads under their juris-
23 diction and control.

24 Any person who shall violate any of the provisions of this
25 section shall be guilty of a misdemeanor, and, upon conviction
26 thereof, for the first offense shall be fined not more than fifty
27 dollars, and for subsequent offenses shall be confined in the
28 county jail for not more than three months, or fined not more
29 than fifty dollars, or both, for each offense. Justices of the peace
30 shall have concurrent jurisdiction with the circuit and criminal
31 or intermediate courts of offenses under this section.

CHAPTER 51

(House Bill No. 131—By Mr. Lubliner)

AN ACT to repeal section twelve, article twenty, of chapter nine-
teen, of the official code of West Virginia, relating to dogs.

[Passed March 11, 1931; in effect ninety days from passage. Approved by the
Governor.]

SEC.
1. Removing restriction on ownership |
of dogs by aliens.

Be it enacted by the Legislature of West Virginia:

Section 1. That section twelve, article twenty, of chapter

2 nineteen of the code of West Virginia, be repealed, and hereafter
3 be omitted from the sections, language, terms and provisions of
4 the same.

CHAPTER 52

(House Bill No. 135—By Mr. Bassel)

AN ACT to amend chapter nineteen, article eleven, of the code of West Virginia, by adding thereto sections five to seventeen, inclusive, regulating the weighing, testing, buying and selling of milk and cream; providing for the examination and appointment of certified testers; and the issuing of licenses and making of tests; and providing penalties.

[Passed March 9, 1931; in effect ninety days from passage. Approved by the Governor.]

Sec.	Sec.
5. Permit by commissioner of agriculture when milk or cream is received by measure; fee for and duration of; when permit not required.	to be made; composite sample; check tests by commissioner of agriculture.
6. How milk or cream tested.	11. Basis of payment for milk or cream purchased or sold.
7. Approval of testing utensil instrument by commissioner of agriculture.	12. True weight to be used on basis of payment.
8. Certified tester, qualification and certificate; examination of certified testers and certificate and license to; fee for and renewal of license.	13. Certificate of purchaser to producer; contents.
9. Who may take samples for testing purposes; qualifications of person licensed to weigh and sample milk and cream; fee for and renewal of license; how often tests	14. Authority of commissioner of agriculture and agents to examine books and testing apparatus.
	15. Commissioner of agriculture to enforce act; duty of prosecuting attorney.
	16. Penalty for violation of act.
	17. Payment of fees into state treasury as excepted fund.

Be it enacted by the Legislature of West Virginia:

That chapter nineteen, article eleven, of the code of West Virginia, be amended by adding thereto sections five to seventeen inclusive, which sections shall read as follows:

Section 5. Every creamery, shipping station, milk factory, 2 cheese factory, ice cream factory or milk condensary, or per- 3 son, receiving, buying, paying for milk or cream, regardless 3-a of method of settlement shall be required to hold a permit 4 for each and every place where milk or cream is received by 5 weight or measure. The permit shall be issued to such cream- 6 ery, shipping station, milk factory, cheese factory, ice cream 7 factory, condensary, or person upon complying with the pro- 8 visions of the law and upon filling out of an application blank 9 furnished upon application to the commissioner of agriculture,

10 and sending it together with the annual license fee of five
11 dollars to him. The permit shall be valid until June thir-
12 ty, following date of issue and shall be revoked by the com-
13 missioner of agriculture for violation of the provisions of this
14 act. This act shall not apply to individuals buying milk or
15 cream for private use, or to hotels, restaurants, boarding houses,
16 railroad dining cars or drug stores.

Sec. 6. It shall be unlawful for any person, association, co-
2 partnership, or corporation, their agents or servants, engaged
3 in the business of buying milk or cream on the basis of, or in
4 any manner with reference to, the amount or percentage of
5 butterfat contained therein, to underread, overread, or other-
6 wise fraudulently manipulate the test, commonly known as the
7 Babcock test used for determining the percentage of such fat
8 in said milk or cream, or to falsify the record thereof, or to
9 make the Babcock reading except when the fat has a temper-
10 ature of one hundred thirty to one hundred forty-five degrees
11 Fahrenheit, or to use for such test quantities other than seven-
12 teen and six-tenths cubic centimeters in the case of milk, and
13 nine grams or eighteen grams in the case of cream. In all tests
14 of cream the cream shall be weighed and not measured into the
15 test bottle.

Sec. 7. No person, association, copartnership, or corpora-
2 tion, purchasing milk or cream, and paying for the same, on the
3 basis of the percentage of butterfat contained therein, shall,
4 if the percentage of butterfat is ascertained by the said "Bab-
5 cock test," use any test glassware except standard Babcock test
6 glassware which has been previously approved by the commis-
7 sioner of agriculture. If the proportion of butterfat is de-
8 termined by any method other than the "Babcock test," no
9 utensil or instrument shall be used in such determination until
10 the same has been inspected and approved by the commissioner
11 of agriculture.

Sec. 8. Every person, association, copartnership, corpo-
2 ration, or agent or servant thereof, engaged in the business of
3 receiving or buying milk or cream on the basis of, or in any
4 way with reference to, the amount of butterfat contained there-
5 in, as determined by the Babcock test, shall have said test or
6 tests made, only by a certified tester who shall directly supervise
7 and be responsible for the same. For the purpose of this act,
8 a certified tester is any person, who having furnished satis-

9 factory evidence of good character, and having passed a satis-
10 factory examination in milk and cream testing conducted by the
11 commissioner of agriculture shall have received a certificate
12 of proficiency from the commissioner of agriculture. Each ap-
13 plicant for such certificate shall pay a fee of three dollars to the
14 commissioner of agriculture in such manner as the regulation
15 may prescribe, to defray the cost of the required examination
16 and of the certificate. Examination of certified testers shall be
17 held in each congressional district at a suitable place, at
18 intervals decided upon by the commissioner of agriculture who
19 shall issue temporary testing permits to applicants which shall
20 be valid until the next scheduled examination. The commis-
21 sioner of agriculture shall issue such certificate of proficiency
22 in the name of the approved applicant and under serial num-
23 ber, and shall maintain a correspondingly numbered register
24 of all such certificates issued under this act. The commissioner
25 of agriculture shall issue a license to said applicant, good until
26 June thirty, following date of issue, on the payment of a fee
27 of two dollars. This license shall be renewed annually, with-
28 out further examination, at the discretion of the commissioner
29 of agriculture upon the payment of two dollars. Each certified
30 tester shall post his license in plain view in the testing room in
31 which he is employed. The commissioner of agriculture may
32 revoke said license for failure to post it as above required or
33 for any other just cause.

Sec. 9. Every person, association, copartnership, or cor-
2 poration engaged in the business of buying milk or cream on
3 the basis of or in any way with reference to the amount of
4 butterfat contained therein shall have the samples taken for
5 testing purposes either by a certified tester or by a person
6 licensed or certified to weigh and sample milk and cream. For
7 the purpose of this act a person certified to weigh and sample
8 milk or cream is any person who, having furnished satisfac-
9 tory evidence of good character and having passed a satisfac-
10 tory examination in weighing and sampling milk and cream
11 conducted by the commissioner of agriculture, shall have re-
12 ceived a certificate of proficiency from the commissioner of agri-
13 culture. Each applicant for such certificate shall pay a fee of
14 one dollar and fifty cents to the commissioner of agriculture.
15 The commissioner of agriculture shall issue such certificate of
16 proficiency in the name of the approved applicant and under

17 serial number. The commissioner of agriculture upon receipt
18 of this certificate of proficiency, together with the payment of a
19 fee of two dollars, shall issue a license to said applicant good for
20 one calendar year. This license shall be renewed annually
21 without further examination at the discretion of the commis-
22 sioner of agriculture upon the payment of two dollars. Each
23 licensed weigher and sampler shall post his or her license in
24 plain view in the plant in which he or she is employed. The
25 commissioner of agriculture may revoke said license for fail-
26 ure to post it as above mentioned or for any other just cause.

Sec. 10. Any person, association, copartnership, or corpo-
2 ration engaged in the business of buying milk or cream on the
3 basis of, or in any way with reference to, the amount or per-
4 centage of butterfat contained therein, as determined by the
5 Babcock test, shall make such test of milk or cream bought from
6 each person at least once every sixteen days. The milk or cream
7 purchased from each person shall be represented by a compos-
8 ite sample, taken from each of the several lots of milk or cream
9 bought from said person, and shall cover a period of not more
10 than sixteen days. The composite samples, to which a suitable
11 preservative has been added, shall be made up of aliquot parts
12 taken from each of the several lots of milk or cream bought from
13 each person concerned, and composite samples of all persons
14 concerned shall cover the same period of time. Each composite
15 sample shall be held in an airtight bottle; such bottle shall be
16 plainly labeled with the name or number of the person whose
17 milk or cream the composite sample represents; and the rack
18 or container where the samples are held shall be plainly labeled
19 showing the date of the first and last day of the period of time
20 covered by the said composite sample. After such samples have
21 been tested their residues shall be kept intact on the premises for
22 a further period of not less than twelve days, in order to make
23 possible a check test. The commissioner of agriculture is here-
24 by authorized to make check tests whenever in his judgment
25 such tests are for the public welfare. Every person, firm, or
26 corporation affected by the provisions of this act shall within
27 five days after the day on which the test herein provided for has
28 been made notify the seller of such milk or cream or his agent
29 of the result of such test, stating the period of time during which
30 said composite samples were taken. Notice under this section
31 may be given by posting of the results of said tests continuously

32 for ten days in a conspicuous place in receiving stations or in
33 writing. Where a daily test is made on milk or cream and the
34 average of these several tests used as a basis of settlement there
35 shall also be a composite sample taken covering a period of first
36 and last half of month and shall be held intact on the premises
37 for a period of not less than ten days, in order that the commis-
38 sioner of agriculture or his agents may make check tests when-
39 ever in his judgment such tests are advisable for the public
40 welfare.

Sec. 11. No percentage of fat ascertained from a sample,
2 containing milk or cream, that has been so treated as to cause
3 it to test lower or higher than the test of the milk or cream
4 from which it was taken, shall be used as a basis of payment
5 for milk or cream purchased or sold. No composite sample shall
6 be tested for use as a basis for payment of milk, which has been
7 kept more than fifteen days after such composite sample has
8 been completely taken.

Sec. 12. No person, association, copartnership, or corpora-
2 tion purchasing or selling milk or cream, or both, by weight, and
3 no agent or servant of any such person, association, copartner-
4 ship or corporation shall fraudulently use, as the basis of pay-
5 ment for such purchase, any weight other than the true weight
6 of the milk or cream so purchased or sold.

Sec. 13. Every person, association, copartnership, corpora-
2 tion or agent or servant purchasing or receiving milk or cream
3-9 from the producer thereof for manufacturing purposes or for
10 reselling the same shall, at each time of payment to such pro-
11 ducer for such milk or cream, or where the producer of such
12 milk or cream is selling the same to such purchaser or re-
13 ceiver by or through cooperative association or other agency
14 and the payment thereof is being made by such purchaser or
15 receiver to such cooperative or other agency shall at the time
16 such purchaser or receiver makes each payment to such cooper-
17 ative association or other agency, give each such producer so de-
18 livering milk a statement showing the amount delivered daily
19 during the time for which payment is made and the average per
20 centum butterfat test of same, provided payment is made on the
21 basis of the butterfat content; such statement to contain the
22 name or number of the producer or seller of such milk or cream,
23 the date of delivery thereof. and the amount so delivered; such
24 statement to be given in the terms of the unit used as a basis

25 for determining the value thereof: *Provided, however,* That
26 such purchaser or receiver may in lieu of said monthly state-
27 ment give daily to such producer or to his agent at the time of
28 delivery of such milk or cream to such purchaser or receiver
29 a written statement of the amount of milk or cream so received
30 or purchased.

Sec. 14. The commissioner of agriculture and his agents are
2 hereby authorized to enter the premises, and to examine the
3 books and records and testing apparatus of any person, asso-
4 ciation, copartnership, or corporation, for the purpose of carry-
5 ing out the provisions of this act.

Sec. 15. The commissioner of agriculture shall be charged
2 with the enforcement of the provisions of this act; and may
3 make such rules and regulations as he may deem advisable in
4 carrying out the provisions of this act as long as they are not
5 inconsistent with this act. Nothing contained in this section
6 shall be construed to prevent any individual from prosecuting
7 anyone violating any of the provisions of this act. And it shall
8 be the duty of every prosecuting attorney to whom the com-
9 missioner of agriculture shall report any violation of the pro-
10 visions of the act to cause proceedings to be commenced against
11 the person or persons so violating the provisions of this act and
12 to prosecute the same to final termination according to the laws
13 of the state of West Virginia.

Sec. 16. Any person violating any of the provisions of this
2 act shall be guilty of a misdemeanor, and, upon conviction there-
3 of, shall be sentenced to pay a fine of not more than one hun-
4 dred dollars, or imprisonment in the county jail for not more
5 than thirty days, or both, in the discretion of the court.

Sec. 17. All fees or other moneys collected by said com-
2 missioner of agriculture under the provisions of this act shall
3 be paid into the state treasury in the manner provided in article
4 two, chapter twelve of the code, and shall be carried in a
5 separate account and be used and expended only for the pur-
6 pose of carrying out the provisions of this act. The fees or
7 other moneys so paid into the state treasury shall constitute
8 and be treated as an excepted fund, and all of the provisions
9 of section two of said article two, chapter twelve of the code,
10 applicable to the funds therein excepted from the general pro-
11 visions for the deposit and payment of state funds, shall be

12 applicable to the fund derived from collections made pursuant
 13 to the provisions of this act.
 14 All acts and parts of acts inconsistent with this act are here-
 15 by repealed.

CHAPTER 53

(House Bill No. 146—By Mr. Haymond)

AN ACT to re-enact and amend section six of article four of chapter eleven, official code of the state of West Virginia, one thousand nine hundred thirty-one, relating to assessment of lands, estates in land and undivided interests therein.

[Passed February 27, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>Sec. 6. Assessment of parcelled tract to different owners; separate assess-</p>		<p>ment of surface and mineral and timber rights; separate assess- ment of undivided interests.</p>
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Be it enacted by the Legislature of West Virginia:

Section 6. When a tract of land becomes the property of
 2 different owners in several parcels, the assessor shall assess the
 3 several parcels separately to the individual owners thereof, giving
 4 to each of such parcels its true and actual value according to the
 5 rule prescribed in this chapter. When any person becomes the
 6 owner of the surface, and another or others become the owner
 7 or owners of the coal, oil, gas, ore, limestone, fireclay, or other
 8 minerals or mineral substances in and under the same, or of the
 9 timber therein, the assessor shall assess such respective estates to
 10 the respective owners thereof at their true and actual value,
 11 according to the rule prescribed in this chapter.

12 When any person or persons are, or becomes, the owner or
 13 owners of any undivided interest or interests in land, or in the
 14 surface, coal, oil, gas, ore, limestone, fireclay, timber or other
 15 estates therein, the owner or owners of such undivided interest
 16 or interests may, on request to the assessor, and without consent
 17 or acquiescence of the other joint owner or owners of the other
 18 undivided interest or interests, have such undivided interest or
 19 interests assessed to him or them separately and independently
 20 of other undivided interest or interests therein; and all such
 21 assessments and undivided interests heretofore entered on the
 22 assessment books are hereby validated.

CHAPTER 54

(House Bill No. 154—By Mr. Smith, of Wirt)

AN ACT to amend and re-enact section six of article three of chapter sixty-two of the revised code of West Virginia.

[Passed February 26, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.
6. Custody of jury in felony cases by
sheriff. |

Be it enacted by the Legislature of West Virginia:

That section six of article three, chapter sixty-two of the revised code of West Virginia relating to custody of juries; expenses, and conversation with juries, be and it is hereby amended and re-enacted so as to read as follows:

Section 6. After a jury in a case of felony is impaneled and 2 sworn, they shall be kept together and furnished with suitable 3 board and lodging by the sheriff or other officer until they agree 4 upon a verdict or are discharged by the court. After a jury has 5 been impaneled, no sheriff or other officer shall converse with, or 6 permit any one else to converse with a juror, unless by leave of the 7 court.

CHAPTER 55

(House Bill No. 160—By Mr. Haines)

AN ACT to amend and re-enact section fifty-seven, of article twelve, of chapter eleven, of the official code of West Virginia, one thousand nine hundred thirty-one.

[Passed March 11, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.
57. License hawkers and peddlers; |
when license not required.

Be it enacted by the Legislature of West Virginia:

That section fifty-seven, article twelve, chapter eleven, of the official code of West Virginia, one thousand nine hundred thirty-one, relating to hawkers and peddlers, be amended and re-enacted so as to read as follows:

Section 57. On every license to act as a hawker or peddler, 2 if the person licensed travel without a horse or vehicle, fifty

3 dollars; if he travel with one horse, with or without a wagon or
 4 other vehicle, one hundred fifty dollars; if he travel with two
 5 or more horses, with or without a vehicle, or if he travel with a
 6 motor vehicle, two hundred dollars. Such license shall be placed
 7 in some conspicuous place in his wagon or other vehicle or about
 8 his pack: *Provided*, That nothing in this article shall be con-
 9 strued as levying a license tax on resident farmers selling pro-
 10 duce of their own production; or upon citizens of this state buy-
 11 ing or selling dairy, poultry, or other farm products direct to,
 12 or from farmers within the state of West Virginia.

CHAPTER 56

(House Bill No. 185—By Mr. Smith, of Marion)

AN ACT to amend article five of chapter twenty-eight of the code
 of West Virginia, by enacting an additional section, to be
 numbered section twenty-seven (a), relating to extra good
 time to be allowed certain classes of convicts of the West
 Virginia penitentiary.

[Passed March 2, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.
 27 (a). Extra good time allowance |
 for certain convicts.

Be it enacted by the Legislature of West Virginia:

That article five of chapter twenty-eight of the code of West
 Virginia be amended by enacting an additional section to be called
 section twenty-seven (a), relating to extra good time to be allowed
 certain classes of convicts of the West Virginia penitentiary, to
 read as follows:

Section 27 (a). The warden may, with the written approval
 2 of the governor, allow, in addition to that now permitted by
 3 law, such good time to convicts, except life prisoners, working
 4 outside the wall of the penitentiary and as domestic help for
 5 the warden at the penitentiary, as he may deem proper.

CHAPTER 57

(House Bill No. 331—By Mr. Cummins)

AN ACT to amend and re-enact chapter twenty-eight, article five, section twenty-eight of the code of West Virginia, relating to the parole of convicts.

[Passed March 13, 1931; in effect from passage. Approved by the Governor.]

SEC. 28. Parole of convicts by governor; while on parole in legal custody of governor; power of governor	SEC.	to retake; while paroled convict deemed serving out sentence and entitled to good time allowance.
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Be it enacted by the Legislature of West Virginia:

That chapter twenty-eight, article five, section twenty-eight of the code of West Virginia, be amended and re-enacted so as to read as follows:

Section 28. The governor shall have authority, under such 2 rules and regulations as he may prescribe, to issue a parole, or 3 permit to go at large, to any convict who now is, or hereafter 4 may be, imprisoned in the penitentiary of this state, under sen- 5 tence other than a life sentence, and who has not previously 6 served two terms of imprisonment in any penal institution for 7 felony. Every such convict, while on parole, shall remain in the 8 legal custody and under the control of the governor, and shall 9 be subject at any time to be taken back within the inclosure of 10 the penitentiary for any reason that shall be satisfactory to the 11 governor, and at his sole discretion. Full power to retake and 12 return any such paroled convict to the penitentiary is hereby 13 expressly conferred upon the governor, whose written order, 14 when attested by the secretary of state, shall be a sufficient war- 15 rant authorizing all officers named therein to return any such 16 paroled convict to actual custody in the penitentiary; and it is 17 hereby made the duty of all officers to execute such order the 18 same as an ordinary criminal process. This section shall not 19 be construed to operate in any sense as a release of any convict 20 paroled under its provision, but simply as a permit granted to 21 such convict to go without the inclosure of the penitentiary, and 22 while so at large he shall be deemed to be serving out the sen- 23 tence imposed upon him by the court, and shall be entitled to 24 good time the same as if he were confined in the penitentiary.

CHAPTER 58

(Senate Bill No. 35—By Mr. Roberts)

AN ACT to amend and re-enact article six of chapter thirty-one of the official code of West Virginia relating to the continuation, incorporation, and operation of building and loan associations, and repealing all articles or parts of articles, general or special, heretofore enacted and inconsistent or in conflict with the provisions of this article.

[Passed March 6, 1931; in effect ninety days from passage. Approved by the Governor.]

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Building and loan associations heretofore organized under laws of this state may continue under present charter; associations, both foreign and domestic, heretofore or hereafter organized to do business in this state, to operate subject to rules, etc., prescribed herein. 2. Building and loan associations, defined; domestic and foreign; general corporation laws, not inconsistent, to apply. 3. Only mutual building and loan associations and mutual savings and loan companies to operate under this article; charters of mutual building and loan associations heretofore organized, validated. 4. Organizers of association, number; articles of association, what to state. 5. Approval of commissioner of banking of charter, or amendment, required. 6. Constitution and by-laws, what to provide and determine. 7. When certificate of authority to commence business may be issued by commissioner of banking; no business to be transacted until authorized; if association not organized within one year from date of certificate of incorporation, certificate to be void; to maintain no branches other than those already established. 8. Membership, continuation; dues; minor, over fourteen years of age, may become shareholder; effect of receipt, etc., to minor shareholder; withdrawal of shareholder, holding jointly, etc., with another; shares held in fiduciary capacity, withdrawal value. 9. Associations to be permanent; serial associations may continue to issue installment shares in series. 10. Pledged and free shares; classes of shares; shares sold for money only and no commission to be charged; receipts to shareholders. 11. Shares of deceased shareholder to be held by legal representative or trustee of estate. | <p>Sec.</p> <ol style="list-style-type: none"> 12. When stock reaches matured value, payment of dues to cease; payment of unpledged shares having a withdrawal value. 13. Cancellation of shares after written notice; payment to withdrawing shareholder; interest, if not paid within sixty days. 14. Enforcement of withdrawal of fully paid and free installment shares. 15. When shares of members in arrears may be declared forfeited; withdrawal value to be paid to member; forfeited shares to cease to participate in profits. 16. Transfer of shares upon books, liability of transferee. 17. Amount of premium or interest charged by association; not to be deemed usurious. 18. Board of directors, number, qualification and residence; election of officers by directors; duties, terms, etc., of officers to be determined by by-laws. 19. How funds of association may be invested. 20. Bond required of officer or employee having custody of money, records, etc., of association; new or additional bond; schedule or blanket bond. 21. Conditions on which association may take mortgage or deed of trust. 22. Repayment of loans by members. 23. Upon default by borrower for three months, whole of indebtedness to be immediately due; collection of loan. 24. Association may borrow money, upon resolution of board of directors. 25. Contingent reserve, amount, purpose; undivided profit account. 26. Gross earnings to be ascertained at stated periods; portion of net earnings to be placed in contingent reserve and other portion transferred to shareholders as dividends; residue to be held as surplus or undivided profits; rate of dividend to shareholders. 27. Order by commissioner of banking as to method of keeping books and accounts; penalty for failure to obey order. 28. How two or more associations may consolidate; how association may sell or transfer business to an- |
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| <p>SEC. other association; rights of shareholder not consenting to consolidation or sale.</p> <p>29. Powers of commissioner of banking over associations.</p> <p>30. Notice to board of directors by commissioner of banking of illegal practices; when commissioner of banking may take possession of and liquidate association.</p> <p>31. Penalty for making unauthorized disclosure of names of shareholders or information about their private accounts.</p> <p>32. How by-laws may be repealed or amended; when amendment to be in effect.</p> <p>33. Foreign associations to secure certificate of authority from commissioner of banking to do business in state.</p> <p>34. Upon what conditions certificate</p> | <p>SEC. granted to foreign associations; annual renewal of certificate.</p> <p>35. Examination of foreign associations; payment of expenses of examination into state treasury.</p> <p>36. Penalty for acting as agent for or selling shares of unauthorized association.</p> <p>37. Fees of foreign associations.</p> <p>38. Amount of state license tax of domestic and foreign associations.</p> <p>39. Penalty for wilfully making, circulating, etc., false statement as to financial condition of association.</p> <p>40. Penalty for violating any provisions of this article.</p> <p>41. If any provision of article held unconstitutional, other provisions not affected.</p> <p>42. Inconsistent articles and sections repealed.</p> |
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Be it enacted by the Legislature of West Virginia:

Section 1. That the building and loan associations heretofore
 2 organized under the laws of this state may continue under their
 3 present charters or any extension thereof, and that all building
 4 and loan associations, whether domestic or foreign, heretofore
 5 or hereafter organized or authorized to do business in this state,
 6 shall be incorporated, established, and operated subject to the
 7 powers, duties, privileges, limits, rules, and regulations herein
 8 prescribed.

Sec. 2. Corporations organized in this state for the pur-
 2 pose of encouraging industry, frugality, home-building, and
 3 saving among their members, and for the purpose of assisting
 4 their members to accumulate and invest their savings by ac-
 5 cumulating a fund from periodical payments on their stock
 6 or otherwise to be loaned among their members and to other
 7 persons, shall be known in this article as building and loan asso-
 8 ciations. Such associations organized under the laws of this
 9 state shall be known as domestic associations and those organ-
 10 ized under the laws of any other state or territory shall be
 11 known as foreign associations.

12 All the provisions of the law of this state relating to general
 13 corporations, not inconsistent with this article, shall be applic-
 14 able to building and loan associations.

Sec. 3. No corporation, except mutual building and loan
 2 associations or mutual savings and loan companies, shall be
 3 permitted to operate under this article. The charters of all mu-
 4 tual building and loan associations heretofore organized are
 5 hereby in all respects validated and confirmed, and all such

6 associations shall have the powers and privileges of associations
7 formed under this article.

Sec. 4. Any number of resident citizens of West Virginia,
2 not fewer than nine, may associate themselves together for the
3 purpose of organizing a building and loan association as de-
4 fined in this article, and for that purpose they shall make, sign,
5 and acknowledge before some person, authorized by the laws
6 of this state to take acknowledgment of deeds, articles of asso-
7 ciation in writing which shall state:

8 *First:* The corporate name of the association. The name
9 adopted by any association shall not be the same assumed by
10 any other association nor so similar as to be liable to mislead.
11 The words "Building and Loan Association" shall end the
12 name of every domestic association hereafter organized under
13 this article, and no association not organized under this article
14 shall be entitled to use a name embodying such combination of
15 words, except that the associations now existing may continue
16 their present names.

17 *Second:* The name of the city or town where the principal
18 office or place of business is to be located.

19 *Third:* A provision that such association is organized under
20 this article for the purpose herein expressed.

21 *Fourth:* The amount of the total authorized capital stock,
22 the number of shares into which the same shall be divided, the
23 par value of each share, which shall be one hundred dollars, the
24 number of shares subscribed for, the amount of dollars which
25 has been subscribed, and amount of dollars which has been
26 paid. This paragraph shall not apply to associations hereto-
27 fore organized.

28 *Fifth:* The names and postoffice addresses of all the incor-
29 porators and the number of shares of stock subscribed for by
30 each.

31 *Sixth:* The time the association is to continue.

Sec. 5. No charter for a building and loan association shall
2 be issued by the secretary of state, or amendment of such char-
3 ter made, until the application therefor shall have been sub-
4 mitted to the commissioner of banking and approved by him
5 and his approval endorsed thereon.

Sec. 6. The incorporators shall make and adopt the neces-
2 sary constitution and by-laws consistent with law, and submit
3 two copies thereof, duly certified by the secretary and chair-

4 man of the organization meeting, to the commissioner of bank-
5 ing. The constitution and by-laws, among other things, shall
6 provide and determine:

7 *First:* The date of the regular annual meeting, which, in the
8 case of associations hereafter organized, shall be in the month
9 of January, and the notice to be given, the qualifications of
10 voters and the manner of voting, the manner of calling special
11 meetings, and the proportion of shares which shall constitute a
12 quorum.

13 *Second:* The number and qualifications of directors other
14 than those specified in this article, and their terms of office,
15 the removal or suspension of directors and the filling of va-
16 cancies, and the meetings of the board of directors, its powers
17 and duties.

18 *Third:* The officers, the manner of their election, their terms
19 of office and their duties.

20 *Fourth:* The classes of shares which may be issued, the
21 times when they may be issued and their matured value.

22 *Fifth:* The certificates or passbooks which shall be issued
23 to shareholders.

24 *Sixth:* The fees that may be charged, which shall be only
25 an entrance fee not exceeding twenty-five cents a share, or
26 in lieu thereof a membership fee of not exceeding one
27 dollar; a transfer fee not exceeding twenty-five cents a
28 share, but not more than a total fee of one dollar on each
29 transfer.

30 *Seventh:* The sums of money or dues that shall be paid upon
31 shares and the time of their payment; the time and manner
32 of apportioning, crediting, and paying dividends.

33 *Eighth:* Loans and investments, the security to be taken for
34 loans, the premium plan, if any, and the conditions under which
35 loans may be repaid.

36 *Ninth:* The fines which may be imposed upon members for
37 failure punctually to pay dues, interest, premium, taxes, or
38 insurance, and for a reward for the punctual payment of the
39 same.

40 *Tenth:* The conditions upon which shares may be transferred,
41 matured, withdrawn, retired, or forfeited. Conditions under
42 which the association may advance money to borrowers for
43 payment of taxes, assessments, insurance premiums, repairs,
44 or other purposes as long as the security is sufficient.

45 *Eleventh:* The manner and conditions under which the by-
46 laws may be altered or amended.

Sec. 7. When the commissioner of banking shall have ap-
2 proved the by-laws, and the association has filed with the com-
3 missioner of banking a certified copy of the charter, also duly
4 certified copies of the minutes of the meeting of the share-
5 holders at which directors were elected, and of the first meet-
6 ing of the directors at which officers were elected, also a list
7 of the names of the directors and all officers, with their ad-
8 dresses, and when the commissioner of banking is satisfied that
9 such association has complied with all the requirements of the
10 law precedent to the exercise of the powers imposed by law,
11 and it appears that such association is lawfully entitled to com-
12 mence business, he shall give to such association a certificate
13 of authority under his hand and official seal that such associa-
14 tion is authorized to commence business.

15 No building and loan association shall transact any business
16 except such as is incidental or necessarily preliminary to its
17 organization until it has been authorized by the commissioner
18 of banking to do so. A building and loan association failing to
19 organize and receive authority from the commissioner of bank-
20 ing to commence business within one year from the date of
21 receiving its certificate of incorporation, shall cease to exist,
22 and such certificate shall be null and void. No association shall
23 establish more than one office nor maintain branches other than
24 those already established.

Sec. 8. The members of a building and loan association
2 shall be only those to whom its shares have been issued or
3 transferred in accordance with the provisions of its constitu-
4 tion and by-laws. Their membership shall continue until such
5 shares have been matured and paid, withdrawn, retired, or
6 forfeited. The payments made to any such association upon
7 shares issued by it shall be called dues. They shall be paid in
8 such sums and at such times as are provided by the by-laws
9 until the shares reach their matured value, are withdrawn, re-
10 tired, or forfeited.

11 Minors above the age of fourteen years may become share-
12 holders in any association the same as adults, and such minor
13 shareholders shall be subject to the same duties and liabilities
14 as respects their stock as adult members. Any receipt, release,
15 acquittance, or discharge given the association by such minor

16 shareholder shall be binding upon such minor to the same ex-
17 tent as if he were of full age. Minors under fourteen years of
18 age may hold shares by a trustee or guardian.

19 When shares shall have been issued in the names of two or
20 more persons, payable to either, or payable to either or the
21 survivor, either of said named persons, whether the other be
22 living or not, may withdraw from such association and receive
23 the amount payable on withdrawal in the same manner and on
24 the same terms allowed by law or the by-laws in case of any
25 other shareholder, and the receipt of or acceptance by the
26 person so paid shall be a valid and sufficient release and dis-
27 charge of the association for any payment so made.

28 Persons who hold shares in a fiduciary capacity shall have
29 all the rights and privileges of membership, except the right
30 to hold office. Whenever a person holding shares in such ca-
31 pacity dies and no notice of the revocation or termination of
32 the trust shall have been given to the association in writing, the
33 withdrawal value of the shares having such withdrawal value
34 may be paid to the beneficiary. The association shall not be
35 liable to beneficiaries for moneys paid to their guardians or
36 trustees on account of such shares.

Sec. 9. Every building and loan association hereafter organ-
2 ized shall be permanent in character, and may issue shares at
3 any time and credit dividends thereon in the passbooks of its
4 members, or pay the same in cash, or by check. Serial associa-
5 tions heretofore organized may continue to issue their install-
6 ment shares in series and credit the dividends apportioned to
7 such shares by series. Dividends credited by serial associations
8 upon other classes issued by them may be credited in the pass-
9 books of their members or paid in cash or by check.

Sec. 10. Shares in any building and loan association that have
2 been transferred to it as security for the repayment of a loan
3 shall be called "pledged shares." Shares which have not been
4 so transferred shall be called "free shares."

5 Every association shall have the right to divide its shares
6 into such classes and to sell and issue any of its shares of stock
7 on such terms and conditions as the constitution and by-laws
8 provide. Shares of stock shall be sold for no consideration
9 other than money, and no commission shall be charged for any
10 such sale.

11 Every association shall furnish each shareholder with re-

12 ceipts, by pass-book or otherwise, for all moneys received by
13 the association, and a record thereof shall be kept in proper
14 form.

Sec. 11. The shares of a deceased shareholder may be held
2 and controlled by the legal representative or trustee of the
3 estate of such shareholder. No fine or penalty shall be charged
4 on such shares after the death of the shareholder, unless the
5 future payments on such shares be assumed by his legal rep-
6 resentative.

Sec. 12. When any stock, including stock having a fixed
2 maturity date, shall have reached its matured value, payments
3 of dues thereon shall cease and borrowers shall be entitled to
4 have their securities released and returned to them. The hold-
5 ers of unpledged shares having a withdrawal value shall be
6 paid out of the funds of the association the matured value
7 thereof, with such rate of interest or dividends as shall be
8 determined by the by-laws, from the time the board of directors
9 shall declare such stock to have matured until paid. At no
10 time shall more than one-half of the net monthly receipts of
11 the association be applicable to the payment of matured shares
12 and withdrawals as hereinafter provided without the consent
13 of the board of directors. The by-laws of any association may
14 provide for holders of matured installment stock to retain the
15 same without requiring the association to issue full paid stock
16 therefor.

Sec. 13. The dues and dividends upon free shares of any such
2 association may be withdrawn and the shares cancelled after
3 sixty days' written notice of such intention filed with its secre-
4 tary at the place of business of the association, but the board of
5 directors may waive such notice: *Provided*, That the constitution
6 and by-laws of the association may provide for the issuance of
7 classes of full paid shares of stock which may not be withdrawn.
8 The withdrawing shareholder shall be paid such part of the
9 withdrawal value of his shares as may be determined by the
10 board of directors, less fines and other obligations, and remain
11 a shareholder until full payment to him be made: *Provided*,
12 That not more than one-half of the net funds received by the
13 association in any one month shall be applicable to the payment
14 of withdrawing shareholders and matured share as hereinbefore
15 provided unless otherwise ordered by the board of directors.
16 A withdrawing member holding shares having a withdrawal

17 value, not paid within sixty days, shall be entitled to legal in-
18 terest upon his shares if earned, beginning at the expiration of
19 the said sixty days.

Sec. 14. The board of directors of any building and loan
2 association may retire all full paid and free installment shares
3 having a withdrawal value by enforcing withdrawals of the
4 same: *Provided*, That the by-laws shall clearly state the manner
5 in which such withdrawals may be enforced and the holders
6 of such shares are paid the full value of their shares less all
7 obligations: *Provided further*, That all such full paid shares
8 may be retired before the installment shares.

Sec. 15. If a member, not a borrower, be in arrears for more
2 than six months for dues upon any installment shares owned by
3 him, his shares at the option of the board of directors may be
4 declared forfeited. The withdrawal value of the shares at the
5 time of the declaration of forfeiture shall be ascertained and all
6 fines and other charges deducted therefrom and the balance
7 paid to the member. All shares so forfeited shall cease to par-
8 ticipate in any profits of the association and shall revert to the
9 association free from all interest or claim on the part of such
10 member or any person claiming under him.

Sec. 16. No transfer of shares shall be binding upon the
2 association until the same has been made upon its books, and
3 the transferee shall take the same charged with all the liabilities
4 to the association and the conditions attaching thereto at the
5 time of the transfer.

Sec. 17. Any building and loan association may charge
2 premium or interest in excess of the legal rate upon loans to its
3 shareholders if the by-laws so provide and fix the rate of
4 premium in addition to the rate of interest to be paid upon
5 such loan, such premium always to be a definite, certain, and
6 fixed amount for any loan, and to be payable in advance or in
7 installments at the same time as the periodical installments of
8 dues and interest.

9 No premium, fines, or interest, or interest on such premium,
10 that may be charged by or accrue to any such building and loan
11 association according to the provisions of this article shall be
12 deemed usurious.

Sec. 18. The corporate powers of any building and loan asso-
2 ciation shall be exercised by a board of directors of not fewer
3 than five in number all of whom shall be bona fide shareholders

4 in such association, and a majority of whom shall be resident
5 citizens. The officers shall consist of a president, one or more
6 vice-presidents, a secretary, a treasurer, and such other officers
7 as the by-laws shall provide, to be elected at the first meeting
8 of the directors following the annual meeting of the share-
9 holders. The president and vice-presidents must be directors,
10 but the other officers and employees may or may not be directors.
11 The duties of the officers, their terms of office, the time and
12 manner of their election, the manner of filling vacancies, the
13 time of holding periodical meetings of the directors and share-
14 holders, the manner of calling special meetings, the qualifica-
15 tions of electors, and the manner of voting, shall be determined
16 by the constitution and by-laws. Unless the compensation of
17 the officers, directors, and committees shall be provided for in
18 the by-laws, the directors shall fix and determine the same.

Sec. 19. Subject to the provisions of this article and its by-
2 laws, any building and loan association may invest the funds
3 received by it as follows:

4 *First:* In loans to its shareholders secured by a bond or other
5 obligation and mortgage or deed of trust on real estate, accom-
6 panied by a transfer and pledge to the association of shares
7 having a matured or par value at least equal to the amount of
8 such loans: *Provided,* That no building and loan association shall
9 lend upon any one piece of real estate more than ten per cent of
10 its paid in capital stock, contingent or reserve funds, and un-
11 divided profits. Personal property may be accepted as addi-
12 tional security where the primary and principal security is a
13 mortgage or deed of trust on real estate.

14 *Second:* In loans to shareholders upon their obligations se-
15 cured by the transfer and pledge to the association of shares
16 not previously transferred or pledged to it, the withdrawal or
17 par value of which shall at least equal the amount of such loan.

18 Any such bonds or obligations, mortgages, or deeds of trust
19 taken by any such association from its shareholders shall be
20 deemed conditioned upon the performance of the provisions of
21 this article and the by-laws of the association relating to the pay-
22 ment of loans, premium, interest, dues, fees, and fines, although
23 the same may not be fully expressed therein.

24 *Third:* In real property as follows: (a) A lot of land where-
25 on there is or may be erected a building or buildings suitable
26 for the convenient transaction of its business, from portions of

27 which, not required for its own use, a revenue may be derived:
28 *Provided*, That no building and loan association shall so invest
29 more than ten per cent of its assets; (b) Such as shall be con-
30 veyed to it in satisfaction of debts previously contracted in the
31 course of its business; (c) Such as it shall purchase at sales
32 under judgments, decrees, or mortgages or deeds of trust held
33 by it: *Provided*, That any real estate acquired by any building
34 and loan association under clauses (b) and (c) shall be dis-
35 posed of by the association at the earliest practicable date;
36 but the officers thereof shall have a reasonable discretion in the
37 matter of the time to dispose of such property in order to save
38 the association from unnecessary losses.

39 If at any time it has funds in excess of the amount needed
40 for loans to its members and the payment of matured shares
41 and withdrawals, such funds may be invested:

42 (a) In loans to persons not members, or to members without
43 pledge of their shares as collateral security; on bonds or obli-
44 gations secured by mortgage or deed of trust, which shall be a
45 first lien on improved real estate in this state, not to exceed
46 sixty-five per centum of the cash value thereof;

47 (b) In loans to other domestic building and loan associations;

48 (c) In bonds or interest bearing obligations of the United
49 States, or the District of Columbia, or of the state of West
50 Virginia, or of any county, district, school district, or other
51 political sub-division in the state of West Virginia, or of any
52 incorporated city or village in the state of West Virginia; and
53 in such other securities as now are or hereafter may be accepted
54 by the United States to secure government deposits in national
55 banks, or approved by the state commissioner of banking.

Sec. 20. Every officer or other person elected or appointed to
2 any position or employed in any capacity, requiring the collec-
3 tion, receipt, payment, or custody of money, securities, books,
4 or records belonging to a building and loan association, before
5 entering upon his duties, shall give bond in adequate amount
6 and with good and sufficient surety, which shall be a surety
7 company authorized to transact business in this state, the
8 premium thereon to be paid by the association, and such bonds
9 shall be approved by the board of directors of such association;
10 and said board shall examine annually all such bonds and pass
11 on the sufficiency of the same, and if insufficient, immediately
12 require new or additional bonds; and the failure of any person

13 to comply at once shall be ground for his summary removal
14 by the board of directors. The commissioner of banking may at
15 any time order the bond of any such person to be increased in
16 amount. The board of directors, in lieu of individual bonds,
17 may accept a schedule or blanket bond which covers all the
18 officers and employees of any building and loan association
19 handling money or property of such association.

Sec. 21. No building and loan association shall:

2 *First:* Take a mortgage or deed of trust upon real estate
3 unless a written application is first made for the loan described
4 in such mortgage or deed of trust, showing the date, name of
5 applicant, amount of loan desired, description of the real estate
6 offered, and other information necessary, and unless a written
7 report thereon shall have been made by at least two members
8 of the appraisal committee, signed by them, stating that they
9 have examined the real estate described in such application and
10 that in their judgment it affords adequate security for such
11 loan. Such report shall show separately the value of the land
12 and the value of the improvements and of the building or build-
13 ings erected thereon. The application and the report shall be
14 filed and preserved with all the other papers relating to the
15 loan.

16 *Second:* Take a mortgage or deed of trust upon improved real
17 estate if the amount secured by such mortgage or deed of trust,
18 plus any prior liens, exceeds sixty-five per centum of the ap-
19 praised value thereof as shown by such report, unless said ex-
20 cess be secured by a pledge of free stock or notes of the asso-
21 ciation, or upon vacant real estate if the amount so secured, plus
22 any prior liens, exceeds fifty per centum of the appraised value
23 thereof as shown by such report.

24 *Third:* Take a mortgage or deed of trust upon real estate
25 unless the title to such real estate is approved by the attorney
26 of the association or some other competent authority on titles.

Sec. 22. Any loan made by a building and loan association
2 to a member may be repaid at any time: *Provided,* That the
3 member shall pay the principal due thereon, the premium earned,
4 and the interest, fines, and other charges accrued at the date of
5 such repayment, and all sums advanced by the association for
6 taxes, assessments, insurance premiums, repairs, or other pur-
7 poses, with interest thereon, less the withdrawal value of the
8 shares transferred as security therefor. Any association may

9 provide in its by-laws that any such borrowing member may
10 pay upon any such loan a sum equal to the matured value of
11 one or more of the shares transferred and pledged as security
12 therefor upon the same proportionate terms as are provided in
13 this section for payment in full and have such share or shares
14 cancelled.

Sec. 23. Whenever any borrower shall fail or neglect to pay
2 dues on shares, interest, premium, or fines as provided by the
3 by-laws or the terms of his obligation, bond, mortgage, or deed
4 of trust, or other evidence of indebtedness, for a period of three
5 months, or shall be in default in the performance of any of the
6 obligations imposed upon him thereby, then the whole of said
7 indebtedness shall become and be immediately due and payable
8 at the option of the association. His pledged shares may be
9 declared cancelled and their withdrawal value at the time of
10 said declaration applied as a payment on the loan, and such
11 shares shall revert to the association. The balance or the
12 amount due, with interest and premium, fines, and other charges
13 thereon, may be enforced by proceedings on his security accord-
14 ing to law. When the amount thus collected exceeds the amount
15 due, the excess shall be returned to the defaulting borrower.

Sec. 24. Any building and loan association heretofore incor-
2 porated in this state and now in operation or hereafter incor-
3 porated under this article shall have the right, if so provided in
4 its by-laws, to borrow money and issue therefor such evidence of
5 debt or obligations in such form and manner as may be pro-
6 vided in the by-laws or by the board of directors of the asso-
7 ciation; but before any money shall be borrowed, the board of
8 directors shall by a majority vote pass and record a resolution
9 to that effect.

Sec. 25. Every building and loan association shall set aside
2 out of its earnings a contingent reserve, which shall at no
3 time exceed eight per cent of the assets of said association,
4 and which shall be used only for the purpose of making good
5 to the association losses suffered on loans and expenses incurred
6 in the collection of loans which may not be charged against or
7 collected from the borrower. Every building and loan associa-
8 tion may also carry an undivided profit account as provided
9 in the constitution and by-laws of the association, but such
10 account of permanent associations shall not exceed five per cent
11 of their assets. The contingent reserve and the undivided

12 profit account shall be invested as other funds of the association.

Sec. 26. At stated periods of not more than six months, as
2 specified in the constitution and by-laws, the gross earnings
3 of all permanent associations shall be ascertained, from which
4 shall be deducted the costs and expenses of conducting the busi-
5 ness of the association. A portion of the net earnings, to be de-
6 termined by the board of directors, may be placed in the con-
7 tingent reserve for the payment of losses and expenses as pro-
8 vided in this article, and a further portion of such net profits, to
9 be determined by the board of directors, may be transferred as a
10 dividend to the credit of all shareholders in proportion to the
11 value of the shares of stock at that time as may be provided
12 in the constitution and by-laws. The holders of full paid shares
13 shall receive their dividends in cash, and the holders of shares
14 of installment stock which have not been fully paid shall have
15 their dividends credited to their account on the value of their
16 shares. Any residue of such earnings may be held as surplus
17 or undivided profits, to be used as other earnings: *Provided,*
18 That the same rate of dividends shall be paid all shareholders
19 alike by building and loan associations or savings and loan
20 companies not now having more than one authorized rate of
21 dividends.

Sec. 27. Whenever it shall appear to the commissioner of
2 banking that any association does not keep its books and ac-
3 counts in such manner as to enable him readily to ascertain
4 its true condition, he may issue an order requiring such asso-
5 ciation to open and keep such books, accounts, and records of
6 the transactions, accounts, and financial condition of such as-
7 sociation.

8 Any building and loan association that refuses or neglects
9 to comply with any such order shall be subject, in the discre-
10 tion of the commissioner of banking, to a forfeiture of ten dol-
11 lars for each day it neglects and fails to open and keep such
12 prescribed books and accounts. Whenever any building and
13 loan association fails or refuses to pay the forfeiture hereunder
14 imposed for failure to open accounts, the commissioner of bank-
15 ing is hereby authorized to institute proceedings for the re-
16 covery of such forfeiture, and when recovered, pay the same
17 into the state treasury.

Sec. 28. Any two or more associations of this state may con-
2 solidate into a single association by a two-thirds vote of all the

3 shareholders of each of the different associations at a special
4 meeting of each association called for that purpose, of which
5 at least ten days' notice shall have been given to each member,
6 the consolidation to be upon such terms as shall be mutually
7 agreed upon by the boards of directors of such associations,
8 and such terms shall be plainly set forth to each shareholder
9 in the notice of such special meeting.

10 Any association may, after like notice to shareholders, upon
11 the affirmative vote of the holders of sixty-six and two-thirds
12 per cent of its outstanding stock, sell and transfer its business to
13 another association: *Provided*, That in the event of either a con-
14 solidation or a sale, the commissioner of banking shall have at
15 least ten days' written notice of said proposal and that he shall
16 approve said proposed transaction in writing.

17 Any shareholder, not consenting to such consolidation, sale,
18 or transfer, shall be entitled to receive the withdrawal value
19 of his shares as provided hereinbefore in settlement, or to have
20 such value applied in part settlement of his loan, if he be a
21 borrower.

Sec. 29. All the powers and duties of the commissioner of
2 banking of this state shall apply to building and loan asso-
3 ciations in so far as the same are applicable and not incon-
4 sistent with the provisions hereof, and all the provisions of the
5 state banking law setting forth the powers and duties of the
6 commissioner of banking and all institutions over which he
7 is given supervision and control shall apply to building and
8 loan associations, except as inconsistent herewith, and shall
9 be construed as part of this article the same as if specifically
10 incorporated herein.

Sec. 30. If upon examination the commissioner of banking
2 finds any domestic building and loan association conducting its
3 business contrary to law, or failing to comply therewith, he
4 shall notify its board of directors of such fact in writing. If
5 after thirty days such illegal practices or failure continue, or
6 if he should find that the affairs of any such association are in
7 an unsound condition and that the interests of the public de-
8 mand its dissolution and the winding up of its business, he
9 shall in either case take possession of said association and
10 liquidate the same in the manner provided in respect to state
11 banks in chapter thirty-one of the code.

Sec. 31. In case any deputy commissioner or employee ap-

2 pointed or acting under the provisions of this article shall dis-
3 close to any person, other than officially to the commissioner of
4 banking of the state by the report made to him, or in compliance
5 with the order and precept of a court, the names of shareholders
6 in any building and loan association or any information respect-
7 ing their private accounts, or who shall wilfully make a false
8 official report as to the condition of such association, shall be
9 guilty of a misdemeanor and on conviction thereof shall be fined
10 in the sum of not less than one hundred dollars nor more than
11 five hundred dollars.

Sec. 32. The by-laws of any building and loan association
2 may be repealed, altered, or amended from time to time in such
3 manner as may be provided in the by-laws of such association.

4 No amendment shall be in force or effect until a certificate of
5 its adoption, in duplicate, under the seal of the association,
6 signed by the president and the secretary, showing date of the
7 meeting, that required notice was given, the attendance of share-
8 holders, and the number of shares represented, and the vote
9 upon the amendment, is filed with the commissioner of banking
10 and approved by him in writing, his approval or disapproval of
11 such amendment being endorsed upon the copies of the certifi-
12 cate of adoption, one of which to be returned to the association
13 and the other to be filed in his office.

Sec. 33. Foreign building and loan associations doing busi-
2 ness in this state shall conduct such business in accordance with
3 the laws governing domestic associations, and shall comply with
4 all the requirements of said laws, except as herein provided. No
5 foreign building and loan association shall do business in West
6 Virginia until it procures from the commissioner of banking a
7 certificate of authority to do business in this state, after comply-
8 ing with the following provisions:

9 (1) It shall file with the commissioner of banking a certified
10 copy of its charter, constitution and by-laws, and other rules and
11 regulations, showing the manner of conducting business, together
12 with a statement of its financial condition, such as is required
13 from all building and loan associations organized under the laws
14 of this state.

Sec. 34. When a foreign building and loan association has
2 complied with the provisions of this article, and the commissioner
3 of banking is satisfied that it is doing business according to the
4 laws of West Virginia and is in sound financial condition, he

5 shall issue his certificate of authority to the association to do
6 business in this state. Annually thereafter, upon filing the
7 statement required from domestic building and loan associations
8 in this state, and if the commissioner of banking be satisfied that
9 such foreign association is conducting its business in accordance
10 with the laws of this state and entitled to public confidence, he
11 shall issue a renewal of such certificate of authority.

Sec. 35. Every foreign building and loan association doing
2 business in this state shall be subject to the same examinations
3 as are domestic building and loan associations: *Provided*, That
4 the expense of all examinations of such foreign associations
5 shall be paid by the association examined, as prescribed in
6 section thirty-three, article eight, chapter thirty-one, of the
7 code, and the money so paid shall be paid into the state treasury.
8 Such examination may be made in collaboration with the state
9 wherein the foreign association has its home office.

Sec. 36. It shall be unlawful for any person to act as agent
2 for any building and loan association not authorized to do busi-
3 ness in this state, or to solicit, sell, or dispose of any shares of
4 any such unauthorized association, and any person or persons
5 acting for any such unauthorized association, or in any manner
6 aiding in the transaction of the business of such association in
7 this state, shall be deemed guilty of a misdemeanor, and upon
8 conviction thereof, shall be punished by a fine of not less than
9 fifty dollars nor more than five hundred dollars for each offense,
10 and in default of payment of such fine, shall be imprisoned in
11 the county jail for a period not exceeding one year. All fines
12 collected under the provisions of this section shall be paid into
13 the state treasury.

Sec. 37. All foreign building and loan associations authorized
2 to do business in this state shall be subject to and shall pay to
3 the commissioner of banking the following fees, which shall be
4 paid into the state treasury, to-wit: For filing an application
5 for admission to do business in this state, five hundred dollars.
6 For each certificate of authority and annual renewal thereof, two
7 hundred dollars. For filing each semi-annual report, ten dollars,
8 and for filing certified copy of charter, constitution and by-laws,
9 ten dollars.

Sec. 38. All domestic and foreign building and loan associa-
2 tions shall pay annually to the state auditor a state license tax
3 for the privilege of doing business in this state in an amount

4 based upon the amount of money loaned by such associations in
5 this state instead of upon the proportion of capital stock repre-
6 sented by the property owned and used in this state, and in
7 computing such tax the same rate shall be used for foreign
8 associations as is used for domestic associations: *Provided, how-*
9 *ever,* That the amount of money loaned by such associations
10 shall be taken to be the amount shown upon the face of the
11 document evidencing the loan without deduction of credits
12 therefrom.

Sec. 39. Whoever directly or indirectly, wilfully and know-
2 ingly, makes or transmits to another or circulates or counsels,
3 aids, procures, or induces another to make, transmit, or circulate
4 any false or untrue statement, rumor, or suggestion derogatory
5 to the financial condition, solvency, or financial standing of any
6 building and loan association, including any foreign building
7 and loan association, doing business in this state, or with intent
8 to depress the value of the shares, bonds or securities of any such
9 association, directly or indirectly, wilfully and knowingly, makes
10 or transmits to another, circulates or counsels, aids, procures, or
11 induces another to make, transmit, or circulate any false or un-
12 true statement, rumor, or suggestion derogatory to the financial
13 condition, or with respect to the earnings or management of the
14 business of any building and loan association, or resorts to any
15 fraudulent means with intent to depress in value the shares,
16 bonds, or securities of any building and loan association, shall
17 be guilty of a misdemeanor, and upon conviction thereof, each
18 offender shall be fined not more than one thousand dollars or
19 imprisoned not more than one year, or in the discretion of the
20 court be both fined and imprisoned.

Sec. 40. Any person violating any of the provisions of this
2 article shall be subject to the penalties provided in section
3 thirty-nine, article eight, chapter thirty-one, of the code, unless
4 a specific penalty is provided in this article.

Sec. 41. The provisions of this article are several, but if any
2 provisions of this article be held unconstitutional, the decision
3 of the court shall not affect or impair any of the remaining pro-
4 visions of the article. It is hereby declared as a legislative
5 intent that this article would have been adopted had such un-
6 constitutional provisions not been included therein.

Sec. 42. Sections one, two, three, four, five, six and seven, of

2 article six of chapter thirty-one of the code of West Virginia,
3 relating to building and loan associations, and all articles or
4 parts of articles, general or special, heretofore enacted, incon-
5 sistent or in conflict with the provisions of this article, are here-
6 by repealed.

CHAPTER 59

(House Bill No. 195—By Mr. Watkins)

AN ACT to amend and re-enact sections eighteen, nineteen, twenty
and twenty-one of article eight of chapter seventeen of the of-
ficial code of West Virginia, relating to traffic regulations and
laws of the road.

[Passed February 27, 1931; in effect ninety days from passage. Approved by the
Governor.]

SEC.

18. General provisions as to speed and driving; specific speed limits; what complaint for violations of speed limit to show; when local authorities by order or ordinance may increase speed limit; when slow speed unlawful; speed limits for certain vehicles; speed sign posts on bridges, etc.; speed of authorized emergency vehicles; reckless driving; penalties.
19. Unlawful to drive vehicles exceeding maximum size and weight; maximum width, height and length of vehicles; extension of load from vehicles; length of draw bar or other connection

SEC.

- between vehicles; display of red flag; excess gross weight; permit; division of state into area; gross load on bridges; removal of excess weight; control of vehicles and weights by local authorities by orders and signs; provisions as to tires; special permits for engines or tractors; loads not to escape from vehicles; penalty for violation of section.
20. Application for special permit for vehicle exceeding maximum size or weight.
21. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

That sections eighteen, nineteen, twenty and twenty-one of the official code of West Virginia, relating to traffic regulations and laws of the road, be amended and re-enacted so as to read as follows:

Section 18 (a) No person shall drive a vehicle upon a high-
2 way at a speed greater than is reasonable and prudent, having
3 due regard to the traffic, surface and width of the highway and
4 the hazard at intersections and any other conditions then ex-
5 isting.

6 Nor shall any person drive at a speed which is greater than
7 will permit the driver to exercise proper control of the vehicle
8 and to decrease speed or to stop as may be necessary to avoid
9 colliding with any person, vehicle or other conveyance upon or
10 entering the highway in compliance with legal requirements
11 and with the duty of drivers and other persons using the high-

12 way to exercise due care: *Provided*, That this provision shall
13 not be construed to relieve the plaintiff in any civil action from
14 the burden of proving negligence upon the part of the de-
15 fendant as the proximate cause of an accident.

16 (b) No person shall drive a vehicle upon a highway at a
17 speed in excess of that indicated as follows for the particular
18 districts or locations:

19 (1) Fifteen miles per hour; (a) When passing a school
20 building or the grounds thereof during school recess or while
21 children are going to or leaving school during opening or clos-
22 ing hours; or (b) When approaching within one hundred
23 feet of a grade crossing of a steam, electric or street railway
24 where the driver's view of such crossing or of any traffic on
25-26 such railway within a distance of four hundred feet in
27 either direction is obstructed.

28 (2) Twenty miles per hour; (a) In any business dis-
29 trict, herein defined to be the territory contiguous to a highway
30 when fifty per cent or more of the frontage thereon for a dis-
31 tance of three hundred feet or more is occupied by buildings
32 in use for business; or (b) Upon approaching within fifty feet
33 and in traversing an intersection of highways where the
34 driver's view in either direction along any intersecting high-
35 way within a distance of two hundred feet is obstructed, ex-
36 cept that when traveling upon a through street or at traffic-
37 controlled intersections the district speed shall apply.

38 (3) Twenty-five miles per hour; (a) On suburban
39 streets; or, (b) At any railway grade crossing where the
40 view is not obstructed; or (c) In public parks within cities,
41 unless a different speed is indicated by local authorities and
42 duly posted.

43 (4) Forty-five miles per hour; On open country highway,
44 except as otherwise limited by this act.

45 (c) In every charge of violation of this section the com-
46 plaint, also the summons or notice to appear, shall specify the
47 speed at which the defendant is alleged to have driven, also
48 the speed indicated in this section for the district or location
49 and in the event charge shall also be made of violation of any
50 other provision of this act, the complaint and the summons or
51 notice to appear shall also specify such other offense alleged
52 to have been committed.

53 (d) Local authorities in their respective jurisdictions are

54 hereby authorized in their discretion to indicate by order or
 55 ordinance higher speeds than those indicated in subdivision
 56 (b) of this section upon through highways or upon open
 57 highways or portions thereof where there are no intersec-
 58 tions or between widely spaced intersections if signs are erected
 59 giving notice of the indicated speed, but local authorities shall
 60 not have authority to modify or alter the basic rule set forth in
 61 subdivision (a) of this section, or in any event to indicate by
 62 order or ordinance a speed in excess of forty-five miles per
 63 hour.

64 (e) It shall be unlawful for any person unnecessarily to
 65 drive at such a slow speed as to impede or block the normal and
 66 reasonable movement of traffic except when reduced speed is
 67 necessary for safe operation or because upon a grade or when
 68 the vehicle is a truck or truck and trailer necessarily or in com-
 69 pliance with law proceeding at reduced speed.

70 Traffic and police officers are hereby authorized to enforce
 71 this provision by directions to drivers and in the event of ap-
 72 parent wilful disobedience to this provision and refusal to com-
 73 ply with direction of an officer in accordance herewith the con-
 74 tinued slow operation by a driver shall be unlawful and con-
 75 stitute a misdemeanor.

76 (f) No person shall drive a vehicle upon a highway at a
 77 speed in excess of that indicated as follows for the particular
 78 class of vehicles and the particular districts or location:

	On open country highway Miles per hour	On suburban street Miles per hour	On urban street Miles per hour
79			
80			
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94 (g) It shall be unlawful to drive any vehicle upon any pub-

95 lic bridge, causeway or viaduct at a speed which is greater
96 than the maximum speed which can with safety to such struc-
97 ture be maintained thereon, when such structure is signposted
98 as provided in this section.

99 The state road commission upon request from any local au-
100 thorities shall, or upon its own initiative may, conduct an in-
101 vestigation of any public bridge, causeway or viaduct, and if
102 it shall thereupon find that such structure cannot with safety
103 to itself withstand vehicles traveling at the speed otherwise
104 permissible under this act, the commission shall determine and
105-6 declare the maximum speed of vehicles which such structure
107 can withstand, and shall cause or permit suitable signs stating
108 such maximum speed to be erected and maintained at a dis-
109 tance of one hundred feet before each end of such structure.
110 The findings and determination of the commission shall be con-
111 clusive evidence of the maximum speed which can with safety
112 to any structure be maintained thereon.

113 (h) The speed limits set forth in this act shall not apply to
114 authorized emergency vehicles when operated in emergencies
115 and the drivers thereof sound audible signal by bell, siren or
116 exhaust whistle. This provision shall not relieve the driver
117 of an authorized emergency vehicle from the duty to drive with
118 due regard for the safety of all persons using the street, nor
119 shall it protect the driver of any such vehicle from the con-
120 sequence of a reckless disregard of the safety of others.

121 (i) Any person who drives any vehicle upon a highway
122 carelessly and heedlessly in wilful or wanton disregard of the
123 rights or safety of others, or without due caution and circum-
124 spection and at a speed or in a manner so as to endanger or be
125 likely to endanger any person or property, shall be guilty of
126 reckless driving.

127 (j) Any person violating the provisions of subdivision (a)
128 of this section shall be guilty of a misdemeanor, and upon con-
129 viction shall for a first conviction thereof be punished by a fine
130 of not more than one hundred dollars or by imprisonment
131 in the county or municipal jail for not more than ten days; for
132 a second such conviction within one year thereafter such person
133 shall be punished by a fine of not more than two hundred dol-
134 lars or by imprisonment in the county or municipal jail for not
135 more that twenty days or by both such fine and imprisonment;
136 upon a third or subsequent conviction within one year after the

137 first conviction such person shall be punished by a fine of not
138 more than five hundred dollars or by imprisonment in the
139 county or municipal jail for not more than six months or by
140 both such fine and imprisonment.

141 Every person who drives a vehicle upon a highway at a speed
142 in excess of that indicated in subdivisions (b), (d), (f) and
143 (g) of this section, and who, while so driving violates the basic
144 rule set forth in subdivision (a), or any person who violates
145 subdivision (i) of this section, shall be guilty of a misde-
146 meanor, and upon conviction shall be punished by imprison-
147 ment in the county or municipal jail for a period of not less
148 than five days nor more than ninety days, or by fine of not less
149 than twenty-five dollars nor more than five hundred dollars,
150 or by both such fine and imprisonment, and on a second or
151 subsequent conviction shall be punished by imprisonment for
152 not less than ten days nor more than six months, or by a fine
153 of not less than fifty dollars nor more than one thousand dol-
154 lars, or by both such fine and imprisonment.

Sec. 19. (a) It shall be unlawful and constitute a misde-
2 meanor for any person to drive or move or for the owner to
3 cause or knowingly permit to be driven or moved on any high-
4 way any vehicle or vehicles of a size or weight exceeding the
5 limitations stated in this act or any vehicle or vehicles which
6 are not so constructed or equipped as required in this article
7 or the rules and regulations of the commissioner adopted pur-
8 suant thereto, and the maximum size and weight of vehicles
9 herein specified shall be lawful throughout this state, in the
10 areas, on the roads and under the conditions herein specified,
11 and local authorities shall have no power or authority to alter
12 said limitations except as express authority may be granted in
13 this act.

14 (b) (1) No vehicle shall exceed a total outside width, in-
15 cluding any load thereon, of eight feet, except that the width
16 of a farm tractor shall not exceed nine feet, and except further
17 that the limitations as to size of vehicles stated in this section
18 shall not apply to implements of husbandry temporarily pro-
19 pelled or moved upon the public highway, or to vehicles op-
20 erated under the terms of a special permit issued as provided
21 in section twenty; (2) No vehicle unladen or with load shall
22 exceed a height of twelve feet; (3) No vehicle shall exceed a
23 length of thirty-three feet, and no combination of vehicles

24 coupled together shall exceed a total length of eighty-five feet;
25 (4) No train of vehicles or vehicle operated alone shall carry
26 any load extending more than three feet beyond the front
27 thereof; (5) No passenger vehicle shall carry any load extend-
28 ing beyond the line of the fenders on the left side of such vehicle
29 nor extending more than six inches beyond the line of the
30 fender on the right side thereof.

31 (c) The drawbar or other connection between any two
32 vehicles, one of which is towing or drawing the other on a high-
33 way, shall not exceed fifteen feet in length from one vehicle to
34 the other, except that the connection between any two vehicles
35 transporting poles may exceed fifteen feet but shall not exceed
36 twenty-five feet. Whenever such connection consists of a chain,
37 rope or cable, there shall be displayed upon such connection
38 a red flag or other signal or cloth not less than twelve inches
39 both in length and width.

40 (d) (1) No motor vehicle or combination of vehicles hav-
41 ing a gross weight in excess of those permitted in this section
42 shall be driven on any highway unless the owner shall first
43 have secured a permit as provided for in section twenty; (2)
44 For the purpose of controlling the circulation of vehicles or of
45 combinations of vehicles of heavy weight, the state road com-
46 mission is authorized to classify the area of the state as metro-
47 politan, industrial or agricultural, and to designate therein the
48 roads of major importance. Such roads shall for the purposes
49 of this section be considered as major roads and all other roads
50 not so designated shall for the purposes of this section be con-
51 sidered secondary roads; (3) No motor vehicle equipped with
52 pneumatic tires and driven on any major highway in a metro-
53 politan area shall have a maximum wheel weight unladen or
54 with load in excess of eleven thousand two hundred pounds, or
55 an axle weight in excess of twenty-two thousand four hundred
56 pounds; (4) No motor vehicle equipped with pneumatic tires
57 and driven on any major highway in an industrial area shall
58 have a maximum wheel weight unladen or with load in excess
59 of nine thousand pounds, or an axle weight in excess of eighteen
60 thousand pounds; (5) No motor vehicle equipped with pneu-
61 matic tires and driven on any major highway in an agricultural
62 area shall have a maximum wheel weight unladen or with load
63 in excess of eight thousand pounds, or an axle weight in excess
64 of sixteen thousand pounds; (6) No motor vehicle equipped
65 with pneumatic tires and driven on any secondary highway in

66 any designated area shall have a maximum wheel weight un-
67 laden or with load in excess of eight thousand pounds, or an
68 axle weight in excess of sixteen thousand pounds; (7) Motor
69 vehicles equipped with solid tires and driven on any major
70 highway in a metropolitan area shall be subject to the same
71 maximum wheel weights and axle weights prescribed for that
72 area for motor vehicles equipped with pneumatic tires. No
73 motor vehicle equipped with solid tires driven upon any major
74 highway in an industrial or agricultural area shall have a maxi-
75 mum wheel weight unladen or with load, or a maximum axle
76 weight, in excess of eighty per cent of the weights prescribed
77 for motor vehicles equipped with pneumatic tires; nor shall
78 any motor vehicle equipped with solid rubber tires and driven
79 upon any secondary highway have a maximum wheel weight
80 unladen or with load, or a maximum axle weight, in excess of
81 fifty per cent of the weights prescribed for motor vehicles
82 equipped with pneumatic tires; (8) No motor vehicles having a
83 minimum axle spacing of less than forty inches shall be driven
84 on any highway in any area; (9) Subject to the maximum axle
85 and wheel loads specified in this section, the gross weight of
86 any motor vehicle or combination of vehicles driven on a major
87 road in a metropolitan area shall be fixed within the safe capaci-
88 ties of the bridges existing in the area. Subject to the maxi-
89 mum axle and wheel loads specified in this section, the gross
90 weight of any motor vehicle or combination of vehicles driven
91 on a major road in an industrial or agricultural area shall not
92 exceed that determined by the following formulas:

93 For bridges designed under Class H-20 specifications, total
94 gross load in pounds= $1330(L+40)$, in which L represents
95 the over-all distance in feet between the front and rear axles
96 of the motor vehicle or the first and last axles of the combina-
97 tion of motor vehicles; For bridges designed under Class H-15
98 specifications, total gross load in pounds= $1000(L+40)$; For
99 bridges designed under Class H-10 specifications, total gross
100 load in pounds= $670(L+40)$.

101 (e) Any peace officer having reason to believe that the
102 weight of a vehicle and load is unlawful is authorized to weigh
103 the same either by means of portable or stationary scales, and
104 may require that such vehicle be driven to the nearest scales
105 in the event such scales are within two miles. The officer may
106 then require the driver to unload immediately such portion of

107 the load as may be necessary to decrease the gross weight of
108 such vehicle to the maximum therefor specified in this act.

109 (f) Local authorities may by ordinance or resolution pro-
110 hibit the operation of vehicles upon any highway or impose
111 restrictions as to the weight of vehicles, for a total period of not
112 to exceed ninety days in any one calendar year, when operated
113 upon any highway under the jurisdiction of and for the main-
114 tenance of which such local authorities are responsible, when-
115 ever any said highway by reason of deterioration, rain, snow
116 or other climatic conditions will be seriously damaged or de-
117 stroyed unless the use of vehicles thereon is prohibited or the
118 permissible weights thereof reduced. Such local authorities
119 enacting any such ordinance or resolution shall erect or cause
120 to be erected and maintained signs designating the provisions
121 of the ordinance or resolution at each end of that portion of
122 any highway affected thereby, and the ordinance or resolution
123 shall not be effective until or unless such signs are erected and
124 maintained. Local authorities may also, by ordinance or resolu-
125 tion, prohibit the operation of trucks or other commercial
126 vehicles, or impose limitations as to the weight thereof on desig-
127 nated highways, which prohibitions and limitations shall be
128 designated by appropriate signs placed on such highways.

129 (g) (1) Every solid rubber tire on a vehicle moved on any
130 highway shall have rubber on its entire traction surface at least
131 one inch thick above the edge of the flange of the entire pe-
132 riphery, and no motor vehicle, trailer or semi-trailer having
133 any steel or other metal tire in contact with the roadway shall
134 be operated on any highway; (2) No tire on a vehicle moved
135 on a highway shall have on its periphery any block, stud, flange,
136 cleat or spike or any other protuberances of any material other
137 than rubber which projects beyond the tread of the traction
138 surface of the tire, except that it shall be permissible to use
139 farm machinery with tires having protuberances which will
140 not injure the highway, and except also that it shall be permis-
141 sible to use tire chains of reasonable proportions upon any
142 vehicle when required for safety because of snow, ice or other
143 conditions tending to cause a vehicle to slide or skid; (3) The
144 state road commission as to state roads and local authorities in
145 their respective jurisdictions may, in their discretion, issue
146 special permit authorizing the operation upon a highway of
147 traction engines or tractors having movable tracks with trans-

148 verse corrugations upon the periphery of such movable tracks
149 or farm tractors or other farm machinery.

150 (h) No vehicle shall be driven or moved on any highway
151 unless such vehicle is so constructed or loaded as to prevent its
152 contents from dropping, sifting, leaking, or otherwise escaping
153 therefrom.

154 (i) It shall be unlawful and constitute a misdemeanor for
155 any person to violate any of the provisions of this section.
156 Every person convicted for a misdemeanor for a violation of
157 any of the provisions of this act for which another penalty
158 is not provided shall for a first conviction thereof be punished
159 by a fine of not more than one hundred dollars or by imprison-
160 ment in the county or municipal jail for not more than ten
161 days; for a second such conviction within one year thereafter
162 such person shall be punished by a fine of not more than two
163 hundred dollars or by imprisonment in the county or municipal
164 jail for not more than twenty days or by both such fine and
165 imprisonment; upon a third or subsequent conviction within
166 one year after the first conviction such person shall be punished
167 by a fine of not more than five hundred dollars or by imprison-
168 ment in the county or municipal jail for not more than six
169 months or by both such fine and imprisonment. Upon any con-
170 viction hereunder the license of the person convicted shall be
171 revoked.

Sec. 20. The state road commission, and local authori-
2 ties in their respective jurisdiction may, in their discre-
3 tion, upon application in writing and good cause being
3-a shown therefor, issue a special permit in writing author-
4 izing the applicant to operate or move a vehicle or combination
5 of vehicles of a size or weight exceeding the maximum specified
6 in this act upon any highway under the jurisdiction of and for
7 the maintenance of which the body granting the permit is re-
8 sponsible. Application for such permit shall state the proposed
9 maximum wheel loads, maximum axle loads, minimum axle
10 spacing of each such vehicle, vehicles, or combination thereof,
11 and the specific roads over which permit for operation is re-
12 quested; and the application shall show whether permit is re-
13 quested for a single trip or for continued operation; and the
14 road commission or local authority is authorized to issue or
15 withhold such permit at its discretion, or to limit the number
16 of trips, or to establish seasonal or other time limitations within
17 which the vehicles described may operate on the roads in-

18 dicated, or may otherwise limit the prescribed conditions of
 19 operation of such vehicles when necessary to assure against
 20 undue damage to the road foundations, surfaces or structures.
 21 Every such permit shall be carried in the vehicle or combina-
 22 tion of vehicles to which it refers and shall be open to inspec-
 23 tion by any peace officer, and it shall be a misdemeanor for any
 24 person to violate any of the terms or conditions of such special
 25 permit, and such violation shall constitute grounds for the
 26 revocation of such permit by the authorities granting same.

Sec. 21. All acts and parts of acts coming within the purview
 2 of this act and inconsistent therewith are hereby repealed.

CHAPTER 60

(House Bill No. 264—By Mr. Norton)

AN ACT to amend and re-enact section two, of article six, of chap-
 ter forty-four of the code of West Virginia, so as to provide that
 fiduciaries investing money in any securities mentioned in said
 section shall not be liable for any loss resulting therefrom.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.
 2. In what securities fiduciaries may
 invest trust funds without court
 order or liability for loss; pro-

SEC. | cedure when instrument creating
 trust directing investment of
 trust funds.

Be it enacted by the Legislature of West Virginia:

That section two, of article six, of chapter forty-four of the
 code of West Virginia be, and the same is, hereby amended and re-
 enacted so as to read as follows:

Section 2. Any executor, administrator, guardian, curator,
 2 committee, trustee, or other fiduciary whose duty it may be to
 3 loan or invest money intrusted to him as such, may, without
 4 any order of any court, invest the same or any part thereof in
 5 any of the following securities, and without liability for any loss
 6 resulting from investments therein:

7 (a) In bonds or interest-bearing notes or obligations of the
 8 United States, or those for which the faith of the United States
 9 is distinctly pledged to provide for the payment of the princi-
 10 pal and interest thereof, including bonds issued under the federal
 11 farm loan act;

12 (b) In bonds or interest-bearing notes or obligations of
13 this state;

14 (c) In bonds of any state of the United States, including bonds
14a issued by the West Virginia bridge commission, which has
15 not within ten years previous to the making of such investment
16 defaulted in the payment of any part of either principal or
17 interest on any of its bonds issued by authority of the legisla-
18 ture of such state;

19 (d) In the bonds or interest-bearing notes or obligations
20 of any county, district, school district or independent school
21 district, municipality, or any other political division, of this
22 state that have been issued pursuant to the authority of any law
23 of this state, since the ninth day of May of the year one thou-
24 sand nine hundred seventeen;

25 (e) In bonds and negotiable notes secured by first mort-
26 gage or first trust deed upon improved real estate in this state
27 where the amount secured by such mortgage or trust deed shall
28 not at the time of making the same exceed eighty per cent of the
29 assessed value of the real estate covered by such mortgage or
30 trust deed, and when such mortgage or trust deed is accom-
31 panied by a satisfactory abstract of title, certificate of title, or
32 title insurance policy, showing good title in the mortgagor
33 when making such mortgage or trust deed, and by a fire in-
34 surance policy in an old line company with loss, if any, payable
35 to the mortgagee or trustee as his interest may appear: *Pro-*
36 *vided*, That the rate of interest upon any of the above enumer-
37 ated securities, in which such investments may be made, shall
38 not be less than four per cent, nor more than seven per cent,
39 per annum.

40 This section shall not apply where the instrument creating
41 the trust, or the last will and testament of any testator, or any
42 court having jurisdiction of the matter, specially directs in
43 what securities the trust funds shall be invested, and every such
44 court is hereby given power specially to direct by order or
45 orders, from time to time, additional securities in which trust
46 funds may be invested, and any investment thereof made in
47 accordance with any such special direction shall be legal, and
48 no executor, administrator, guardian, curator, committee, trus-
49 tee, or other fiduciary, shall be held liable for any loss result-
50 ing in any such case.

CHAPTER 61

(House Bill No. 320—By Mr. Cottrill)

AN ACT to amend and re-enact article fifteen, chapter nineteen of the code of West Virginia relating to commercial fertilizers.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Definition of "fertilizer."
2. Statement to be attached to fertilizer package.
3. Certificate of registration; how obtained; cancellation; fee for and expiration of.
4. Misleading or deceptive affidavit for registration; refusal or cancellation; change of ingredients prohibited; percentage of available plant food.

SEC.

5. Only one registration required for each brand.
6. Fertilizer material exempted from article.
7. Analysis of fertilizer by commissioner or purchaser.
8. Enforcement power of commissioner.
9. Violation to be reported to prosecuting attorney.
10. Offenses; penalties.
11. Effective date of act.

Be it enacted by the Legislature of West Virginia:

Section 1. The word "fertilizer," as used in this act, or in any rule or regulation authorized thereunder, unless the context otherwise requires or a different meaning is specifically prescribed, shall 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 trademark, all forms of agricultural lime, and bacterial preparations when sold with or without brand, name or trademark.

Sec. 2. Every bag, barrel or other package of fertilizer sold, offered or exposed for sale in this state shall have branded thereon or conspicuously attached thereto a statement showing:

(a) The name, brand or trademark of the fertilizer; (b) The net weight of the package; (c) The name and address of the manufacturer; (d) The guaranteed analysis of the fertilizer and a quantitative statement of the materials from which each of the constituents is derived as set out in the affidavit required in section three of this article. The analysis shall set forth the minimum percentage of total nitrogen, available phosphoric acid and water soluble potash, except that in case of bone meal, animal manures and tankage, untreated phosphate rock and basic slag phosphates the minimum per cent of total phosphoric acid may be given.

Sec. 3. Every manufacturer who shall sell, offer or expose for sale, or distribute, in this state any commercial fertilizer,

3 shall, before the same is sold, offered or exposed for sale, obtain
4 from the commissioner of agriculture a certificate of registration
5 for each brand of fertilizer to be sold, offered or exposed for sale.
6 The commissioner of agriculture shall have full power, and is
7 hereby authorized and required to cancel and withdraw any cer-
8 tificate upon satisfactory evidence that any rules and regulat-
9 tions covering the sale of commercial fertilizer have been vio-
10 lated by the holder of the same. The commissioner shall not
11 issue any certificate of registration except upon the filing with
12 the commissioner of agriculture of a certified copy of the state-
13 ment specified in section two of this article for each brand of
14 commercial fertilizer, accompanied by a fee of twenty dollars
15 for each brand, which moneys shall become a part of the general
16 revenue of the state. All certificates so issued shall become null
17 and void on December thirty-one, next succeeding date of is-
18 suance thereof.

Sec. 4. The commissioner of agriculture shall have the power
2 to refuse to accept any affidavit for any fertilizer or material to
3 be used as a fertilizer under a brand or trade name, or with
4 any information or statement accompanying same which is mis-
5 leading or deceptive or tends to mislead or deceive as to its
6 quality or the constituents or materials of which it is composed.
7 Any registration of any fertilizer may be cancelled by the com-
8 missioner whenever it is shown that any statement upon which
9 said registration was made or upon which the fertilizer is sold
10 is false or misleading. He shall also have the power to refuse
11 to register more than one commercial fertilizer under the same
12 name or brand when offered by the same manufacturer, jobber,
13 importer, firm, association, corporation or person. Should any
14 commercial fertilizer be registered in this state and it is after-
15 ward discovered that such registration is in violation of any of
16 the provisions of this article, the commissioner shall have the
17 power to cancel such registration. The commissioner shall have
17a the power to refuse to allow any manufacturer, importer, job-
18 ber, firm, association, corporation or person to lower the guaran-
19 teed analysis or change the ingredients of any brand of his or
20 their commercial fertilizer during the term for which registered
21 unless satisfactory reasons are presented for making such change.
22 *Provided, however,* That the commissioner shall refuse to regis-
23 ter any fertilizer unless the same contains sixteen per cent or
24 more of total available plant food, except that untreated phos-

25 phosphate rock, basic slag phosphates, bone meal, animal tankage
26 and animal manures when sold with brand name or trade-mark
27 may be registered and sold without containing the minimum of
28 sixteen per cent total available plant food.

Sec. 5. Whenever a manufacturer, importer, jobber, firm,
2 association, corporation or person manufacturing or selling a
3 brand of commercial fertilizer shall have filed the statement
4 required by section three and the same has been registered by the
5 commissioner, no other agent, importer, jobber, firm, associa-
6 tion, corporation or person shall be required to file for registry
7 such statement for such brand.

Sec. 6. The provisions of this article shall not apply to fer-
2 tilizer materials sold to fertilizer manufacturers to be prepared
3 or treated by them and resold.

Sec. 7. The commissioner of agriculture, in person or by
2 deputy, shall take samples of any fertilizer on sale in this state
3 and shall cause such samples to be analyzed according to the
4 methods of the association of official agricultural chemists, offi-
5 cial at the time, and publish the results of analysis from time
6 to time. Any purchaser of fertilizer within the state may take
7 a sample of the same, in accordance with such rules and regula-
8 tions as the commissioner of agriculture may establish, and for-
9 ward the same for analysis, and if the commissioner has reason
10 to believe that the fertilizer from which the sample is taken is not
11 as guaranteed in the statement attached to such fertilizer, he
12 shall cause the sample to be analyzed free of charge and certify
13 the result of the analysis to the person forwarding such sample.

Sec. 8. The enforcement of the provisions of this article shall
2 be vested in the state department of agriculture, and the com-
3 missioner of agriculture is authorized to make and enforce such
4 rules and regulations as may be necessary to carry out the intent
5 and purpose of this article. The commissioner is authorized, in
6 person or by deputy, to enter, during business hours, any store
7 room or other place where fertilizers are sold, offered or exposed
8 for sale for the purpose of taking samples therefrom for analysis.

Sec. 9. The commissioner of agriculture shall promptly re-
2 port to the prosecuting attorney of the county in which the of-
3 fense was committed any violations of this article and all failures
4 to comply therewith.

Sec. 10. Any person who shall sell, offer or expose for sale
2 any fertilizer without first having secured certificate of regis-

3 tration as provided by section three of this act, or without hav-
 4 ing branded on or attached to the bag, barrel or other package
 5 containing such fertilizer the statement required by section two
 6 of this article, or any fertilizer containing less than sixteen per
 7 cent of total available plant food, or who shall receive or remove
 8 any fertilizer without its having been registered or branded as
 9 provided by this article, shall be guilty of a misdemeanor, and
 10 upon conviction thereof, shall be fined not less than twenty nor
 11 more than one hundred dollars for the first offense, and not less
 12 than fifty nor more than five hundred dollars for each subsequent
 13 offense.

Sec. 11. The provisions of this act shall become effective
 2 January one, one thousand nine hundred thirty-two. All acts
 3 or parts of acts inconsistent with this act are hereby repealed.

CHAPTER 62

(House Bill No. 328—By Mr. Kenna)

AN ACT to amend and re-enact section ten of article eight of
 chapter eleven of the official code of one thousand nine hun-
 dred thirty-one, relating to levies.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the
 Governor.]

SEC.

1. Additional levies by counties, school districts or municipalities to be

SEC.

submitted to voters; limitations.

Be it enacted by the Legislature of West Virginia:

That section ten of article eight of chapter eleven of the official
 code of one thousand nine hundred thirty-one, be amended and
 re-enacted so as to read as follows:

Section 1. If any county court, board of education, or com-
 2 mon council of a municipal corporation be of opinion that the
 3 maximum rate of levy of taxes hereinbefore named in sub-
 4 division (a) of section three of this article as to counties, or in
 5 section five as to elementary and high schools, in school dis-
 6 tricts, or in section seven as to municipalities, will not pro-
 7 duce sufficient funds for the current fiscal year to cover the
 8 expenditures for the year in the county or school district,
 9 or municipality, as the case may be, it may enter an order
 10 on its record book of proceedings setting forth the purposes
 11 for which additional funds will be needed, the amount thereof

12 for each purpose, and the total thereof, the separate and ag-
 13 gregate amount of the taxable property on which it is author-
 14 ized to levy taxes and the rate of levy in cents on each one
 15 hundred dollars' assessed valuation of such property neces-
 16 sary to produce the additional amount estimated to be needed;
 17 and in the same order submit to the voters of the county, the
 18 school district or the municipality, as the case may be, at an
 19 election therefor, the question of such additional levy. If a
 20 majority of the votes cast on the question at such election be
 21 in favor of such additional levy, the court, board or council,
 22 as the case may be, shall have authority to make such additional
 23 levy, but the same shall not exceed twenty cents on each one
 24 hundred dollars' assessed valuation of the taxable property
 25 in the county, school district, or municipality, according to the
 26 last assessment thereof.

CHAPTER 63

(House Bill No. 349—By Mr. Hiner)

AN ACT to amend and re-enact sections three and four of article nine, chapter thirty-three, of the code of West Virginia, one thousand nine hundred thirty-one, relative to deposits to be made with the state treasurer by insurance companies before obtaining a license to write annuity contracts.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.
 3. Deposit with state treasurer by insurance companies writing annuity contracts; what bonds may be deposited; when deposit made

SEC.
 in another state.
 4. Definition of "bonds and securities."

Be it enacted by the Legislature of West Virginia:

That sections three and four of article nine of chapter thirty-three, of the code of West Virginia, one thousand nine hundred thirty-one, be amended and re-enacted so as to read as follows:

Section 3. Before a license to transact business in this
 2 state shall be issued by the insurance commissioner to any
 3 person, association, or corporation within the purview of sec-
 4 tion one of this article, the insurance commissioner shall re-
 5 quire the applicant to deposit with the state treasurer (in
 6 accordance with article five, chapter twelve of this code), in
 7 trust, for the benefit of its contract holders, bonds of the

8 state of West Virginia, or such other bonds and securities in-
9 cluding bonds issued by the West Virginia bridge commis-
10 sion as may be approved by said insurance commissioner, or
11 both, to the aggregate amount of one hundred thousand dol-
12 lars, and, in addition to such deposit, such person, associa-
13 tion or corporation shall maintain at all times a deposit with
14 the state treasurer of bonds and securities approved by the in-
15 surance commissioner to an amount equal to the total amount
16 which such person, association or corporation may be liable
17 to pay in cash to the holders of all contracts under the terms
18 thereof at the time of the deposit: *Provided*, That when, by
19 the laws of any other state, any such person, association or
20 corporation shall have been required to make and shall have
21 made such deposit in such state, equal or greater in amount
22 for the benefit of contract holders in such state, upon the
23 filing of a certificate to such effect from the proper officer in
24 such state with the insurance commissioner of this state, such
25 person, association or corporation shall not be required to
26 make such deposit with the treasurer of this state for the
27 benefit of its contract holders in such other state; and when
28 the laws of any other state require such deposit less in amount,
29 such person, association or corporation shall file a certifi-
30 cate from the proper officer in such state with the insurance
31 commissioner of this state showing the amount of the deposit
32 made, and shall deposit with the treasurer of this state an
33 amount which, together with the deposit made in such other
34 state, shall make up the total amount required by this state
35 to be deposited by such person, association or corporation,
36 and such contract holders in such other state shall not be
37 entitled to the benefit of the securities deposited with the
38 treasurer of this state under this article, except so much of
39 such deposit as may be made to complete the total amount re-
40 quired by this article where the law of any other state re-
41 quires a lesser amount.

42 The insurance commissioner may require an independent
43 appraisal, at the expense of the company, of any property
44 on which it holds a mortgage or trust deed or any bond or
45 other investment offered by such company for the purpose of
46 complying with the deposit provisions of this article.

Sec. 4. The words "bonds and securities" used in the fore-
2 going section, shall be construed to mean bonds or obligations

3 of the United States; or bonds of any state or any political
 4 subdivision thereof, including bonds issued by the West Vir-
 5 ginia bridge commission; or bonds or obligations of any foreign
 6 government, or territorial possession thereof; or bonds of any
 7 private corporation secured by first mortgage or trust deed
 8 on its property; or debentures, notes, preferred or guaranteed
 9 stocks of a corporation whose net income applicable to pay-
 10 ment of dividends for five years next preceding the date of
 11 their being offered for deposit shall have been equal to at least
 12 four per cent per annum on the par value on all its out-
 13 standing stock, or, in case its stock has no par value, then on
 14 the value at which such stock was issued; or bills and accep-
 15 tances eligible for purchase by federal reserve banks; or notes
 16 or bonds secured by first mortgage or trust deed on improved
 17 real estate, to an amount not exceeding fifty per cent of its ap-
 18 praised value, if they be accompanied by proper abstract of
 19 title and fire insurance policy or policies to adequately pro-
 20 tect the improvements on such real estate: *Provided*, That no
 21 corporation shall deposit, under this article, more than ten per
 22 cent of any preferred or guaranteed stock of any issuing
 23 corporation.

CHAPTER 64

(House Bill No. 351—By Mr. Taylor)

AN ACT to provide funds for the relief of persons who, by act of Providence or otherwise, are in needy or necessitous circumstances, by authorizing municipalities to transfer money from other funds to the general fund for the fiscal years beginning July first, one thousand nine hundred thirty and July first, one thousand nine hundred thirty-one, and to make contracts, incur indebtedness and issue orders therefor payable out of the general fund for the fiscal year one thousand nine hundred and thirty-one, prior to the beginning of such fiscal year.

[Passed March 14, 1931; in effect from passage. Approved by the Governor.]

<p>Sec. 1. Transfer of funds by municipality in one thousand nine hundred thirty and one thousand nine hundred thirty-one for the relief</p>		<p>Sec. of the needy; contracts and or- ders for relief of needy, amount and control.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That for the relief of persons who, by act of Providence or otherwise, are in needy or necessitous circum-

3 stances, the council or other governing body of any mun-
4 icipality, in addition to authority already provided by statute,
5 is hereby authorized and empowered: (1) To transfer, during
6 the fiscal year beginning the first day of July, nineteen hundred
7 and thirty, from any fund under its control, except funds de-
8 rived from levies authorized by a vote of the people, to the gen-
9 eral fund, a sum not exceeding ten cents on each one hundred
10 dollars of the nineteen hundred and thirty assessed valuation of
11 all property of the municipality; (2) To transfer, from any fund
12 under its control, except funds derived from levies authorized
13 by vote of the people, to the general fund, a sum not exceeding
14 ten cents on each one hundred dollars of the assessed valuation
15 of all property of the municipality, during the fiscal year begin-
16 ning the first day of July, one thousand nine hundred and thirty-
17 one; (3) To, at any time during the fiscal year ending the thir-
18 tieth day of June, one thousand nine hundred and thirty-one,
19 enter into contract, incur indebtedness and issue orders for the
20 relief of the needy, payable in an amount not to exceed five cents
21 on each one hundred dollars of the nineteen hundred and thirty
22 assessed valuation of the property of the municipality out of the
23 general fund for the fiscal year beginning the first day of July,
24 one thousand nine hundred and thirty-one: *Provided, however,*
25 That the orders to be issued, indebtedness incurred and con-
26 tracts entered into as provided in subsection three hereof, shall
27 be administered, distributed and controlled only under the di-
28 rection of the American Red Cross in municipalities where
29 chapters of such organization exist.

CHAPTER 65

(House Bill No. 352—By Mr. Taylor)

AN ACT to provide for the relief of persons who, by act of Provi-
dence or otherwise, are in needy or necessitous circumstances,
by authorizing county courts to transfer money from the
county road fund to the general county fund for the fiscal
years beginning July first, one thousand nine hundred thirty
and July first, one thousand nine hundred thirty-one, and to
make contracts, incur indebtedness and issue orders therefor
payable out of the general county fund for the fiscal year one

thousand nine hundred thirty-one prior to the beginning of such fiscal year.

[Passed March 14, 1931; in effect from passage. Approved by the Governor.]

<p>Sec. 1. Transfer of funds by county court in one thousand nine hundred thirty and one thousand nine</p>		<p>Sec. hundred thirty-one for the relief of the needy; contracts and or- ders for relief of needy, amount.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. That for the relief of persons who, by act of Providence or otherwise, are in needy or necessitous circumstances, the county courts of the several counties of the state in addition to authority already provided by statute are hereby authorized and empowered:

(1) To transfer during the fiscal year beginning the first day of July, one thousand nine hundred thirty, from the county road fund to the general county fund, a sum not exceeding ten cents on each one hundred dollars of the nineteen hundred thirty assessed valuation of all property of the county: *Provided, however,* That where the transfer of money from the county road fund to the general county fund for the fiscal year beginning the first day of July, one thousand nine hundred thirty, has already been authorized in any county by a special act of the legislature for the purposes set forth in this section. the same shall be credited against the total amount authorized to be transferred by subparagraph (1) of section one of this article.

(2) To transfer from the county road fund to the general county fund, a sum not exceeding ten cents on each one hundred dollars of the assessed valuation of all property of the county, during the fiscal year beginning the first day of July one thousand nine hundred thirty-one.

(3) To, at any time during the fiscal year ending the thirtieth day of June, one thousand nine hundred thirty-one, enter into contracts, incur indebtedness and issue orders for the relief of the needy, payable in an amount not to exceed five cents on each one hundred dollars of the nineteen hundred thirty assessed valuation of all property of the county out of the general county fund for the fiscal year beginning the first day of July, one thousand nine hundred thirty-one.

CHAPTER 66

(House Bill No. 359—By Mr. Lubliner)

AN ACT to provide for the care and treatment by hospitals approved by the state board of health of residents suffering from communicable diseases, and residents suffering from diseases and ailments deemed a serious impairment to health, when such residents are unable financially to obtain proper hospitalization and treatment; providing for method of entering such residents in hospitals, by what officers the same are to be entered; providing for the keeping of records thereof and by whom to be approved; permitting hospitals so treating and caring for such residents to file a record thereof with the sheriff of the county and take credit therefor against the state, county and district taxes assessed against the real estate and personal property of said hospital to the extent of the amounts properly certified; and directing the sheriff to allow such credits when properly certified and to make report thereof to the county court.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. How persons suffering with communicable disease may be hospitalized at expense of county.
2. What hospital records to show.
3. Credit for hospital costs against

SEC.

4. taxes of hospital.
5. Filing of hospital record.
6. Filing of hospital credits by sheriff with county court.

Be it enacted by the Legislature of West Virginia:

Section 1. Whenever it is found by the county court, or any member thereof, sheriff or prosecuting attorney of any county, upon careful investigation, that any bona fide resident of any county is suffering from any communicable disease and that such resident is unable financially to obtain the proper and duly recognized hospitalization and methods of treatment therefor; or whenever any bona fide resident of any county, upon careful investigation by any of the aforesaid officers, is found to be unable financially to obtain the proper and duly recognized hospitalization and methods of treatment for any disease or ailment which, but for this act, would seriously impair the health of the person so suffering, or the health of the public, and it is deemed by said officer for the benefit of the public health and welfare, any of said officers are hereby authorized to enter said resident in any reputable hospital with-

16 in the county which has been approved by the state board of
17 health.

Sec. 2. All hospitals within this state which have been ap-
2 proved by the state board of health desiring to avail themselves
3 of the provisions of this act shall, at their expense, keep a true
4 and accurate account and record of all charges made by them
5 for professional and hospital services rendered to all residents
6 entered in said hospitals by the officers authorized hereunder,
7 which record shall plainly and accurately show the city or town,
8 county and state in which the hospital is located; the name of
9 the hospital; name of patient, residence of patient, color, age,
10 sex, diagnosis, date of entrance in hospital, prognosis, probable
11 duration of confinement in hospital, name and official capacity
12 of officer entering patient in hospital, which officer shall, at the
13 time of entering the patient in the hospital, sign said record in
14 duplicate, and the same shall be signed in duplicate by a mem-
15 ber of the staff of the hospital in which the patient is entered,
16 all of which records shall be prepared and signed in duplicate,
17 and to which shall be attached a certificate of the officer entering
18 the patient in the hospital to the effect that an investigation
19 of the case had been made and which disclosed that the patient
20 was unable financially to obtain the prescribed hospitalization
21 and treatment and should be treated therefor, to which record
22 there shall be appended an itemized statement of all expenses
23 and charges of said hospital for professional and hospital serv-
24 ices with an affidavit of some employee of the hospital having
25 knowledge of the records, showing the account to be true and
26 correct, which said record shall, upon presentation to the officer
27 entering the patient in the hospital, if found to be correct, be
28 approved, in duplicate, and returned to the hospital promptly.
29 The records herein prescribed shall be in the following form or
30 to the following effect:

31 "Hospital.....; city or town
32; county of....., West Vir-
33 ginia; name of patient;
34 residence of patientcounty,
35 West Virginia; color.....; age.....; sex.....;
36 diagnosis.....; date of
37 entrance in hospital.....; prognosis
38; probable duration
39 of confinement.....; name

40 and official capacity of officer entering patient in hospital.
 41.....,
 42 of.....county.
 43
 44 member of the staff of
 45hospital.

46 State of West Virginia, county of.....:

47 I,, a.....

48 of the county and state aforesaid, do hereby certify that I have
 49 made a careful investigation of the physical and financial con-
 50 dition of the herein-named patient this day entered in the
 51 above-named hospital, and from the medical information
 52 furnished me I am of opinion that said patient should receive
 53 treatment in the aforesaid hospital, and that said patient, ac-
 54 cording to my best information, is not able financially to pay
 55 for the hospitalization and treatment prescribed by said hos-
 56 pital. Given under my hand this.....day of.....,
 57 19....

58

59 Official capacity.....

60 *Itemized Statement*

61 Date	Item	Charge
62	\$.....
63	\$.....
64	Total.....	\$.....

65 State of West Virginia, county of....., to-wit:

66 Personally appeared before the undersigned notary public
 67 in and for the county aforesaid.....,
 68 who being first duly sworn deposes and says that (he) (she)
 69 is employed by the.....hospital,
 70 and is familiar with the records and accounts of said hospital,
 71 and that the herein itemized statement correctly sets forth the
 72 dates, items and charges incurred by reason of professional and
 73 hospital services rendered.....

74

75 Bookkeeper or other employee.

76 Taken, subscribed and sworn to before me and given under
 77 my hand this.....day of....., 19....

78

79 Notary Public.

80 My commission expires.....

81 APPROVED:

82

83 Member of county court.

84 Sheriff.

85-86 Prosecuting attorney.

87 To the sheriff of.....county, West Virginia:

88 Herewith is a record showing charges made and incurred by

89 the.....hospital by reason

90 of professional and hospital services rendered.....

91 which record has been properly certified, verified and approved,

92 and request is hereby made that credit for said amount be given

93 the undersigned against the state, county and district taxes

94 assessed against the real estate and personal property of this

95 hospital. This the.....day of....., 19....

96hospital.”

Sec. 3. Upon presentation of one copy of such record to the

2 sheriff, which shall be filed and retained by him, credit for the

3 amount set forth in the itemized statement of such record, when

4 approved by the officer entering the patient in the hospital, shall

5 be allowed against the state, county and district taxes assessed

6 against said hospital for the year in which such services were

7 rendered.

Sec. 4. All hospitals within the provisions of this act shall

2 retain and file one copy of the aforesaid record which shall be

3 open to inspection to any of the herein constituted officers of

4 said county: *Provided*, That such hospitals shall not be re-

5 quired to retain said record for a period longer than five years

6 after the entry of the patient covered by said record.

Sec. 5. At the end of each fiscal year the sheriffs of the

2 several counties shall file with the county courts of their re-

3 spective counties a list showing the amount of credit allowed to

4 each hospital by reason of the provisions of this act.

CHAPTER 67

(House Bill No. 84—By Mr. Taylor)

A "BUDGET BILL" making appropriations of public moneys out of the treasury, in accordance with the provisions of the amendment to the Constitution of the State of West Virginia, known as the "Budget Amendment."

[Passed April 14, 1931; in effect from passage.]

SEC.	SEC.
1-2. Fiscal years.	45. Lakin state hospital.
3. Appropriations payable out of general revenue.	46. Welch emergency hospital.
4. No payment to be made in excess of collections.	47. McKendree emergency hospital.
5. Salaries of elective and appointive state officers and of the judiciary.	48. Fairmont emergency hospital.
6. Attorney general's office.	49. Hopemont sanitarium.
7. Auditor's office.	50. Rutherford sanitarium.
8. Salary of private secretary to the governor.	51. Denmar sanitarium.
9. Pardon attorney's office.	52. Tuberculosis field clinic service.
10. Civil contingent fund.	53. West Virginia industrial school for boys.
11. Treasurer's office.	54. West Virginia industrial school for colored boys.
12. Secretary of state's office.	55. West Virginia industrial home for girls.
13. Department of agriculture.	56. West Virginia industrial home for colored girls.
14. State tax commissioner's office.	57. State board of children's guardians.
15. State commissioner of prohibition.	58. West Virginia children's home.
16. Department of mines.	59. West Virginia colored children's home.
17. Commissioner of banking.	60. West Virginia home for aged and infirm colored men and women.
18. Bureau of labor and department of weights and measures.	61. West Virginia geological survey.
19. Department of archives and history.	62. Point Pleasant Battle Monument commission.
20. State health department.	63. Berkeley Springs sanitarium.
21. Capitol building and grounds.	64. Rumseyan Society.
22. Governor's mansion and grounds.	65. State board of pharmacy.
23. Labor funds, capitol building.	65-A. West Virginia board of examiners for registered nurses.
24. Militia; appropriation for Ala Brent and Clarence R. Boyles.	65-A. West Virginia state board of dental examiners.
25. State sinking fund commission.	66. Florence Crittendon home (Wheeling).
27. State water commission.	67. Morgan Morgan memorial commission.
28. Bureau of negro welfare and statistics.	68. West Virginia crippled children's council.
29. Soldiers, sailors and marines.	71. West Virginia penitentiary.
30. Criminal charges.	72. State department of public safety.
31. Publication of delinquent lists.	74. West Virginia University.
32. State aid for agriculture fairs and associations.	75. University extension work.
33. National cemetery.	70. West Virginia agricultural experiment station.
35. Supreme court of appeals.	77. Marshall college.
36. Circuit courts.	78. Potomac state school, Keyser.
36(a). General school fund.	79. New River state college, Montgomery.
36(b). Yorktown sesquicentennial.	80. Concord state normal school.
36(c). Celebration of the birth of George Washington.	81. Fairmont state normal school.
36(d). Interest and sinking fund requirements for defaulted bond issues.	82. Glenville state normal school.
37. Appropriations under sub-section "B" payable on requisition of state board of control.	83. Shepherd college state normal school.
38. When appropriation not to be used in payment of land or to supplement specific appropriation for salaries.	84. West Liberty state normal school.
39. State board of control.	85. West Virginia school for the deaf and blind.
40. Printing, binding and stationery.	86. West Virginia school for colored deaf and blind.
41. Huntington state hospital.	87. West Virginia state college.
42. Spencer state hospital.	88. Bluefield colored institute.
43. Weston state hospital.	89. Storer college.
44. West Virginia training school.	90. Appropriations payable out of general revenue.
	91. Legislative department, Senate.

<p>Sec. 92. Legislative department, House of Delegates. 93. Legislative printing and stationery. 94. Salaries of members of the legislature. 95. Miscellaneous appropriations. 96. Appropriations payable out of the general school fund. 97. Department of education. 98. State board of education. 99. General expenses. 100. Appropriations payable out of state road fund. 101. State road commission. 102. Automobile bureau. 103. General. 104. Appropriations payable out of special license fee. 105. Public service commission. 106. Appropriations payable out of special funds. 107. Workmen's compensation. 108. Appropriations of special revenues or collections; appropriations of capitol fund revenue. 109. Limitation on appropriations of amounts collected by particular institutions, etc. PART ONE 110. Fire marshal. PART TWO 112. State veterinary examining board. 113. West Virginia state board of embalmers.</p>	<p>Sec. 114. State board of examiners in optometry. 115. State board of examiners and registration of architects. 116. State board of registration for engineers. 117. West Virginia state board for osteopathy. 118. State board of examiners for the examination of accountants. 119. Appropriations for refunding overpayments on account of taxes. 120. How appropriations for state board or institution drawn from treasury; when architect's estimate required; compensation of members of state boards of commissions. 121. Printing, etc., when paid out of general school fund; what printing not paid out of appropriation for public printing, etc.; what boards, etc., required to pay for their own printing; certification of cost by superintendent of public printing to auditor; publication of annual or biennial report. 122. Limitation on amount paid out of treasury. 122-b. Payment of premium on official bonds. 123. Certification of appropriation bill to auditor and treasurer by clerk of the House and clerk of the Senate.</p>
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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 thirty, one thousand nine hundred and thirty-two, and for the fiscal year ending June thirty, one thousand nine hundred and thirty-three and for the remainder of the fiscal year ending June thirty, one thousand nine hundred and thirty-one, the following sums of money for the following-named purposes:

Sec. 2. The amounts appearing in the column headed "1932" are for the fiscal year ending June thirty, one thousand nine hundred and thirty-two and the amounts appearing in the column headed "1933" are for the fiscal year ending June thirty, one thousand nine hundred and thirty-three.

Sec. 3. All appropriations appearing under sub-sections "A" and "B" are payable out of the general revenue of the State unless otherwise provided herein.

Sec. 4. No payments shall be made from appropriations appearing in sub-sections "A" and "B", which appropriations are designated, "Payable out of collections," in excess of the amounts therein set forth, and no payments shall be made in excess of the amount of collections, for the particular institution, department, commission or board, paid into the general

7 revenue of the state under the provisions of Senate Bill 104,
8 one thousand nine hundred and twenty-nine legislature, as
9 amended.

10 Payments may be made from said appropriations appearing
11 herein at any time during the fiscal year so long as the aggre-
12 gate for the year does not exceed the amount of the appropria-
13 tion and does not exceed the collections that will be made for
14 the year and paid into the general revenue of the state.

15 *Provided, however,* That no payments shall be made from said
16 appropriations until after the appropriation for a particular
17 institution, department, commission or board for like purposes,
18 which is not limited to collections, has been expended.

SUB-SECTION "A"

Salaries

	1932	1933
Sec. 5. Salary of the Governor..\$	10,000.00	\$ 10,000.00
2 Salary of the Auditor.....	7,000.00	7,000.00
3 Salary of the Treasurer.....	7,000.00	7,000.00
4 Salary of the Attorney General....	7,000.00	7,000.00
5 Salary of the Commissioner of		
6 Agriculture	7,000.00	7,000.00
7 Salary of Superintendent of Free		
8 Schools	7,000.00	7,000.00
9 Salary of the Secretary of State....	7,000.00	7,000.00
10 Salary of Adjutant General.....	4,000.00	4,000.00
11 Salary of the State Tax Commis-		
12 sioner	6,000.00	6,000.00
13 Salaries of the members of the		
14 Public Service Commission.....	18,000.00	18,000.00
15 Salary of the Chief of the De-		
16 partment of Mines.....	7,000.00	7,000.00
17 Salary of the Commissioner of		
18 Banking	6,000.00	6,000.00
19 Salary of the Commissioner of		
20 Labor	4,000.00	4,000.00
21 Salary of the State Historian and		
22 Archivist	3,600.00	3,600.00
23 Salary of the State Commissioner		
24 of Health.....	4,800.00	4,800.00

25	Salary of the Janitor and Custodian		
26		2,100.00	2,100.00
27	Salary of the Keeper of the Rolls..	300.00	300.00
28	Salaries of the three members of		
29	the Board of Control.....	18,000.00	18,000.00
30	Salary of the State Commissioner		
31	of Prohibition	5,000.00	5,000.00
32	Salary of the Director of the Bureau of Negro Welfare and Statistics		
33		3,600.00	3,600.00
34			
35	Salary of the Director of Public Welfare	4,800.00	4,800.00
36			

JUDICIARY

37	Salaries of the judges of the		
38	Supreme Court of Appeals.....	50,000.00	50,000.00
39	Salaries of the judges of the Circuit Courts	160,500.00	160,500.00
40			

EXECUTIVE DEPARTMENT

Attorney General's Office

	Sec. 6. Salaries of three assistant Attorneys General.....	14,400.00	14,400.00
2			
3	To pay salaries of clerks, stenographers and other assistants, including current, general and traveling expenses	12,000.00	12,000.00
4			
5			
6			

Auditor's Office

	Sec. 7. Salary of Chief Clerk..	4,000.00	4,000.00
2	Salary of deputy insurance commissioner	4,000.00	4,000.00
3			
4	Salary of deputy securities commissioner	4,000.00	4,000.00
5			
6	To pay salaries of other clerks, stenographers and assistants, current general and traveling expenses, including insurance		
7			
8			
9			
10-16	and securities department	42,150.00	42,150.00
17	Salaries, traveling and current		

<p>18 general expenses—Securities De- 19 partment — PAYABLE OUT 20-21 OF COLLECTIONS.....</p>	<p>10,000.00</p>	<p>10,000.00</p>
<p>22 For refunding moneys erroneously 23 paid into the treasury such 24 sums are hereby appropriated 25 as may be erroneously so paid, 26 payable out of the same fund 27 into which paid.</p>		
<p>28 For pay of State agents, such 29 amounts are hereby appropri- 30 ated as may be necessary to pay 31 commissions of State agents, 32 payable out of the fund collect- 33 ed: <i>Provided</i>, That in no case 34 shall the amount so paid exceed 35 ten per centum of the funds col- 36 lected and paid into the treas- 37 ury by any such agents.</p>		
<p>38 For refunding to counties, dis- 39 tricts and municipal corpora- 40 tions, county, district and mu- 41 nicipal taxes paid into the treas- 42 ury for the redemption of lands, 43 such amount is hereby appro- 44 priated as will be necessary 45 to refund to the counties, dis- 46 tricts and municipal corpora- 47 tions entitled thereto the taxes 48 so paid into the treasury.</p>		
<p>49 For refunding county, district 50 and municipal taxes paid into 51 the treasury by railroads and 52 other companies, such sum is 53 hereby appropriated as will be 54 necessary to refund to each 55 county, district and municipal 56 corporation the amount of such 57 taxes as may be paid into the 58 treasury to the credit of such 59 county, district and municipal 60 corporation.</p>		

Governor's Office

2	Sec. 8. Salary of private secretary to the Governor.....	5,000.00	5,000.00
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Pardon Attorney's Office

2	Sec. 9. Salary of the Pardon Attorney	4,800.00	4,800.00
3	Salary of the stenographer.....	900.00	900.00
4	Current general expenses	300.00	300.00

Civil Contingent Fund

2	Sec. 10. For civil contingent fund, to be expended upon the order of the Governor, no part of which, however, is to be used for clerk hire in any of the State offices or institutions other than the Governor's office.....	20,000.00	20,000.00
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Treasurer's Office

2	Sec. 11. Salary of assistant treasurer	4,000.00	4,000.00
3	To pay salaries of other clerks, stenographers and assistants, including current general, traveling expenses and premiums on official bonds	24,925.00	25,715.00

Secretary of State's Office

2	Sec. 12. Expenses of secretary of state's office, including compensation of clerks, stenographers and other expenses.....	17,000.00	17,000.00
5	Salary clerk board of public works	3,000.00	3,000.00

Department of Agriculture

2	Sec. 13. To pay salaries of clerks, stenographers and other assistants, current general and traveling expenses, and for carrying out the provisions of law relating to diseased animals and		
---	---	--	--

7	the eradication of bovine tuber-		
8	culosis; for carrying out the		
9	provisions of law relating to		
10	control of plant diseases and		
11	control of corn borer; for carry-		
12	ing out the provisions of law re-		
13	lating to pure seeds, commercial		
14	fertilizer and commercial feed-		
15	ing stuffs; for carrying out the		
16	provisions of law relating to		
17	control of contagious abortion;		
18	for the establishment of addi-		
19	tional chemical laboratories for		
20	the purpose of determining the		
21	amount of spray residue on		
22	fruit; Bureau of Markets and		
23	publication of bulletins; and for		
24	advertising the resources and		
25	natural advantages of West Vir-		
26	ginia	100,500.00	100,500.00
27	For carrying out the provisions of		
28	law relating to plant diseases		
29	and control of corn borer, in-		
30	cluding nursery and sire regis-		
31	tration—PAYABLE OUT OF		
32	COLLECTIONS	4,000.00	4,000.00
33	For carrying out the provisions of		
34	law relating to pure seeds, com-		
35	mercial fertilizer and feeding		
36	stuffs—PAYABLE OUT OF		
37	COLLECTIONS	7,500.00	7,500.00
38	For carrying out the provisions of		
39	law relating to inspection of		
40	fruits, vegetables, potatoes, eggs,		
41	truck crops and livestock—		
42	PAYABLE OUT OF COLLEC-		
43	TIONS	16,000.00	16,000.00
44	For carrying out the provisions of		
45	House Bill one hundred thirty-		
46	five, one thousand nine hundred		
47	and thirty-one legislature, relat-		

48	ing to regulating the weighing,		
49	testing, buying and selling of		
50	milk and cream — PAYABLE		
51	OUT OF COLLECTIONS.....	2,500.00	2,500.00

State Tax Commissioner's Office

GENERAL OFFICE

	Sec. 14. Salary of law assistant		
2	to commissioner.....	5,000.00	5,000.00
3	Salary of chief assistant.....	3,000.00	3,000.00
4	To pay salaries of other clerks,		
5	stenographers and assistants,		
6	current general and traveling		
7	expenses, including expenses in		
8	connection with securing proper		
9	assessment of property, compila-		
10	tion of returns and apportion-		
11	ment of valuations of public		
12-13	utilities	30,000.00	30,000.00
14	All forfeitures and license taxes		
15	collected by the State Tax Com-		
16	missioner, or his agents, under		
17	and by virtue of the authority		
18	granted by law, shall be paid		
19	into the treasury. All neces-		
20	sary salaries, expenses, com-		
21	missions and attorneys' fees		
22	authorized by law for the col-		
23	lection of same shall be paid by		
24	the Tax Commissioner through		
25	the State treasury out of the		
26	gross collections. Any part of		
27	such forfeitures that may from		
28	time to time be due the State		
29	or any county, district or mu-		
30	nicipality shall be distributed		
31	through the State treasury by		
32	the Tax Commissioner upon the		
33	basis provided by law by secur-		
34	ing State checks for said pur-		
35	poses and such amounts are		

36 hereby appropriated. A suffi-
 37 cient amount of the aforesaid
 38 moneys collected and paid into
 39 the State treasury is hereby ap-
 40 propriated to pay the salaries,
 41 expenses, commissions or fees
 42 authorized by law, and it shall
 43 be the duty of the Auditor and
 44 Treasurer to keep a separate
 45 account of the receipts and dis-
 46 bursements of such funds.

GROSS SALES DEPARTMENT

47 Salary of assistant, Gross Sales		
48 Tax	4,000.00	4,000.00
49 To pay salaries of other clerks, 50 stenographers and assistants, 51 current general and traveling 52-54 expenses	37,500.00	37,500.00

ACCOUNTING DEPARTMENT

55 Salary of chief accountant.....	6,000.00	6,000.00
56 Expenses of uniform system of 57 accounting, including compensa- 58 tion of assistants, stenographers 59 and other expenses.....	10,000.00	10,000.00
60 Expenses of auditing state de- 61 partments and compiling finan- 62 cial reports	12,500.00	12,500.00

State Commissioner of Prohibition

Sec. 15. To pay salaries of sec-
 2 retary, clerks, stenographers,
 3 field officers and other assistants,
 4 including current general and
 5 traveling expenses and pre-
 6 miums to the State Compensa-
 7 tion Fund

	25,000.00	25,000.00
--	-----------	-----------

8 *Provided, however,* That no part
 9 of this appropriation shall be
 10 available in the event of appoint-

11 ment by the State Commissioner
 12 of Prohibition of deputies,
 13 agents or assistants who are not
 14 receiving their full compensa-
 15 tion out of the appropriation
 16 herein made by the state.

Department of Mines

Sec. 16. Salary of chief clerk..	3,600.00	3,600.00
2 To pay salaries of other clerks, 3 stenographers and assistants, in- 4 eluding current general and 5 traveling expenses of chief and 6 inspectors	30,500.00	30,500.00
7 To pay salaries of mine inspectors, 8 including sand and limestone 9 mines and oil and gas	81,000.00	81,000.00
10 To pay salary of chief director of 11 mine safety and rescue work, 12 including salaries of assistants 13 and rescue teams, traveling ex- 14 penses, current general expenses, 15 maintaining rescue stations and 16 trucks and for Safety Day dem- 17 onstrations and instructions.....	40,000.00	40,000.00

Commissioner of Banking

Sec. 17. To pay salaries of ex- 2 aminers, secretary, stenograph- 3 ers and assistants, traveling ex- 4 pense of commissioner, exami- 5 ners and assistants and current 6 general expenses	62,900.00	62,900.00
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Bureau of Labor and Department of Weights and Measures

Sec. 18. Salary of chief clerk..	3,000.00	3,000.00
2 Salaries of assistants and steno- 3 graphers, Bureau of Labor and 4 Department of Weights and 5 Measures	3,200.00	3,200.00
6 Current general expenses of the		

7	Department of Weights and		
8	Measures	1,500.00	1,500.00
9	Current general expenses of the		
10	Bureau of Labor.....	1,500.00	1,500.00
11	Salaries of factory inspectors.....	10,000.00	10,000.00
12	Traveling expenses of the Com-		
13	missioner of Labor and factory		
14	inspectors	7,000.00	7,000.00
15	Salaries of two inspectors of		
16	weights and measures.....	4,200.00	4,200.00
17	Traveling expenses of two inspec-		
18	tors of weights and measures....	3,000.00	3,000.00

Department of Archives and History

	Sec. 19. To pay salaries of li-		
2	brarian, clerks, stenographers		
3	and other assistants, including		
4	current general expenses, pur-		
5	chase of books, periodicals, mag-		
6	azines and newspapers.....	10,000.00	10,000.00

State Health Department

	Sec. 20. To pay salaries, cur-		
2	rent general expenses and for		
3	the purchase of typhoid, small-		
4	pox and other vaccine serums		
5	for general distribution upon		
6	the order of the public health		
7	commissioner	102,500.00	102,500.00
8	Salaries and current general ex-		
9	penses—PAYABLE OUT OF		
10	COLLECTIONS	7,500.00	7,500.00
11	<i>Provided, however, That after the</i>		
12	<i>payment of necessary salaries</i>		
13	<i>and expenses, any part of this</i>		
14	<i>sum may be used and expended</i>		
15	<i>by the State Department of</i>		
16	<i>Health in cooperation with the</i>		
17	<i>departments of the Federal Gov-</i>		
18	<i>ernment.</i>		

Capitol Building and Grounds

Sec. 21. For water, light, heat,		
2 current expenses, other than re-		
3 pairs and improvements.....	40,000.00	40,000.00
4 Repairs and improvements.....	2,500.00	2,500.00
5 To pay rent of old capitol annex		
6 and other property.....	7,000.00	
7 To purchase vault equipment, files,		
8 office furniture, other equip-		
9 ment and furnishings for new		
10 capitol	42,500.00	42,500.00

Governor's Mansion and Grounds

Sec. 22. Current general ex-		
2 penses, including expenses of of-		
3 ficial functions.....	7,000.00	7,000.00
4 Repairs, improvements, furnish-		
5 ings, gas, water and electricity	5,000.00	5,000.00

Labor Funds, Capitol Building

Sec. 23. Salaries of engineers,		
2 watchmen, janitors, charwomen,		
3 elevator and telephone oper-		
4 ators	40,000.00	40,000.00

Militia

Sec. 24. To carry into effect		
2 the provisions of law relating		
3 to the militia. Armory rentals,		
4 repairs and equipment, light,		
5 heat, water, caretaker and jani-		
6 tor service	47,500.00	47,500.00
7 All other expenditures for Militia	50,000.00	50,000.00
8 All other expenditures for Militia		
9 —PAYABLE OUT OF COL-		
10 LECTIONS	4,000.00	4,000.00
11 To pay Mrs. Ola Bent, widow of		
12 Claude S. Bent, member of Na-		
13 tional Guard, killed while in line		
14 of duty, to be paid in monthly		
15 installments	600.00	600.00

16	To pay Corporal Clarence R.		
17	Boyles, member of National		
18	Guard, injured while in line of		
19	duty, to be paid in monthly		
20	installments	300.00	300.00

State Sinking Fund Commission

	Sec. 25. Expenses of State		
2	Sinking Fund Commission, in-		
3	cluding compensation of assist-		
4	ants, stenographers and all		
5	other expenses	14,000.00	14,000.00

State Water Commission

	Sec. 27. Current general and		
2	traveling expenses, including		
3	compensation of necessary as-		
4	sistants	5,000.00	5,000.00

Bureau of Negro Welfare and Statistics

	Sec. 28. To pay for clerk hire..	2,100.00	2,100.00
2	Current general and traveling ex-		
3	penses	1,000.00	2,000.00

Soldiers, Sailors and Marines

	Sec. 29. Salary of service of-		
2	ficer	3,000.00	3,000.00
3	Current general and traveling ex-		
4	penses for the purpose of assist-		
5	ing war veterans of the State to		
6	properly prepare and prove		
7	their claim for presenting to the		
8	U. S. Veterans' Bureau and		
9	other relief work.....	6,000.00	5,000.00
10	All appropriations in this section		
11	to be disbursed on the requisition		
12	and approval of the Director		
13	of Public Welfare.		

Criminal Charges

2	Sec. 30. To pay criminal		
3	charges, including transporta-		
4	tion of prisoners and extradition		
4	of criminals and fugitives.....	125,000.00	125,000.00

Publication of Delinquent Lists

2	Sec. 31. To pay cost of pub-		
3	lishing list of delinquent cor-		
4	porations as provided by law,		
5	payable on requisition of Gov-		
5	ernor or Auditor.....	500.00	500.00

State Aid for Agricultural Fairs or Associations

2	Sec. 32. To carry out the pro-		
3	visions of law, providing for		
4	State aid for the encouragement		
5	of agricultural fairs to be paid		
6	on approval of Governor and		
6	Commissioner of Agriculture....	7,500.00	7,500.00
7	<i>Provided</i> , That three thousand		
8	seven hundred and fifty dollars		
9	for each year shall be distributed		
10	to such fairs as may be desig-		
11	nated by the department of agri-		
12	culture as Four-H regional fairs.		
13	<i>Provided, however</i> , That of the		
14	remainder not more than two		
15	thousand five hundred dollars		
16	each year shall be paid to any		
17	one agricultural fair or associa-		
18	tion.		

National Cemetery

2	Sec. 33. To carry out the pro-		
3	visions of law, relating to Na-		
3	tional Cemetery at Grafton.....	500.00	500.00

JUDICIARY DEPARTMENT

Supreme Court of Appeals

2	Sec. 35. Salary of the clerk...	6,000.00	6,000.00
2	Salary of deputy clerk.....	3,600.00	3,600.00

3	Salary of assistant clerk.....	1,800.00	1,800.00
4	Salaries of five law clerks.....	18,000.00	18,000.00
5	Per diem of the crier.....	950.00	950.00
6	Compensation of stenographers for		
7	the judges of the Supreme Court		
8	of Appeals.....	3,600.00	3,600.00
9	Mileage of the Supreme Court		
10	judges	650.00	650.00
11	Current general expenses of the		
12	Supreme Court.....	2,500.00	2,500.00
13	Printing and binding Supreme		
14	Court reports.....	7,000.00	7,000.00
15	Reprinting, binding, proofreading		
16	Supreme Court Reports.....	3,500.00	3,500.00
17	For expenses of conducting ex-		
18	amination of applicants to prac-		
19	tice law, including traveling ex-		
20	penses and per diem of the		
21	members of the examining		
22	board, to be paid on the order		
23	of the president of the examin-		
24	ing board.....	1,200.00	1,200.00
25	Salary of State Law Librarian....	3,000.00	3,000.00
26	Current general expenses and		
27	clerk hire, law library.....	2,400.00	2,400.00
28	Purchase and binding books for		
29	State law library.....	4,000.00	4,000.00

Circuit Courts

	Sec. 36. Compensation of special		
2	judges of the circuit courts.....	5,000.00	5,000.00
3	Mileage of the judges of the cir-		
4	cuit courts.....	2,500.00	2,500.00
5	Allowance for stenographic work,		
6	stationery and postage, as pro-		
7	vided by law.....	14,000.00	14,000.00
8	Allowance for food and lodging		
9	while holding court in a county		
10	other than that in which the		
11	judge resides, as provided by		
12	law	6,000.00	6,000.00

General School Fund

2 Sec. 36(a). To supplement the
 3 the general school fund to meet
 4 the requirements of law relating
 5 to state aid for elementary
 6 schools 925,000.00 1,175,000.00
 7 The foregoing appropriation shall
 8 be distributed by the state audi-
 9 tor, upon the order of the state
 10 board of public works designat-
 11 ing the amount to which each
 12 district is entitled under exist-
 13 ing law. Said order shall des-
 14 ignate the district and fix the
 15 amount allowed to said district
 16 and said board of public works
 17 shall file a certified copy thereof
 18 with the state auditor.
 19 It shall be the duty of the Board
 20 of Public Works to distribute
 21 annually, as provided by law,
 22 for elementary school purposes
 23 a total sum of not less than that
 24 appearing in the appropriation
 bill for said purposes.

Yorktown Sesquicentennial

2 Sec. 36(b). To pay all expenses
 3 in connection with the state's
 4 participation in the national
 5 Yorktown sesquicentennial to be
 6 held in Yorktown, Virginia, dur-
 7 ing October, one thousand nine
 8 hundred and thirty-one, to be
 9 expended upon the order of the
 Governor 10,000.00

Celebration of the Birth of George Washington

2 Sec. 36(c). To pay all expenses
 3 in connection with the state's
 participation in the nation wide

4 celebration of the two hundredth
 5 anniversary of the birth of
 6 George Washington, to be held
 7 in Washington, D. C., during
 8 one thousand nine hundred and
 9 thirty-two. To be expended un-
 10 der the order of the Governor,
 11 and to continue in effect until
 12 the purpose of this appropria-
 13 tion has been carried out..... 10,000.00

Sec. 36(d). The Board of Public Works is hereby author-
 2 ized to transfer to the State Sinking Fund Commission the
 3 amount necessary to meet interest and sinking fund require-
 4 ments for any bond issue administered by said commission, and
 5 for which said commission does not have available funds for
 6 said purposes on account of the failure of the local taxing dis-
 7 trict to remit necessary funds due to failure of the local de-
 8 pository or otherwise; said amounts are hereby appropriated
 9 as may be necessary for years ending June 30, 1931, 1932 and
 10 1933. The amounts so transferred are to be repaid by the
 11 State Sinking Fund Commission with interest at the rate
 12 carried by the bonds for which the advancement was made out
 13 of funds received from the local taxing district at the time of
 14 collecting future interest and sinking fund levies.

SUB-SECTION "B"

Sec. 37. All appropriations appearing under "Sub-Section
 2 'B' " are payable only on the requisition and approval of the
 3 State Board of Control.

Sec. 38. No part of any appropriation in "Sub-Section
 2 'B' " shall be used in payment for land unless the appropria-
 3 tion specifically authorizes said payment.

4 No part of any appropriation in "Sub-Section 'B' " for "Cur-
 5 rent General Expenses" or "Repairs and Improvements"
 6 shall be used to supplement a specific appropriation for sal-
 7 aries.

EXECUTIVE DEPARTMENT

State Board of Control

Sec. 39. Salary of secretary.... 3,600.00 3,600.00
 2 To pay salaries of purchasing

3	agent, director of building con-		
4	struction, chief clerk printing		
5	department, bookkeepers, sten-		
6	ographers and other assistants,		
7	current general and traveling		
8	expenses	54,500.00	54,500.00
9	Current general expenses—PAY-		
10	ABLE OUT OF COLLEC-		
11	TIONS	500.00	500.00

Printing, Binding and Stationery

	Sec. 40. For printing, binding,		
2	stationery and storage	55,000.00	55,000.00
3	The State Board of Control is		
4	hereby authorized to determine		
5	the necessity and advisability of		
6	all expenditures for printing,		
7	binding, stationery and storage,		
8	except where the same is specifi-		
9	cally required by law.		

Huntington State Hospital

	Sec. 41. Current general ex-		
2	penses	125,000.00	125,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	75,000.00	75,000.00
6	Repairs and improvements.....	15,000.00	15,000.00

Spencer State Hospital

	Sec. 42. Current general ex-		
2	penses	90,000.00	90,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	30,000.00	30,000.00
6	Repairs and improvements.....	5,000.00	5,000.00

Weston State Hospital

	Sec. 43. Current general ex-		
2	penses	250,000.00	250,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		

5	TIONS	30,000.00	30,000.00
6	Repairs and improvements.....	25,000.00	25,000.00
7	Improvements to sewage disposal		
8	plant	7,500.00	7,500.00
9	To pay Mrs. Effie A. Smith, widow		
10	of L. Anthony Smith, who was		
11	killed while working in State		
12	owned coal mine, at Weston		
13	State Hospital, to be paid in		
14	monthly installments	600.00	600.00
15	To furnish and equip new medical		
16	center ready to open about Aug-		
17	ust first, one thousand nine hun-		
18	dred and thirty-one and to pay		
19	the cost of maintenance of pa-		
20	tients therein	10,000.00	10,000.00
21	To pay Jessie Henline, widow of		
22	Pat Henline who was killed		
23	while working in state owned		
24	coal mine at Weston State Hos-		
25	pital, to be paid in monthly		
26	installments	600.00	600.00

West Virginia Training School

	Sec. 44. Current general ex-		
2	penses	25,000.00	25,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	1,000.00	1,000.00
6	Repairs and improvements.....	2,500.00	2,500.00

Lakin State Hospital

	Sec. 45. Current general ex-		
2	penses	60,000.00	60,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	20,000.00	20,000.00
6	Repairs and improvements.....	2,000.00	2,000.00
7	For construction of laundry, bak-		
8	ery and canning buildings, in-		
9	cluding equipment	3,000.00	3,000.00

Welch Emergency Hospital

Sec. 46. Current general ex-		
2 penses	30,000.00	30,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	35,000.00	35,000.00
6 Repairs and improvements.....	2,500.00	2,500.00

McKendree Emergency Hospital

Sec. 47. Current general ex-		
2 penses	22,000.00	22,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	18,000.00	18,000.00
6 Repairs and improvements.....	1,500.00	1,500.00

Fairmont Emergency Hospital

Sec. 48. Current general ex-		
2 penses	36,000.00	36,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	10,000.00	10,000.00
6 Treatment of girls committed to		
7 the West Virginia Industrial		
8 Home for Girls who are afflicted		
9 with infectious diseases.....	2,500.00	2,500.00

Hopemont Sanitarium

Sec. 49. Current general ex-		
2 penses	150,000.00	150,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	175,000.00	175,000.00
6 Repairs and improvements.....	15,000.00	15,000.00

Rutherford Sanitarium

Sec. 50. Current general ex-		
2 penses	65,000.00	65,000.00
3 Current general expenses—PAY-		
4 ABLE OUT OF COLLEC-		
5 TIONS	60,000.00	60,000.00
6 Repairs and improvements	2,500.00	2,500.00
7 <i>Provided, however, That no part</i>		

8 of the appropriations author-
 9 ized by this section shall be used
 10 for maintenance of a dairy, milk
 11 and dairy products to be pur-
 12 chased from sources approved
 13 by State Departments of Health
 14 and Agriculture.

Denmar Sanitarium

2	Sec. 51. Current general ex- penses	22,500.00	22,500.00
3	4 Current general expenses—PAY- 5 ABLE OUT OF COLLEC- 6 TIONS	25,000.00	25,000.00
7	8 Repairs and improvements	5,500.00	5,500.00

7 *Provided, however, That no part*
 8 *of the appropriations authorized*
 9 *by this section shall be used for*
 10 *maintenance of a dairy, milk*
 11 *and dairy products to be pur-*
 12 *chased from sources approved by*
 13 *State Departments of Health*
 14 *and Agriculture.*

Tuberculosis Field Clinic Service

2	Sec. 52. For payment of ex- penses of tuberculosis field clinic 3 service in cooperation with a 4 like expenditure by West Vir- 5 ginia Tuberculosis and Health 6 Association	10,000.00	10,000.00
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West Virginia Industrial School for Boys

2	Sec. 53. Current general ex- penses	90,000.00	90,000.00
3	4 Current general expenses—PAY- 5 ABLE OUT OF COLLEC- 6 TIONS	25,000.00	25,000.00
7	8 Repairs and improvements	7,500.00	7,500.00

7 To pay George A. Barnard, em-
 8 ployee, permanently, totally dis-

9	abled, by inmate, to be paid in		
10	monthly installments	1,200.00	1,200.00

West Virginia Industrial School for Colored Boys

	Sec. 54. Current general ex-		
2	penses	25,000.00	25,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	5,000.00	5,000.00
6	Repairs and improvements	1,500.00	1,500.00

West Virginia Industrial Home for Girls

	Sec. 55. Current general ex-		
2	penses	37,500.00	37,500.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	16,500.00	16,500.00
6	Repairs and improvements	2,000.00	2,000.00

West Virginia Industrial Home for Colored Girls

	Sec. 56. Current general ex-		
2	penses	14,500.00	14,500.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	2,500.00	2,500.00
6	Repairs and improvements.....	1,000.00	1,000.00

State Board of Children's Guardians

	Sec. 57. Salaries, traveling and		
2	current general expenses.....	35,000.00	35,000.00
3	To provide food, clothing and		
4	maintenance for indigent chil-		
5	dren, no part of this appropria-		
6	tion to be used for administra-		
7	tion expenses, this appropriation		
8	to continue into effect until the		
9	purpose has been carried out,		
10	twenty thousand dollars of this		
11	appropriation to become avail-		
12	able for expenditure upon the		
13	passage of this act.....	30,000.00	

14 After July first, one thousand nine
 15 hundred and thirty-one all ap-
 16 propriations in this section to be
 17 disbursed on the requisition and
 18 approval of the director of pub-
 19 lic welfare.

West Virginia Children's Home

2	Sec. 58. Current general ex- penses	18,000.00	18,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	4,500.00	4,500.00
6	Repairs and improvements.....	2,500.00	2,500.00

West Virginia Colored Children's Home

2	Sec. 59. Current general ex- penses	10,500.00	10,500.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	1,500.00	1,500.00
6	Repairs and improvements.....	1,000.00	1,000.00

*West Virginia Home for Aged and Infirm Colored Men and
 Women*

2	Sec. 60. Current general ex- penses	12,000.00	12,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	15,000.00	15,000.00

West Virginia Geological Survey

2	Sec. 61. To pay salaries and current general expenses.....	29,000.00	29,000.00
3	Current general expenses—PAY-		
4	ABLE OUT OF COLLEC-		
5	TIONS	2,000.00	2,000.00

Point Pleasant Battle Monument Commission

2	Sec. 62. Maintenance, Tu-En- die Wei Park.....	1,200.00	1,200.00
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Berkeley Springs Sanitarium

2	Sec. 63. Repairs and improve-		
3	ments, including the cost of		
4	construction of sewerage upon		
5	state property.....	5,000.00	5,000.00
6	Current general expenses—PAY-		
7	ABLE OUT OF COLLEC-		
	TIONS	6,000.00	7,500.00

Rumseyan Society

2	Sec. 64. For maintenance of		
	grounds at Shepherdstown.....	250.00	250.00

State Board of Pharmacy

2	Sec. 65. Salaries and current		
3	general expenses.....	500.00	500.00
4	Salaries and current general ex-		
5	penses—PAYABLE OUT OF		
	COLLECTIONS	2,500.00	2,500.00

West Virginia Board of Examiners for Registered Nurses

2	Sec. 65-A. Salaries and current		
3	general expenses.....	500.00	500.00
4	Salaries and current general ex-		
5	penses—PAYABLE OUT OF		
	COLLECTIONS	2,500.00	2,500.00

West Virginia State Board of Dental Examiners

2	Sec. 65-B. Salaries and current		
3	general expenses.....	500.00	500.00
4	Salaries and current general ex-		
5	penses—PAYABLE OUT OF		
	COLLECTIONS	2,000.00	2,000.00

Florence Crittendon Home (Wheeling)

2	Sec. 66. For the care and treat-		
3	ment of wayward girls and their		
4	children, residents of West Vir-		
5	ginia, who may become public		
6	charges, admitted under regu-		
7	lations prescribed by the State		
	Board of Control.....	5,000.00	5,000.00

Morgan Morgan Memorial Commission

Sec. 67. Maintenance of Park..	50.00	50.00
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West Virginia Crippled Children's Council

<p>2 Sec. 68. To pay salary of ex-</p> <p>3 ecutive secretary, clerks, stenog-</p> <p>4 raphers, field orthopedic nurses,</p> <p>5 current general and traveling</p> <p>6 expenses and for the treatment,</p> <p>7 care and hospitalization of de-</p> <p>8 formed and physically defective</p> <p>9 children, including cost of casts,</p> <p>9 braces, shoes and similar items....</p> <p>10 <i>Provided, however, That not more</i></p> <p>11 <i>than \$8,000.00 annually of the</i></p> <p>12 <i>foregoing appropriation shall be</i></p> <p>13 <i>used to pay salaries of teachers</i></p> <p>14 <i>engaged in the teaching of crip-</i></p> <p>15 <i>pled children in the hospitals of</i></p> <p>16 <i>the state and in the orphanage</i></p> <p>17 <i>at Elkins and in the tuberculosis</i></p> <p>18 <i>sanitariums at Hill Crest and</i></p> <p>19 <i>Denmar.</i></p> <p>20 <i>Provided, however, That not more</i></p> <p>21 <i>than 15% of the appropriation</i></p> <p>22 <i>in this section shall be used for</i></p> <p>23 <i>administration expenses or for</i></p> <p>24 <i>expenses other than for the</i></p> <p>25 <i>treatment, care and hospitaliza-</i></p> <p>26 <i>tion of deformed and physically</i></p> <p>27 <i>defective children, including</i></p> <p>28 <i>cost of casts, braces, shoes and</i></p> <p>29 <i>similar items.</i></p> <p>30 <i>Provided, however, That any part</i></p> <p>31 <i>of the appropriation authorized</i></p> <p>32 <i>by this section allocated to cer-</i></p> <p>33 <i>tain counties and not used in</i></p> <p>34 <i>said counties, the same is hereby</i></p> <p>35 <i>made available for reallocation</i></p> <p>36 <i>in the next fiscal year. This</i></p> <p>37 <i>provision shall apply to the ap-</i></p>	85,000.00	85,000.00
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38 appropriation authorized by the
 39 1929 Legislature. All appro-
 40 priations in this section to be
 41 disbursed on the requisition and
 42 approval of the Director of Pub-
 43 lic Welfare.

West Virginia Penitentiary

2 3 4 5 6 7 8 9 10 11 12 13 14 15	Sec. 71. Current general ex- penses Current general expenses—PAY- ABLE OUT OF COLLEC- TIONS Repairs and improvements..... To build wall to enclose additional land to increase size of interior of penitentiary To pay Ray Estep, permanently injured while employed in peni- tentiary coal mine..... To pay John Gilliland, injured while on duty as a guard at the West Virginia Penitentiary.....	165,000.00 175,000.00 25,000.00 50,000.00 240.00 300.00	165,000.00 175,000.00 25,000.00 50,000.00 240.00 300.00
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State Department of Public Safety

2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Sec. 72. To pay the expenses of the Department of Public Safety, including the compen- sation of the officers, employees and members, and all other expenses Any member of the department of public safety who has been or may hereafter be injured while in the line of duty in the services of the state shall be entitled to receive such com- pensation for such period of time as determined and fixed by the State Board of Control: <i>Provided, however, That such</i>	320,000.00	320,000.00
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- 17 compensation shall not exceed
 18 the rate of compensation receiv-
 19 ed at the time of injury, payable
 20 out of the foregoing appropria-
 21 tion.
 22 *Provided, however,* That the fore-
 23 going appropriation may be used
 24 to pay hospital and surgical
 25 treatment of troopers injured
 26 while in line of duty and to pay
 27 premiums on group insurance
 28 for members of department.

West Virginia University

2	Sec. 74. Salaries of officers, teachers and employees.....	700,000.00	700,000.00
3	Salaries of officers, teachers and		
4	employees, including extension		
5	work — PAYABLE OUT OF		
5-a	COLLECTIONS	225,000.00	225,000.00
6	Current general expenses.....	200,000.00	200,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	125,000.00	125,000.00
10	Library books.....	25,000.00	25,000.00
11	Repairs and improvements.....	50,000.00	50,000.00

University Extension Work

2	Sec. 75. Mining and Indus- trial Extension.....	40,000.00	40,000.00
3	Agricultural, Horticultural and		
4	Home Economics Extension.....	70,000.00	70,000.00
5	To pay all expenses in co-operation		
6	with Federal Government in		
7	carrying out the provisions of		
8	Capper-Ketchem Federal Act		
9	for Boys' and Girls' work.....	5,000.00	5,000.00
10	4-H Camp for boys and girls club		
11	work at Jackson's Mills.....	20,000.00	20,000.00
12	Repairs and improvements, Jack-		
13	son's Mills.....	4,000.00	4,000.00

14	Community Packing Plant, Cur-		
15	rent expenses, repairs and im-		
16	provements, Inwood	8,000.00	8,000.00
17	To pay the cost of equipment and		
18	improvements heretofore in-		
19	curring in compliance with Fed-		
20	eral regulations and fire under-		
21	writer regulations	4,000.00	4,000.00
22	For expenses in cooperation with		
23	Oglebay Institute	5,000.00	5,000.00
24	For expenses in cooperation with		
25	the Federal Government in pro-		
26	visions of Clark-McNary Act		
27	(Forestry extension)	1,980.00	1,980.00
28	For installation of refrigeration		
29	plant—Community Egg Pack-		
30	ing Plant	5,000.00	

West Virginia Agricultural Experiment Station

Sec. 76. Salaries of officers—			
2	technical staff and labor.....	36,000.00	36,000.00
3	Current general expense.....	22,500.00	22,500.00
4	Repairs and improvements.....	5,000.00	5,000.00
5	Live stock	2,250.00	2,250.00
6	Current general expenses, Rey-		
7	mann Memorial Farms.....	1,500.00	1,500.00
8	Repairs and improvements, Rey-		
9	mann Memorial Farms.....	1,000.00	1,000.00
10	Current general expenses and re-		
11	pairs and improvements, Uni-		
12	versity Experiment Farm, Jef-		
13	erson County.....	3,500.00	3,500.00

Marshall College

Sec. 77. Salaries of officers,			
2	teachers and employees.....	235,000.00	235,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS	95,000.00	95,000.00
6	Current general expenses.....	50,000.00	50,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		

9	TIONS	30,000.00	30,000.00
10	Repairs and improvements.....	7,500.00	7,500.00
11	Equipment and books for new		
12	library	5,000.00	5,000.00

Potomac State School, Keyser

Sec. 78. Salaries of officers,			
2	teachers and employees.....	60,000.00	60,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS.....	5,000.00	5,000.00
6	Current general expenses.....	15,000.00	15,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	5,000.00	5,000.00
10	Repairs and improvements.....	5,000.00	5,000.00
11	New heating plant, main building	5,000.00	5,000.00

New River State College, Montgomery

Sec. 79. Salaries of officers,			
2	teachers and employees.....	75,000.00	75,000.00
3	Salaries of officers, teachers and		
4	and employees — PAYABLE		
5	OUT OF COLLECTIONS.....	10,000.00	11,000.00
6	Current general expenses.....	17,500.00	17,500.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	20,000.00	22,000.00
10	Repairs and improvements.....	5,000.00	5,000.00
11	Equipment and books for new		
12	library	2,500.00	2,500.00

Concord State Normal School

Sec. 80. Salaries of officers,			
2	teachers and employees.....	76,000.00	76,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS.....	20,000.00	25,000.00
6	Current general expenses.....	20,000.00	20,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		

9	TIONS	5,000.00	5,000.00
10	Repairs and improvements	5,000.00	5,000.00

Fairmont State Normal School

Sec. 81. Salaries of officers,			
2	teachers and employees	125,000.00	125,000.00
3	Salaries of officers, teachers and		
4	employees—PAYABLE OUT		
5	OF COLLECTIONS.....	27,500.00	27,500.00
6	Current general expenses.....	23,000.00	23,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	7,500.00	12,500.00
10	Equipment for new science hall....	10,000.00	10,000.00
11	Repairs and improvements	5,000.00	5,000.00

Glenville State Normal School

Sec. 82. Salaries of officers,			
2	teachers and employees	67,500.00	67,500.00
3	Salaries of officers, teachers and		
4	employees—PAYABLE OUT		
5	OF COLLECTIONS	10,500.00	11,500.00
6	Current general expenses.....	15,000.00	15,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	7,000.00	7,000.00
10	Equipment and books for new		
11	library	2,500.00	2,500.00
12	Repairs and improvements.....	5,000.00	5,000.00

Shepherd College State Normal School

Sec. 83. Salaries of officers,			
2	teachers and employees.....	57,500.00	57,500.00
3	Salaries of officers, teachers and		
4	employees—PAYABLE OUT		
5	OF COLLECTIONS	7,500.00	7,500.00
6	Current general expenses.....	15,000.00	15,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	10,000.00	10,000.00
10	Repairs and improvements.....	5,000.00	5,000.00

West Liberty State Normal School

Sec. 84. Salaries of officers,		
2	teachers and employees.....	60,000.00 60,000.00
3	Salaries of officers, teachers and	
4	employees — PAYABLE OUT	
5	OF COLLECTIONS.....	5,000.00 10,000.00
6	Current general expenses.....	12,500.00 12,500.00
7	Current general expenses—PAY-	
8	ABLE OUT OF COLLEC-	
9	TIONS	13,000.00 10,000.00
10	Laboratory equipment and books	
11	for new building.....	2,500.00 2,500.00
12	Repairs and improvements.....	5,000.00 5,000.00

West Virginia School for the Deaf and Blind

Sec. 85. Salaries of officers,		
2	teachers and employees.....	95,000.00 95,000.00
3	Salaries of officers, teachers and	
4	employees — PAYABLE OUT	
5	OF COLLECTIONS.....	700.00 700.00
6	Current general expenses.....	70,000.00 70,000.00
7	Current general expenses—PAY-	
8	ABLE OUT OF COLLEC-	
9	TIONS	1,300.00 1,300.00
10	Repairs and improvements.....	15,000.00 15,000.00

West Virginia School for Colored Deaf and Blind

Sec. 86. Salaries of officers,		
2	teachers and employees.....	12,500.00 12,500.00
3	Salaries of officers, teachers and	
4	employees — PAYABLE OUT	
5	OF COLLECTIONS.....	250.00 250.00
6	Current general expenses.....	15,000.00 15,000.00
7	Repairs and improvements.....	3,000.00 3,000.00

West Virginia State College

Sec. 87. Salaries of officers,		
2	teachers and employees.....	140,000.00 140,000.00
3	Salaries of officers, teachers and	
4	employees — PAYABLE OUT	

5	OF COLLECTIONS.....	15,000.00	15,000.00
6	Current general expenses.....	43,000.00	43,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	12,500.00	12,500.00
10	Repairs and improvements.....	15,000.00	15,000.00
11	Equipment for new building.....	5,000.00	5,000.00

Bluefield Colored Institute

	Sec. 88. Salaries of officers,		
2	teachers and employees.....	57,000.00	57,000.00
3	Salaries of officers, teachers and		
4	employees — PAYABLE OUT		
5	OF COLLECTIONS.....	5,000.00	5,000.00
6	Current general expenses.....	15,000.00	15,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLEC-		
9	TIONS	5,000.00	5,000.00
10	Repairs and improvements.....	5,000.00	5,000.00
11	Equipment for new building.....	3,500.00	3,500.00

Storer College

	Sec. 89. Salaries of officers,		
2	teachers and employees, and re-		
3	pairs and improvements.....	17,500.00	17,500.00

SUB-SECTION "C"

Sec. 90. All appropriations appearing under Sub-Section 2 "C" are payable out of the General Revenue of the State Fund 3 for the fiscal year ending June thirty, one thousand nine hun- 4 dred and thirty-one. Except appropriations in Section 94 5 which are payable for the years one thousand nine hundred 6 and thirty-two and one thousand nine hundred and thirty- 7 three.

LEGISLATIVE DEPARTMENT

SENATE

	Sec. 91. Mileage of the mem-		
2	bers of the Senate for the reg-		
3	ular session of one thousand		
4	nine hundred and thirty-one....	1,040.00	
5	President of the Senate, two dol-		

6	lars per day as presiding offi-	
7	cer for ninety-two days.....	184.00

Compensation and Per Diem of Other Elective Officers

8	Compensation of the Clerk of the	
9	Senate, including sixty dollars	
10	in advance for postage.....	2,360.00
11	Sergeant-at-Arms of the Senate	
12	at twelve dollars per day, in-	
13	cluding one hundred and fifty	
14	dollars for services in assem-	
15	bling furniture and preparing	
16	Senate Chamber for the open-	
17	ing of the session	1,254.00
18	Doorkeeper of the Senate, at	
19	twelve dollars per day.....	1,104.00

Presidential Appointees

20	One supervisor of stenographers	
21	for seventy-one days.....	710.00
22	Secretary of Minority Leader,	
23	fifteen day at eight dollars and	
24	fifty-six days at ten dollars.....	680.00
25	One floor stenographer for sixty	
26	days and four for fifty days....	2,080.00
27	Three floor stenographers for	
28	thirty days and four for	
29	seventy-one days and one for	
30	sixty-one days	3,480.00
31	Two floor stenographers for	
32	ninety-two days	1,472.00
33	Eleven committee clerks for	
34	sixty days	5,280.00
35	Five committee clerks for fifty	
36	days and three for thirty days	2,720.00
37	Two committee clerks for	
38	seventy-one days.....	1,136.00
39	Four document room clerks for	
40	sixty days, three for fifty days	
41	and two for thirty days.....	3,600.00
42	Two document room clerks for	
43	twenty days and two for sev-	

44	enty-one days and three for	
45	sixty-one days.....	2,920.00
46	One document room clerk for	
47	ninety-two days	736.00
48	One mailing and banking clerk	
49	for ninety-two days	736.00
50	One chief journal page for	
51	ninety-two days	736.00
52	One journal page for sixty days	360.00
53	One day and one night watch-	
54	man for ninety-two days.....	1,288.00
55	Private secretary to the Presi-	
56	dent for ninety-two days.....	1,380.00
57	Stenographer to the President for	
58	ninety-two days	920.00
59	Clerk, stenographer and messen-	
60	ger to Committee on Finance	
61	for ninety-two days	2,484.00
62	Clerk to the Committee on the	
63	Judiciary for sixty-five days....	780.00
64	One stenographer and messenger	
65	to the Committee on the Judi-	
66	ciary for sixty days.....	900.00
67	One stenographer to the Commit-	
68	tee on the Judiciary for	
69	ninety-two days	920.00
70	One clerk to the Committee on	
71	Roads for sixty days.....	600.00
72	Stenographer to the Committee	
73	on Roads for sixty days.....	480.00
74	Two toilet room attendants for	
75	ninety-two days	920.00
76	One toilet room attendant for	
77	eighty-two days	410.00
78	Chaplains of the Senate for	
79	ninety-two days	552.00
80	Assistant Sergeant-at-Arms of	
81	the Senate for ninety-two	
82	days	920.00
83	Clerk to the Sergeant-at-Arms for	
84	for ninety-two days	736.00

85	Assistant Doorkeeper of the Sen-	
86	ate for ninety-two days.....	920.00
87	Four floor pages for seventy-one	
88	days	1,704.00
89	Two floor pages for ninety-two	
90	days	1,104.00
91	Two cloak room attendants for	
92	ninety-two days	920.00
93	Three mailing clerks for sixty	
94	days	1,080.00
95	One ladies' maid for ninety-two	
96	days	460.00

Clerk's Appointees

97	Joint supervisor of printing	
98	(Senate part) for ninety-two	
99	days	690.00
100	One reading clerk for ninety-	
101	two days	920.00
102	One official reporter for ninety-	
103	two days	1,104.00
104	One secretary to the Clerk for	
105	ninety-two days	1,104.00
106	One abstract clerk for ninety-	
107	two days	920.00
108	One supervisor of printing for	
109	ninety-two days	1,104.00
110	One bill editor for seventy-one	
111	days	852.00
112	One clerk on enrolled bills for	
113	ninety-two days	920.00
114	One warrant clerk and book-	
115	keeper for seventy-one days.....	852.00
116	One superintendent of document	
117-118	room for ninety-two days....	920.00
119	Two bill record clerks for	
120	seventy- one days.....	1,562.00
121	Two proof readers on enrolled	
122	and engrossed bills for seventy-	
123	one days.....	1,420.00
124	One copy holder for sixty days	

125	and one for seventy-one days....	1,310.00
126	One proof reader and one copy-	
127	holder on bills for ninety-two	
128	days	1,840.00
129	One roll clerk for eighty-eight	
130	days	920.00
131	One journal proof reader for six-	
132	ty days and one for seventy-	
133	one days	1,310.00
134	One journal copy holder for sev-	
135	ty-one days and one for eighty-	
136	eight days	1,630.00
137	One office stenographer for	
138	ninety-two days	920.00
139	One general assistant clerk for	
140	ninety-two days	1,104.00
141	One messenger for ninety-two	
142	days	460.00
143	One assistant clerk for sixty days	600.00
144	To pay M. S. Hodges for editing,	
145	compiling and publishing the	
146	“West Virginia Legislative	
147	Hand Book and Manual and	
148	Official Register” under the	
149	same provisions as to distribu-	
150	tion as were adopted in the	
151	session of one thousand nine	
152	hundred and twenty-one, in-	
153	cluding all expenses incurred	
154	in the employment of contribu-	
155	tors, preparation of matter,	
156	clerical hire, stenographic ser-	
157	vices and proof reading, and	
158	for shipping charges in connec-	
159	tion with the distribution of	
160	the book;	
161	For the year ending June thirty,	
162	one thousand nine hundred and	
163-166	thirty-two	8,000.00
166-a	After the distribution provided	
167	for in the acts of one thousand,	

168	nine hundred and twenty-one	
169	above referred to, or by further	
170	resolution of the legislature,	
171	the remainder of the edition	
172	shall be sold by the superin-	
173	tendent of public printing to	
174	persons desiring to purchase	
175	the same at the price of three	
176	dollars per volume.	
177	The editing, compiling and pub-	
178	lication of said manual shall	
179	be made by M. S. Hodges,	
180	Clerk of the Senate, under the	
181	superintendence and at the di-	
182	rection of the committee con-	
183	sisting of the President of the	
184	Senate and two members of the	
185	Senate to be named by the	
186	President of the Senate, who	
187	shall direct what matter shall	
188	be used in said Manual.	
189	Contingent fund of the Senate....	30,000.00

Miscellaneous Appropriations

190	To pay J. M. Lynn, Lige Bostic,	
191	Elvin Whittington, D. O.	
192	Pauley, Boisy Green, Will	
193	Wright, Fred Morris, Mrs. P.	
194	P. Holland, Almeda Courtney	
195	and Henry Mosby for thirty-	
196	two days of the extended ses-	
197	sion at five dollars per day for	
198	janitor, elevator and char-	
199	women services	1,600.00
200	To pay the following named per-	
201	sons and firms for supplies fur-	
202	nished and services rendered,	
203	one thousand nine hundred and	
204	thirty-one session, Senate:	
205	O. C. Butler, binders.....	22.50
206	Charleston Cut Flower Com-	

207	pany, flowers.....	45.25
208	Charleston Electrical Supply	
209	Company, lamp cord and chain	
210	sockets	4.43
211	Charleston Lumber Company,	
212	lumber	4.20
213	Charleston Stamp Company, rub-	
214	ber stamps.....	3.20
215	The C. & P. Telephone Company	
216	of West Virginia, telephone	
217	service	220.63
218	Clutter Typewriter Company,	
219	typewriter, ribbons, rubber	
220	keys, and rental on typewriter	
221	and tables	108.30
222	Diamond Ice & Coal Company,	
223	ice	28.35
224	Farmers Hardware Supply Com-	
225	pany, tacks, glasses, hammer,	
226	and ladder.....	2.85
227	Jordan Taxi Company, taxi fare	23.00
228	H. R. Judy, keys, locks and re-	
229	pairs	43.50
230	Kanawha Valley Leather Com-	
231	pany, black laces.....	1.00
232	Laird Office Equipment Company,	
233	supplies, etc	194.23
234	Mathews Storage Company, dray-	
235	age, labor and storage.....	222.50
236	Mock Orange Mineral Water	
237	Company, drinking water and	
238	rent on coolers.....	144.00
239	S. Spencer Moore Company, bind-	
240	ers, supplies, rental on steel	
241	file, etc.	664.00
242	Henry Mosby, for repairing and	
243	building journal cases.....	15.00
244	National Towel Supply Company,	
245	towel service	58.61
246	B. Preiser Company, Inc., soap,	
247	drinking cups, paper towels,	

248	cuspidors, etc.	191.25
249	Prince, Mahan & McClure,	
250	matches	1.60
251	Remington-Rand Business Serv-	
252	ice, Inc., carbon paper.....	6.00
253	Schoolfield-Harvey Electric Com-	
254	pany, electric bulbs.....	4.32
255	Smith & Brooks, mops, buckets,	
256	brooms, brushes, etc.....	38.70
257	J. E. Thomas, rubber stamp.....	1.10
258	W. F. Thompson, installing elec-	
259	tric lights	20.00
260	Underwood Typewriter Company,	
261	Inc., rubber keys, ribbons, and	
262	rental on typewriters and	
263	tables	208.00
264	C. W. Wendell, Distributor, stap-	
265	ling machines and staples.....	42.00
266	Woodyard Commercial Printers,	
267	Senate Bill covers and station-	
268	ery	23.20
269	To pay L. Javins for services,	
270	sixty days at five dollars per	
271	day	300.00
272	To pay Bernard Williams, jour-	
273	nal page at the capitol, as per	
274	certificate of the Board of Pub-	
275	lie Works, eighty-eight days at	
276	six dollars per day.....	528.00
277	The Clerk of the Senate is author-	
278	ized to draw his warrant upon	
279	the Auditor, payable out of the	
280	contingent fund of the Senate,	
281	for any bills for supplies and	
282	services upon the approval of	
283	the President of the Senate	
284	that may have been incurred	
285	by the Senate and not included	
286	in the appropriation bill, and	
287	for bills for supplies and serv-	
288	ices incurred after adjourn-	

289 ment, including office rent, if it
 290 becomes necessary to rent
 291 offices to close up the work of
 292 the session, the requisition for
 293 said bills to be accompanied by
 294 a bill of same to be filed with
 295 the Auditor.

HOUSE OF DELEGATES

Sec. 92. Mileage of members of
 2 the House of Delegates, including
 3 extended session 9,150.20
 4 Per diem of the Speaker of the
 5 House at \$2.00, including thir-
 6 ty-two days extended session.... 184.00
 7 Contingent fund of the House of
 8 Delegates 37,500.00
 9 *Compensation of Other Elective Officers*
 10 Compensation of the Clerk of the
 11 House for services during the
 12 regular and extended sessions.... 2,300.00
 13 Compensation of the Sergeant-at-
 14 Arms for services during the
 15 regular and extended sessions.... 1,380.00
 16 Compensation of the Door-Keeper
 17 of the House for services during
 18 the regular and extended ses-
 19 sions 920.00
 20 *Speaker's Appointees*
 21 Private Secretary to the Speaker.. 1,380.00
 22 Two Assistant Doorkeepers..... 1,216.00
 23 Two Assistant Sergeant-at-Arms.. 1,620.00
 24 One Chaplain 552.00
 25 One Joint Supervisor of Printing
 26 on the part of the House..... 690.00
 27 Nine Clerks at \$12.00 per day,
 28 including five for the extended
 29 session 7,920.00
 30 Thirty-seven clerks at \$10.00 per

31	per day, including fourteen for	
32	the extended session.....	26,110.00
33	Forty-five Clerks at \$8.00 per day,	
34	including four for the extended	
35	session	20,396.00
36	Two Pages at \$8.00 per day, in-	
37	cluding the extended session....	1,472.00
38	Eighteen Pages at \$6.00 per day,	
39	including two for the extended	
40	session	6,602.00
41	One Janitor at \$6.00 per day.....	360.00
42	One Chief Custodian and sixteen	
43	Janitors at \$5.00 per day, in-	
44	cluding seven for the extended	
45	session	5,360.00

46 *Clerk's Appointees*

47	Chief Assistant Clerk, including	
48	extended session	1,104.00
49	Reading Clerk, including extended	
50	session	984.00
51	Journal Clerk, including extended	
52	session	1,104.00

Miscellaneous Appropriations

53	The Charleston National Bank,	
54	rent Judiciary Committee room	40.00
55	B. Preiser Company, Inc.....	69.75
56	The Chesapeake & Potomac Tele-	
57	phone Company	280.26
58	Kanawha Valley Leather Co.....	1.50
59	Laird Office Equipment Company	718.11
60	Charleston Cut Flower Company..	20.00
61	J. E. Thomas.....	1.40
62	Morgan Lumber Manufacturing	
63	Company	9.12
64	Kanawha Novelty Works	11.00
65	A. C. Frame	1.10
66	Brawley Brothers	47.30
67	Empire Dry Cleaning Company..	3.00
68	H. R. Judy	3.30
69	Thomas O. Laird Company.....	102.08

70 Black & White Cab Co., Inc.....	10.50
71 O. J. Morrison Department Store	
72 Company	3.94
73 Smith & Brooks	182.75
74 E. B. Rocke	350.00
75 The S. Spencer Moore Company..	280.32
76 Clutter Typewriter Company.....	311.75
77 Mock Orange Mineral Water Co..	36.50
78 Kanawha County Court, part ex-	
79 pense water, light and fuel.....	975.00
80 Diamond Ice & Coal Company.....	31.95
81 Oakdale Spring Water Company..	85.60
82 Superior Stamp Company	1.20
83 W. H. Young and Son.....	3.50
84 J. K. Lance, for storing furniture	
85 of the 1931 session.....	500.00
86 W. H. Hutchison, ex-Sergeant-at-	
87 Arms, assisting the organization	
88 of 1931 session, from January	
89 14 to January 22, inclusive.....	100.00
90 J. W. Ferry, for use of automobile	
91 in serving subpoenas for inves-	
92 tigating committees	100.00
93 The Sergeant-at-Arms of the House is authorized to draw	
94 his warrant upon the Auditor, payable out of the contingent	
95 fund of the House for any bills for supplies and services that	
96 may have been incurred by the House and not included in the	
97 appropriation bill, and for bills for supplies and services in-	
98 curred after adjournment, including office rent, if it becomes	
99 necessary to rent offices to close up the work of the session, the	
100 requisition for said bills to be accompanied by a bill of same	
101 approved by the Speaker of the House to be filed with the	
102 Auditor.	

Legislative Printing and Stationery

Sec. 93. To pay the cost of
 2 legislative printing and station-
 3 ery, the appropriation to be
 4 available for the year ending
 5 June thirty, one thousand nine
 6 hundred and thirty-one. If

7 the work is not completed prior
 8 to June thirty, one thousand
 9 nine hundred and thirty-one,
 10 then the appropriation shall
 11 continue in effect until com-
 12 pleted 50,000.00

Salaries of Members of the Legislature

	1932	1933
Sec. 94. Salaries of members		
2 of the Senate.....	15,000.00	15,000.00
3 Salaries of members of the House		
4 of Delegates.....	47,000.00	47,000.00

SUB-SECTION "D"

Sec. 95. All appropriations appearing under Sub-Section
 2 "D" are payable out of the general revenue of the State Fund
 3 for the fiscal year ending June thirty, one thousand nine hun-
 4-8 dred and thirty-one.

MISCELLANEOUS APPROPRIATIONS

9 To pay unpaid bills for year end-
 10 ing June 30, 1930, Huntington
 11 State Hospital 16,000.00
 12 To supplement the appropriation
 13 for current general expenses
 14 Huntington State Hospital, for
 15 the year ending June 30, 1931.... 29,000.00
 16 To install new boilers in power
 17 house, Huntington State Hos-
 18 pital 10,000.00
 19 To supplement the appropriation
 20 for current general expenses,
 21 Fairmont Emergency Hospital,
 22 for the year ending June 30,
 23 1931 18,000.00
 24 To supplement the appropriation
 25 for current general expenses
 26 for West Virginia Penitentiary,
 27-37 for year ending June 30, 1931.... 75,000.00
 38 To supplement the appropriation

39	for salaries of the Judges of	
40	the Circuit Courts for re-	
41	mainder of year ending June	
42	30, 1931.....	15,000.00
43	To pay allowances for food and	
44	lodging of Circuit Judges while	
45	holding court in a county other	
46	than that in which the Judge	
47	resides, for remainder of year	
48	ending June 30, 1931.....	3,000.00
49	To supplement the appropriation	
50	for allowances to Circuit Judges	
51	for stenographic work, station-	
52	ery and postage for remainder	
53	of year ending June 30, 1931....	7,600.00
54	\$600.00 of the foregoing to be	
55	used in payment of bills for the	
56	year ending June thirtieth, one	
57	thousand nine hundred and	
58	thirty.	
59	To supplement the appropriation	
60	for compensation of Special	
61	Judges of the Circuit Courts	
62	for remainder of year ending	
63	June 30, 1930.....	600.00
64	To pay current general and travel	
65	ing expenses, including compen-	
66	sation of necessary assistants of	
67	State Water Commission for	
68	remainder of year ending June	
69	30, 1931	2,500.00
70	The appropriation for Marshall	
71	College as fixed by Section 74-A	
72	of Sub-Section "K" of the	
73	Budget Bill as passed by the	
74	1929 Legislature for the year	
75	ending June 30, 1931, is hereby	
76	changed from "Collections for	
77	general expenses, \$85,000.00" to	
78	"Collections for general ex-	
79	penses, \$115,000.00," the entire	

80	amount to be paid out of col-	
81	lections actually paid into the	
82	state treasury by Marshall Col-	
83	lege.	
84	To reimburse the City of Charles-	
85	ton for elevator operators, jani-	
86	tors, charwomen, heat, light and	
87	water (except for drinking pur-	
88	poses) and cost of preparation	
89	for occupancy and restoring to	
90	normal condition the City Hall	
91	for the 1931 Legislative Session	3,200.00
92	To pay Dillon, Mahan & Holt, at-	
93	torneys, for services, traveling	
94	expenses, etc., rendered in ap-	
95	pellate court, State of West	
96	Virginia vs. Frank Lyons, et	
97	als., collection of taxes against	
98	forfeited and escheated lands....	750.00
99	To supplement the appropriation	
100	for payment of criminal charges	
101	including transportation of pris-	
102	oners and extradition of crim-	
103	inals and fugitives for year end-	
104	ing June 30, 1931.....	25,000.00
105	For remodeling trades building,	
106	West Virginia state college,	
107	which building has been con-	
108	demned by and closed upon or-	
109	der of state board of control and	
110	state board of education.....	1,000.00
111	The appropriation for state board	
112	of examiners and registration of	
113	architects as fixed by section	
114	K-nine of subsection K of the	
115	Budget Bill as passed by the one	
116	thousand nine hundred and	
117	twenty-nine legislature for the	
118	year ending June thirtieth, one	
119	thousand nine hundred and thir-	
120	ty-one is hereby changed from	

121	collections for general expenses,	
122	\$1,900.00, to collections for gen-	
123	eral expenses, \$3,400.00, the en-	
124	tire amount to be paid out of	
125	collections actually paid into the	
126	state treasury by said board.	
127	To pay Dr. J. W. Hartigan bal-	
128	ance due on salary for the	
129	month of February and one-half	
130	month of March, one thousand	
131	nine hundred and twenty-nine,	
132	as superintendent of Weston	
133	state hospital	750.00

SUB-SECTION "E"

Sec. 96. All appropriations appearing under Sub-Section 2 "E" are payable out of the general school fund of the State.

Department of Education

2	Sec. 97. Salary of assistant su-		
3	perintendent	4,000.00	4,000.00
4	Salary of state aid clerk, part time	1,500.00	1,500.00
5	To pay salaries of clerks, steno-		
6	graphers, supervisors, director		
7	of physical education and other		
8	assistants	33,740.00	33,740.00
9	To pay current general and		
10	traveling expenses and other		
11	necessary expenses of inspectors		
12	and supervisors of rural schools,		
13	high schools and colored schools	10,000.00	10,000.00
14	Printing, binding and stationery..	20,000.00	20,000.00
15	Expenses of state superintendent..	500.00	500.00
16	For the Division of Investigation		
17	and service in connection with		
18	the State Board of Education		
19	and the State Council on Educa-		
20	tion in connection with elemen-		
21	tary schools, high schools and		
22	institutions of higher learning;		
23	for the preparation and distri-		
24	bution of courses of study; for		

37	the preparation and distribu-		
38	tion of plans and specifications		
39	for one, two, three and four		
40	room schools, including the sal-		
41	ary of the director of this di-		
42	vision and for the necessary		
43	printing and travel in connec-		
44	tion therewith	12,000.00	12,000.00

State Board of Education

	Sec. 98. Salaries of six mem-		
2	bers of State Board of Educa-		
3	tion	6,000.00	6,000.00
4	Salaries of two advisory members		
5	of State Board of Education....	2,000.00	2,000.00
6	Expenses of members of State		
7	Board of Education	2,500.00	2,500.00
8	Expenses of advisory members....	600.00	600.00
9	Salary and expenses of secretary..	5,000.00	5,000.00
10	Salaries of stenographers to sec-		
11	retary	1,800.00	1,800.00
12	To assist in rehabilitation work in		
13	co-operation with the Federal		
14	Government, payable on order		
15	of the State Board of Education		
16	and the Director of Public Wel-		
16-a	fare	10,000.00	10,000.00
17	Vocational education, payable on		
18	order of the State Board of Ed-		
19	ucation and State Board of		
20	Control	30,000.00	30,000.00
21	State aid to out of state students,		
22	to carry out the provisions of		
23	Chapter 10, Acts one thousand		
24	nine hundred and twenty-seven,		
25	to be disbursed by the State		
26	Board of Control upon requisition		
27	of the State Superintendent		
28	of Free Schools.....	7,000.00	7,000.00

General Expenses

Sec. 99. Salaries of county su-

2	perintendents	95,500.00	95,500.00
3	Expenses for conducting uniform		
4-13	examinations	7,000.00	7,000.00
14	The Auditor shall credit all delin-		
15	quent taxes due the State to the		
16	fund to which they belong, and		
17	the cost of certification of sale		
18	shall be paid out of the fund		
19	to which they are credited, and		
20	there is hereby appropriated so		
21	much as may be necessary for		
22	the payment of the following		
23	(payable on requisition of the		
24	Auditor):		
25	To pay salaries and current gen-		
26	eral expenses of land department	25,000.00	25,000.00
27	For the publication of the above		
28	delinquent taxes, there is hereby		
29	appropriated so much as may be		
30	necessary at the rate fixed by		
31	general law, payable on requis-		
32	ition of the Auditor.		
33	In addition to the foregoing ap-		
34	propriations the balance of the		
35	receipts for each year of said		
36	fund is hereby appropriated for		
37	supplemental aid to schools in		
38	accordance with the provision		
39	of general law.		

SUB-SECTION "F"

Sec. 100. All appropriations appearing under Sub-Section
2 "F" are payable out of the State Road Fund of the State.

STATE ROAD COMMISSION

Administration Expenses

		1932	1933
2	Sec. 101. Salaries of the com-		
3	missioners	22,500.00	22,500.00
4	Salaries of engineers, clerks, sten-		
	ographers, property account-		

5	ing, recording and other assist-		
6	ants	122,750.00	122,750.00
7	Traveling expenses.....	22,500.00	22,500.00
8	Office rent, including heat, light,		
9	water and janitor service, in-		
10	cluding automobile bureau.....	12,000.00	12,000.00
11	Current general expenses, includ-		
12	ing automobile bureau.....	57,500.00	57,500.00
13	Federal Aid supervision.....	5,000.00	5,000.00
14	To pay premiums to the State		
15	Compensation Fund for the in-		
16	surance of employees.....	45,000.00	45,000.00

Automobile Bureau

	Sec. 102. For cost of manufac-		
2	turing license tags for sale to		
3	automobile owners, including		
4	cost of storage, envelopes for		
5	mailing, postage, freight, ex-		
6	press and cartage.....	54,000.00	54,000.00
7	Salaries of clerks, stenographers		
8	and other necessary assistants....	105,000.00	105,000.00
9	To pay salaries and expenses for		
10	the enforcement of traffic, li-		
11	cence and permit laws to be dis-		
12	bursed on the requisition of the		
13	Department of Public Safety		
14	and State Board of Control.....	30,000.00	30,000.00
15	To pay cost of printing and bind-		
16	ing official list of licenses issued		
17	by Automobile Bureau, State		
18	Road Commission	7,500.00	7,500.00

General

	Sec. 103. To pay all expenses		
2	in connection with the assess-		
3	ment and collection of the tax		
4	on gasoline; payable on requis-		
5	ition of State Tax Commissioner	17,500.00	17,500.00
6	To pay salaries of the members		
7	of the West Virginia Bridge		
8	Commission, including compen-		

<p>9 sation of Secretary and other 10 assistants, and current general 11 and traveling expenses, payable 12 on requisition of the West Vir- 13 ginia Bridge Commission.....</p>	<p>12,000.00</p>	<p>12,000.00</p>
<p>14 To pay current general and travel- 15 ing expenses, compensation of 16 members and necessary assist- 17 ants, West Virginia Bridge 18 Commission, for remainder of 19 year ending June 30, 1931, 20 payable on requisition of the 21 West Virginia Bridge Commis- 22 sion</p>	<p>7,500.00</p>	
<p>23 For complying with and carrying 24 out the provisions of law, relat- 25 ing to refunds and for refund- 26 ing moneys erroneously paid 27 through the commission into the 28 treasury, such sums are hereby 29 appropriated as may be errone- 30 ously paid.</p>		
<p>31 In addition to the foregoing ap- 32 propriations the balance or resi- 33 due of the annual receipts of 34 the state road fund are hereby 35 appropriated for the payment 36 of interest on and principal of 37 outstanding road bonds, for 38 maintenance and construction 39 and reconstruction of state 40 roads, in accordance with the 41 provisions of the good roads act 42 of one thousand nine hundred 43 and twenty-one and amend- 44 ments thereto.</p>		
<p>45 To pay claims against the State 46 Road Commission resulting from 47 personal injury or property 48 damages; this amount appro- 49 priated for remainder of year 50 ending June thirty, one thou-</p>		

51	sand nine hundred and thirty-		
52	one, and to remain in effect un-		
53	til claims are paid.....	7,936.90	

SUB-SECTION "G"

Sec. 104. All appropriations appearing under Sub-Section 2 "G" are payable out of the special license fees authorized by 3 section 15, chapter 8, Acts of 1915 (regular session) and 4 amendment thereto.

Public Service Commission

2	Sec. 105. To pay salaries and		
3	current general expenses.....	80,000.00	80,000.00
4	<i>Provided</i> , That not more than		
5	\$5,000.00 of the foregoing ap-		
6	propriation may be expended		
7	annually in cooperation with the		
8	West Virginia Geological Sur-		
9	vey, and/or, the United States		
10	Geological Survey for investiga-		
11	tion of water power resources of		
	the State.		

SUB-SECTION "H"

Sec. 106. All appropriations appearing under Sub-Section 2 "H" are payable out of the fund created by chapter 9, Acts 3 of 1915 (extraordinary session) and amendments thereto.

Workmen's Compensation

2	Sec. 107. Salary of State Com-		
3	ensation Commissioner.....	6,000.00	6,000.00
4	Current general expenses.....	250,000.00	250,000.00
5	To pay attorneys' fees and ex-		
6	penses in case of State Compen-		
7	sation Commissioner vs. New		
8	River and Pocahontas Consoli-		
9	dated Coal Company, to recover		
10	premiums	7,000.00	
11	Above appropriation to be pay-		
12	able during the year ending		
13	June thirty, one thousand nine		
	hundred and thirty-one.		

SUB-SECTION "I"

Sec. 108. All appropriations made by general law payable
 2 out of special revenue, which special revenue is not required
 3 to be paid into the general revenue of the State under the pro-
 4 visions of section two, article two, chapter twelve of the Code,
 5 as amended, are hereby authorized, payable out of the special
 6-7 revenue or collections made for the specific purposes.

8 All revenue collected under the Act of the one thousand nine
 9 hundred and twenty-nine legislature relating to the construc-
 10 tion of a capitol is hereby appropriated and authorized to be
 11 expended for the purposes designated by this Act. Payments
 12 to be made as the construction work progresses and in antici-
 13 pation of the collection of revenue from future levies authorized
 14 by said Act.

SUB-SECTION "K"

Sec. 109. No payments shall be made from appropriations
 2 appearing in Sub-Section "K" in excess of the amounts herein-
 3 after set forth, and no payments shall be made in excess of the
 4 amount of collections, for the particular institution, depart-
 5 ment, commission or board, paid into the general revenue of the
 6 State under the provisions of Senate Bill 104, one thousand
 7 nine hundred and twenty-nine legislature, as amended.

8 Payments may be made from said appropriations appearing
 9 herein at any time during the fiscal year so long as the aggre-
 10 gate for the year does not exceed the amount of the appropria-
 11 tion and does not exceed the collections that will be made for
 12 the year and paid into the general revenue of the State.

13 All appropriations appearing in "Part One" are payable on
 14 the requisition of the head of the particular department, com-
 15 mission or board.

16 All appropriations appearing under "Part Two" are pay-
 17 able on the requisition of the State Board of Control.

PART ONE

Fire Marshal

2	Sec. 110. Salary of fire mar- shal	4,000.00	4,000.00
3	Salaries and current general ex- 4		
5	penses—Fire Marshal's Depart- ment	30,000.00	30,000.00

PART TWO

State Veterinary Examining Board

2	Sec. 112. Collections for general expenses.....	500.00	500.00
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West Virginia State Board of Embalmers

2	Sec. 113. Collections for general expenses.....	1,000.00	1,000.00
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State Board of Examiners in Optometry

2	Sec. 114. Collections for general expenses	1,500.00	1,500.00
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State Board of Examiners and Registration of Architects

2	Sec. 115. Collections for general expenses.....	2,000.00	2,000.00
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State Board of Registration for Engineers

2	Sec. 116. Collections for general expenses.....	1,900.00	1,900.00
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West Virginia State Board of Osteopathy

2	Sec. 117. Collections for general expenses.....	500.00	500.00
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State Board of Examiners for the Examination of Accountants

2	Sec. 118. Collections for general expenses.....	1,000.00	1,000.00
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SUB-SECTION "L"

2 Sec. 119. For refunding overpayments made into the treas-
 3 ury on account of taxes, licenses, fines and commissions, to be
 4 paid out of the fund into which they were paid, such an amount
 5 as may be necessary for such purpose is hereby appropriated.

2 Sec. 120. The appropriations herein made to or for any
 3 state board or institution shall be drawn from the treasury upon
 4 the requisition of the proper officers thereof made upon the
 5 Auditor at such times and in such amounts as may be necessary
 6 for the purposes for which such appropriations are made; and
 7 the Auditor shall pay the amount named in any such requisi-

7 tion at such time and in such installments as shall be necessary
8 for the purposes for which any such appropriation is made.
9 But all requisitions for appropriations for new buildings and
10 substantial betterments, except such as are under control of the
11 Board of Control, shall be accompanied by the architect's esti-
12 mate that the amount named in such requisition is needed for
13 immediate use. The Auditor shall not issue his warrants to pay
14 any money out of the state treasury unless the same is needed
15 for present use.

16 The members of all state boards or commissions, unless a
17 different rate of compensation is provided by law, shall be
18 allowed four dollars per day for each day necessarily employed
19 as such (including the time spent in going to and returning
20 from the place of meeting) and the actual and necessary ex-
21 penses incurred by them in the discharge of their duties, and
22 no mileage shall be paid. But before payment of any such
23 member of any such compensation or expenses, he shall make
24 up in duplicate and certify to its correctness an itemized state-
25 ment of the number of days spent (giving dates) and the ex-
26 penses, which statement shall be filed with the secretary or clerk
27 of the institution, the original whereof the secretary or clerk
28 shall file or preserve in his office, and the duplicate he shall at
29 once forward to the Auditor. If any such member shall wilfully
30 make a greater charge for such services or expenses than truth
31 justifies, he shall be guilty of embezzlement and punished
32 accordingly.

Sec. 121. All printing, binding, printing paper, and station-
2 ery for the state superintendent of free schools shall be paid
3 for out of the general school fund. All of said printing, bind-
4 ing, printing paper, and stationery shall be purchased on requi-
5 sition through the superintendent of public printing. No
6 printing, binding or printing paper or stationery for the follow-
7 ing named boards, officers or institutions shall be paid for out
8 of the appropriation for public printing, public binding, or for
9 supplying paper or stationery, but shall be paid for out of the
10 appropriations therefor herein made, or out of the expense fund
11 or current general expense fund thereof, namely:

12 The public service commission, the state road commission, the
13 workmen's compensation department, the game and fish com-
14 mission, state fire marshal, the university and all its branches,
15 and all state schools, state hospitals and other state institu-
16 tions, the geological survey, experiment station, all schools

17 or hospitals receiving state appropriations, and the following
18 boards: Pharmacy, dental, nurses, veterinary, embalmers,
19 optometry, architects, engineers, osteopathy and account-
20 ants.

21 Such boards, officers and institutions, except the state super-
22 intendent of free schools, that are herein required to pay for
23 their own printing, stationery and printing paper and binding,
24 have authority to procure the same, or have the same done on
25 requisition of the Superintendent of Public Printing, or may
26 buy such printing and stationery, or have such printing and
27 binding done on competitive bids, under such rules as may be
28 made by the commissioners of public printing.

29 When stationery or printing is procured from the superin-
30 tendent of public printing or printing and binding are done on
31 requisition of his office, by such board, officers or institutions,
32 the superintendent of public printing as to such printing, bind-
33 ing, stationery and printing paper, shall certify the cost thereof
34 to the auditor, stating to what officer, board or institution the
35 same was furnished, and the auditor shall charge against the
36 proper fund or appropriation of such officers, institution or
37 board the amount thereof, and credit such amount to the proper
38 appropriations made by this act for public printing, binding,
39 stationery and printing paper. *Provided*, That the annual or
40 biennial reports required by law to be made to the governor
41 by such boards, officers and institutions shall be printed and
42 paid for out of the appropriation for public printing, public
43 binding and for supplying printing paper and stationery, but
44 all such reports shall be typewritten, or prepared in such a
45 manner that the same shall be legible and suitable for printers'
46 copy, and only so much of any such reports shall be printed as
47 may be ordered by the governor; and no such reports shall be
48 printed by the public printer except on requisition therefor,
49 signed by the governor, which requisition shall state the num-
50 ber to be printed and how the same are to be bound. Such
51 officers, boards and institutions as are required by law to make
52 a report to the governor shall place the same in his hands as
53 soon as the same are completed, and within ninety days after
54 the close of the period which they are to cover.

Sec. 122. No sum of money shall be paid out of the treasury
2 for the years ending June thirtieth, one thousand nine hundred
3 and thirty-two, and one thousand nine hundred and thirty-three,
4 beyond the amounts hereby appropriated, unless the same be

5 provided for by constitution or some general law, and no money
6 shall be hereafter drawn from the treasury to pay the salary of
7 any officers or employees before their services have been
8 rendered.

Sec. 122-b. Premiums on official bonds which are by law
2 payable out of the State Treasury are hereby authorized to be
3 paid out of appropriations herein at a rate not exceeding the
4 rate heretofore paid for such bonds. Premium on seven hun-
5 dred thousand dollars of the State Treasurer's bond and on
6 bonds required by Board of Public Works for custodians of
7 securities to be paid out of appropriations for the Workmen's
8 Compensation Fund and the remainder out of general revenue
9 appropriation made for said purpose.

Sec. 123. Upon the adjournment of this session of the legis-
2 lature, 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 appro-
5 priations.

CHAPTER 68

(Senate Bill No. 81—By Mr. Wiseman)

AN ACT to validate all the proceedings authorizing the issuance of
bonds by the county court of Clay county, West Virginia, for
and on behalf of the magisterial district of Union, Clay county,
West Virginia, in the sum of one hundred and twenty thousand
dollars, authorized at an election held in said district on the
seventh day of November, one thousand nine hundred and
twenty-five, by a vote of three-fifths of the voters voting at said
election upon the question of issuing said bonds for the pur-
pose of constructing, building, making repairs and permanent
improvement of county and district public roads, located and
situated in said Union district; and to authorize the execution
and sale of said bonds, and to provide a tax to pay the same
and the interest thereon.

[Passed February 13, 1931; in effect from passage. Approved by the Governor.]

<p>Sec. 1. Road bonds of Union District, Clay county validated. 2. County court to sell and deliver</p>		<p>Sec. 3. bonds; form of bonds. Levy by county court to pay inter- est and principal of bonds.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of bonds

2 of the county court of Clay county, West Virginia, for and on
3 behalf of the magisterial district of Union, in the amount of
4 one hundred and twenty thousand dollars, authorized at an
5 election held in said Union district on the seventh day of No-
6 vember, one thousand nine hundred and twenty-five, by a vote
7 of three-fifths of the voters of said district voting upon the
8 question of issuing said bonds, for the purpose of constructing,
9 building, making repairs and the permanent improvement of
10 certain county and district roads, located and situated in said
11 Union district and providing for the payment of same and the
12 interest thereon, are hereby in all respects validated and con-
13 firmed.

Sec. 2. The county court of Clay county, state of West Vir-
2 ginia, is hereby authorized to execute, make sale of and deliver
3 bonds described in section one of this act for and on behalf of
4 the magisterial district of Union, Clay county, West Virginia,
5 pursuant to the proceedings validated and confirmed by section
6 one of this act, which said bonds shall bear date as of the first
7 day of January, one thousand nine hundred and twenty-six,
8 and bear interest at the rate of five and one-half per centum
9 per annum, payable semi-annually, and be of the denomination
10 of one thousand dollars each, and numbered from one to one
11 hundred and twenty, both inclusive, and payable three thousand
12 dollars each year, beginning two years after the date of said
13 bonds for seven years, and four thousand dollars each year
14 thereafter until the whole of said bonds shall have been paid.

Sec. 3. The county court of Clay county, West Virginia, shall
2 annually impose and collect a tax in excess of all other taxes,
3 on all property subject to taxation in said Union district, suffi-
4 cient in amount to pay annually the interest on the bonds herein
5 authorized and the principal thereof at maturity.

CHAPTER 69

(Senate Bill No. 83—By Mr. Wiseman)

AN ACT to validate all the proceedings authorizing the issuance of
bonds by the county court of Clay county, West Virginia, for
and on behalf of the magisterial district of Buffalo, Clay
county, West Virginia, in the sum of one hundred forty-three
thousand dollars, authorized at an election held in said dis-
trict on the eleventh day of June, one thousand nine hundred

and twenty-seven, by vote of three-fifths of the voters voting at said election upon the question of issuing said bonds for the purpose of constructing, building, making repairs and permanent improvement of county and district public roads, located and situated in said Buffalo district; and to authorize the execution and sale of said bonds, and to provide a tax to pay the same and the interest thereon.

[Passed February 13, 1931; in effect from passage. Approved by the Governor.]

- | | | |
|---|--|--|
| <p>Sec.
1. Road bonds of Buffalo District, Clay county, validated.
2. County court to sell and deliver</p> | | <p>Sec.
3. bonds; form of bonds. Levy by county court to pay interest and principal of bonds.</p> |
|---|--|--|

Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of bonds 2 of the county court of Clay county, West Virginia, for and on 3 behalf of the magisterial district of Buffalo, in the amount of 4 one hundred forty-three thousand dollars, authorized at an 5 election held in said Buffalo district on the eleventh day of 6 June, one thousand nine hundred and twenty-seven, by a vote 7 of three-fifths of the voters of said district voting upon the 8 question of issuing said bonds, for the purpose of constructing, 9 building, making repairs and the permanent improvement of 10 certain county and district roads, located and situated in said 11 Buffalo district and providing for the payment of same and the 12 interest thereon, are hereby in all respects validated and con- 13 firmed.

Sec. 2. The county court of Clay county, state of West Vir- 2 ginia, is hereby authorized to execute, make sale of and deliver 3 bonds described in section one of this act for and on behalf of 4 the magisterial district of Buffalo, Clay county, West Virginia, 5 pursuant to the proceedings validated and confirmed by section 6 one of this act, which said bonds shall bear date as of the first 7 day of July, one thousand nine hundred and twenty-seven, and 8 bear interest at the rate of five and one-half per centum per 9 annum, payable semi-annually, and be of the denomination of 10 one thousand dollars each, and numbered from one to one hun- 11 dred and forty-three, both inclusive, and payable three thou- 12 sand dollars each year, beginning two years after the date of 13 said bonds, for ten years, and four thousand dollars each year 14 for the next four years, and five thousand dollars each year 15 thereafter until the whole of said bonds shall have been paid.

Sec. 3. The county court of Clay county, West Virginia,

2 shall annually impose and collect a tax in excess of all other
 3 taxes, on all property subject to taxation in said Buffalo dis-
 4 trict, sufficient in amount to pay annually the interest on the
 5 bonds herein authorized and the principal thereof at maturity.

CHAPTER 70

(Senate Bill No. 84—By Mr. Wiseman)

AN ACT to validate all the proceedings authorizing the issuance of bonds by the county court of Clay county, West Virginia, for and on behalf of the magisterial district of Henry, Clay county, West Virginia, in the sum of one hundred and twelve thousand dollars, authorized at an election held in said district on the fourth day of April, one thousand nine hundred and twenty-five, by a vote of three-fifths of the voters voting at said election upon the question of issuing said bonds for the purpose of constructing, building, making repairs and permanent improvement of county and district public roads, located and situated in said district, and to provide a tax to pay the same and the interest thereon.

[Passed February 13, 1931; in effect from passage. Approved by the Governor.]

<p>SEC.</p> <p>1. Road bonds of Henry district, Clay county, validated.</p> <p>2. County court to sell and deliver</p>		<p>SEC.</p> <p>bonds; form of bonds.</p> <p>3. Levy by county court to pay interest and principal of bonds.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing issuance of bonds of
 2 the county court of Clay county, West Virginia, for and on be-
 3 half of the magisterial district of Henry, in the amount of one
 4 hundred and twelve thousand dollars, authorized at an election
 5 held in said Henry district on the fourth day of April, one
 6 thousand nine hundred and twenty-five, by a vote of three-fifths
 7 of the voters of said district voting upon the question of issuing
 8 said bonds, for the purpose of constructing, building, making
 9 repairs and the permanent improvement of certain county and
 10 district roads, located and situated in said Henry district and
 11 providing for the payment of same and the interest thereon, are
 12 hereby in all respects validated and confirmed.

Sec. 2. The county court of Clay county, state of West
 2 Virginia, is hereby authorized to execute, make sale of and de-
 3 liver bonds described in section one of this act for and on behalf

4 of the magisterial district of Henry, Clay county, West Vir-
 5 ginia, pursuant to the proceedings validated and confirmed by
 6 section one of this act, which said bonds shall bear date as of
 7 the first day of May, one thousand nine hundred and twenty-
 8 five, and bear interest at the rate of five and one-half per centum
 9 per annum, payable semi-annually, and be of the denomination
 10 of five hundred dollars each, and numbered from one to two
 11 hundred and twenty-four, both inclusive, and payable one thou-
 12 sand dollars two years from the date thereof, three thousand
 13 dollars three and four years from the date thereof, and three
 14 thousand five hundred dollars annually thereafter for thirty
 15 years from and after the first day of May, one thousand nine
 16 hundred and twenty-nine.

Sec. 3. The county court of Clay county, West Virginia,
 2 shall annually impose and collect a tax in excess of all other
 3 taxes, on all property subject to taxation in said Henry district,
 4 sufficient in amount to pay annually the interest on the bonds
 5 herein authorized and the principal thereof at maturity.

CHAPTER 71

(Senate Bill No. 82—By Mr. Wiseman)

AN ACT to validate all the proceedings authorizing the issuance of
 bonds by the county court of Greenbrier county, West Virginia,
 for and on behalf of the White Sulphur district, Greenbrier
 county, West Virginia, in the sum of one hundred and fifty-
 one thousand dollars, authorized at an election held in said
 district on the twenty-sixth day of March, one thousand nine
 hundred and twenty-seven, by a vote of three-fifths of the
 voters voting at said election upon the question of issuing said
 bonds for the purpose of constructing, building, making re-
 pairs and permanent improvement of county and district pub-
 lic roads, located and situated in said White Sulphur district;
 and to authorize the execution and sale of said bonds, and to
 provide a tax to pay the same and the interest thereon.

[Passed February 13, 1931; in effect from passage. Approved by the Governor.]

Sec.

1. Road bonds of White Sulphur dis-
 trict, Greenbrier county, vali-
 dated.

Sec.

2. County court to sell and deliver
 bonds; form of bonds.
 3. Levy by county court to pay inter-
 est and principal of bonds.

Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of bonds

2 of the county court of Greenbrier county, West Virginia, for
3 and on behalf of the White Sulphur district, in the amount of
4 one hundred and fifty-one thousand dollars, authorized at an
5 election held in said White Sulphur district on the twenty-sixth
6 day of March, one thousand nine hundred and twenty-seven,
7 by a vote of three-fifths of the voters of said district voting
8 upon the question of issuing said bonds, for the purpose of con-
9 structing, building, making repairs and the permanent improve-
10 ment of certain county and district roads, located and situated
11 in said White Sulphur district and providing for the payment
12 of same and the interest thereon, are hereby in all respects
13 validated and confirmed.

Sec. 2. The county court of Greenbrier county, state of West
2 Virginia, is hereby authorized to execute, make sale of and
3 deliver bonds described in section one of this act for and on
4 behalf of the White Sulphur district, Greenbrier county, West
5 Virginia, pursuant to the proceedings validated and confirmed
6 by section one of this act, which said bonds shall bear date as of
7 the first day of July, one thousand nine hundred and twenty-
8 seven, and bear interest at the rate of five per centum per
9 annum, payable semi-annually, and be of the denomination of
10 one thousand dollars each, and numbered from one to one hun-
11 dred and fifty-one, both inclusive, and payable five thousand
12 dollars each year for twenty-nine years, and six thousand dol-
13 lars in thirty years from their date.

Sec. 3. The county court of Greenbrier county, West Vir-
2 ginia, shall annually impose and collect a tax in excess of all
3 other taxes, on all property subject to taxation in said White
4 Sulphur district, sufficient in amount to pay annually the in-
5 terest on the bonds herein authorized and the principal thereof
6 at maturity.

CHAPTER 72

(House Bill No. 145—By Mr. Haymond)

AN ACT to validate the proceedings authorizing the issuance of
school bonds of the board of education of the district of Union,
in the county of Marion, state of West Virginia, in the sum
of two hundred fifty thousand dollars, authorized at an
election held in the district of Union on the eighteenth day

of June, one thousand nine hundred twenty-nine, by vote of three-fifths of the voters voting in said election upon the question of issuing said bonds for the purpose of acquiring additional grounds and buildings, and repairing and renewing present buildings, for the use of the elementary pupils of said school district, and also for the purpose of enlarging high school and of acquiring additional land and constructing and erecting additional buildings and providing additional facilities and other high school purposes in connection with the present high school within said district, and to authorize the execution and sale of said bonds and to provide a tax to pay the same and the interest thereon.

[Passed February 20, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. School bonds of Union magisterial district validated.

SEC.

2. Board of education authorized to execute and sell; form of bonds.

Be it enacted by the Legislature of West Virginia:

That certain proceedings authorizing the issuance of school bonds of the district of Union, in the county of Marion and state of West Virginia, be validated and the execution and sale of said bonds be authorized; and that provisions be made for a tax to pay the said bonds and the interest thereon.

Section 1. All proceedings authorizing the issuance of school bonds for the district of Union, in the county of Marion, state of West Virginia, in the sum of two hundred fifty thousand dollars, authorized at an election held on the eighteenth day of June, one thousand nine hundred twenty-nine, by vote of three-fifths of the voters of said district voting upon the question of issuing said bonds for the purpose of acquiring additional grounds and buildings, and repairing and renewing present buildings for the use of the elementary pupils of said school district, and also for the purpose of enlarging high school and of acquiring additional lands and constructing and erecting additional buildings and providing additional facilities and other high school purposes in connection with the present high school within said district as set out in the order of the board of education of Union district, in the county of Marion, state of West Virginia, on the twenty-fourth day of May, one thousand nine hundred twenty-nine, submitting the proposition of issuing said bonds to the voters of said district, are hereby in all respects validated and confirmed.

Sec. 2. The board of education of Union district, in the 2 county of Marion, state of West Virginia, is hereby authorized 3 to execute, make sale of and deliver the bonds described in 4 section one of this act, pursuant to the proceedings mentioned 5 therein, which said bonds shall bear date as of the first day of 6 July, one thousand nine hundred twenty-nine, and interest at 7 the rate of five per centum per annum, payable semi-annually, 8 and be in the denomination of one thousand dollars each, and 9 numbered from one to two hundred and fifty, both inclusive, 10 and payable as provided in said order of the board of education 11 of the district of Union, county of Marion, made on the twenty- 12 fourth day of May, one thousand nine hundred twenty-nine.

CHAPTER 73

(House Bill No. 281—By Mr. Gardner)

AN ACT to validate all the proceedings authorizing the issuance of bonds by the county court of Pocahontas county, West Virginia, for and on behalf of Greenbank district, Pocahontas county, West Virginia, in the sum of two hundred sixty thousand dollars, authorized at an election held in said district on the tenth day of July, one thousand nine hundred twenty, by a vote of three-fifths of the voters voting at said election upon the question of issuing said bonds for the purpose of constructing, building, making repairs and permanent improvement of county and district public roads, located and situated in said Greenbank district; and to validate the execution and sale of said bonds heretofore made, and to provide a tax to pay the same and the interest thereon.

[Passed March 2, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 1. Certain bonds of Greenbank magisterial district validated.</p>	<p>SEC. 2. Execution and sale of bonds validated; form of bond. 3. Annual levy to pay bonds.</p>
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Be it enacted by the Legislature of West Virginia:

Section 1. All proceedings authorizing the issuance of bonds 2 of the county court of Pocahontas county, West Virginia, for 3 and on behalf of Greenbank district, in the amount of two hundred 4 dred sixty thousand dollars, authorized at an election held in 5 said Greenbank district on the tenth day of July, one thousand 6 nine hundred twenty, by a vote of three-fifths of the voters of

7 said district voting upon the question of issuing said bonds, for
8 the purpose of constructing, building, making repairs and the
9 permanent improvement of certain county and district roads,
10 located and situated in said Greenbank district, and providing
11 for the payment of same and the interest thereon, are hereby in
12 all respects validated and confirmed.

Sec. 2. The execution and the sale heretofore made of the
2 bonds described in section one of this act, for and on behalf of
3 the Greenbank district, Pocahontas county, West Virginia, pur-
4 suant to the proceedings validated and confirmed by section one
5 of this act, are hereby in all respects validated and confirmed.
6 Said bonds bear date as of the first day of July, one thousand
7 nine hundred twenty, and bear interest at the rate of five per cen-
8 tum per annum, payable semi-annually, and are of the denomina-
9 tion of one thousand dollars each, and numbered from one to two
10 hundred sixty, both inclusive, and payable serially beginning
11 two years after date and ending in thirty-four years from their
12 date.

Sec. 3. The county court of Pocahontas county, West Vir-
2 ginia, shall annually impose and collect a tax in excess of all
3 other taxes, on all property subject to taxation in said Greenbank
4 district, sufficient in amount to pay annually the interest on the
5 bonds herein authorized and the principal thereof at maturity.

CHAPTER 74

(Senate Bill No. 86—By Mr. Henshaw)

AN ACT to authorize the city of Martinsburg to incur indebted-
ness and issue bonds in the amount of one hundred thousand
dollars for the purpose of refunding indebtedness incurred
in improving and extending the water system of said city;
making additional improvements thereto, and providing for
the payment of bonds so issued and the interest thereon.

[Passed February 13, 1931; in effect from passage. Approved by the Governor.]

Sec.

1. City of Martinsburg authorized to
sell water works bonds; how pro-
ceeds expended.

Sec.

2. Referendum on bond issue; direct
annual levy to pay, if revenue
from water plant insufficient to
pay bonds and interest.

Be it enacted by the Legislature of West Virginia:

Section 1. Subject to the limitations imposed by the con-
2 stitution and in conformity with the general laws relating to

3 the issuance of bonds, as contained in article one, chapter thir-
4 teen, of the code, the city of Martinsburg is hereby authorized
5 to issue and sell its water works bonds in the amount of one
6 hundred thousand dollars, and expend the proceeds thereof as
7 follows: Approximately twenty-six thousand dollars to pay off
8 and discharge existing indebtedness against the water system
9 owned by the city; twenty thousand dollars to refund to cer-
10 tain banking institutions and manufacturing companies money
11 advanced to the city for the installation of a supply water line
12 extending to springs owned by the city; two thousand five
13 hundred dollars for lands for rights-of-way for water lines and
14 extensions, and the remainder of said one hundred thousand
15 dollars for the purpose of improving the water system of said
16 city at such time and in such manner as the council with the
17 consent and approval of a water commission, representing the
18 financial and manufacturing interests of the city, appointed
19 by the council and composed of G. W. F. Mulliss, T. W. Mar-
20 tin and F. C. Foreman.

Sec. 2. No bonds shall be issued hereunder unless and until
2 all questions connected with the same shall have been first sub-
3 mitted to a vote of the people and have received three-fifths
4 of all the votes cast for and against the same, nor without pro-
5 viding for a direct annual tax, sufficient to pay annually, the
6 interest on such bonds, and the principal thereof at maturity:
7 *Provided*, That no part of such direct levy shall be laid unless
8 the revenue derived from the operation of the water plant shall
9 prove insufficient to discharge such bonds and interest thereon
10 as the same shall become due and payable.

CHAPTER 75

(House Bill No. 191—By Mr. McGuire)

AN ACT to amend and re-enact sections two, four, nineteen, thirty-
two, thirty-four, thirty-five, forty-six, fifty-four, fifty-five, fifty-
six, fifty-seven, fifty-eight, sixty-one, seventy-three, ninety-two,
one hundred three and one hundred four of chapter three of
the acts of the legislature of one thousand nine hundred twenty-
five, bound in a volume of municipal charters of such acts, and
known as the "Charter of the City of Hollidays Cove;" and to
add to said chapter three of the acts of the legislature of one

thousand nine hundred twenty-five, sections fifty-three (a), fifty-three (b), fifty-three (c), fifty-three (d), fifty-three (e), fifty-three (f), fifty-three (g), fifty-three (h), fifty-three (i), fifty-three (j), fifty-three (k), fifty-three (l), fifty-three (m), fifty-three (n), fifty-three (o), fifty-three (p), ninety-two (a), ninety-two (b), ninety-two (c), and one hundred three (a), all relating to and becoming a part of the charter of the City of Hollidays Cove.

[Passed February 11, 1931; in effect from passage. Became a law without the approval of the Governor.]

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| <p>Sec.
2. Corporate limits.
4. Municipal officers, number, qualifications; elective and appointive.
19. Meetings of council.
32. Mayor and councilmen, terms; mayor, salary, powers and duties.
34. City clerk, duties; minutes of meetings.
35. Police judge, powers and duties; sentences by and appeals from.
46. Police judge, qualifications.
53. Sewer, etc., assessments and certificates; installment certificates; rate of interest, etc.; negotiability of instruments; assignment or transfer of certificates; recordation of abstract of certificate; release of lien of assessment; how proceeds of certificates applied; lien of certificate, how enforced; no liability on city for certificate; attorney fee for plaintiff; approval of attorney general required; publication of approval or disapproval; when certificate become incontestible; appeal from, decision of attorney general; costs incurred by attorney general and of notice to be paid by property owners; when certificate may be paid; form of certificate; form of interest coupon; procedure for permanent paving of streets; how cost paid.</p> | <p>Sec.
55. Cost of construction of public sewer, how apportioned and collected.
56. When paving and sewerage paid by special assessments, resolution of council; assessments for; publication of resolution.
57. Copy of resolution to be served upon owner of assessed property; publication of notice.
58. City to pay cost of paving intersections; cost of repairing or repaving.
61. When special assessments binding upon property assessed; notice of resolution for construction of sewers.
73. How assessments upon property may be collected; distribution of proceeds when property sold for assessment.
92. Further powers of mayor; extent of jurisdiction of police officer; power and oath of police officers.
92(a). Appointment and powers of additional police officers.
92(b). Discharge of police officers, when notice required.
92(c). Discharge of police officers appointed by council.
103. Levying and collection of taxes by council; incurred levy by vote of people.
103(a). Liability for one thousand nine hundred thirty-one taxes.
104. Power of city treasurer to collect taxes.</p> |
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Be it enacted by the Legislature of West Virginia:

That sections two, four, nineteen, thirty-two, thirty-four, thirty-five, forty-six, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, sixty-one, seventy-three, ninety-two, one hundred three and one hundred four of chapter three of the acts of the legislature of one thousand nine hundred twenty-five, bound in a volume of municipal charters of such acts, and known as the "Charter of the City of Hollidays Cove," be amended and re-enacted, and

That sections fifty-three (a), fifty-three (b), fifty-three (c), fifty-three (d), fifty-three (e), fifty-three (f), fifty-three (g), fifty-three

(h), fifty-three (i), fifty-three (j), fifty-three (k), fifty-three (l), fifty-three (m), fifty-three (n), fifty-three (o), fifty-three (p), ninety-two (a), ninety-two (b), ninety-two (c), and one hundred three (a), be enacted and added to the charter of the City of Hollidays Cove, so as to read as follows:

Section 2. The corporate limits of the city of Holidays Cove shall be as follows, to-wit:

3 Beginning at a point in Butler district, Hancock county, said
4 point being the southwest corner of Ferguson avenue and Main
5 street, as designated on plan of 'Block B,' 'C. Ferguson's First
6 Addition to Hollidays Cove, West Virginia,' which plan is duly
7 of record in the office of the clerk of the county court of Han-
8 cock county, West Virginia, to which reference is hereby made
9 by way of further description; thence south eighty-seven de-
10 grees thirty minutes east eight hundred twenty and no-tenths
11 feet to a point on eastern edge of the Pennsylvania Railroad
12 Company right-of-way; thence along above mentioned right-of-
13 way, south six degrees twenty-five minutes west for three hun-
14 dred sixty-five and four-tenths feet to a point on right-of-way;
15 thence south eighty-three degrees thirty-five minutes east four
16 hundred and fifty-nine and four-tenths feet to a point in the
17 public road; thence along the public road south twelve degrees
18 two minutes east two hundred and two feet to a point; thence
19 south sixty degrees twenty-nine minutes east one thousand three
20 hundred thirty-nine and eight-tenths feet to a point; thence
21 south nineteen degrees one minute east one hundred and fifty-
22 five feet to a point; thence south nine degrees three minutes east
23 three hundred and thirty-one feet to a point in the public road
24 known as the Steubenville and Pittsburgh pike; thence south
25 eighty-four degrees fourteen minutes west two hundred sixty-
26 nine and two-tenths feet to a point on the bank of Harmon's
27 creek; thence by the following lines: north sixty-nine degrees
28 fifteen minutes west three hundred fifty feet, north seventy-eight
29 degrees two minutes west eight hundred fifty-five and seven-
30 tenths feet, south seventy-six degrees ten minutes west five hun-
31 dred and eighty-eight feet to a point west of the Chester Branch
32 railroad bridge; thence south five degrees ten minutes west one
33 hundred and ninety-eight and three-tenths feet to a point;
34 thence south twenty-one degrees thirty-seven minutes west four
35 hundred and sixty-three and four-tenths feet to a point on the
36-37 Hancock-Brooke county line; thence south eighty-six degrees

38 fifty-two minutes west eight hundred twenty-five and five-tenths
39 feet to a point in the center of Harmon's creek; thence south
40 four degrees thirty minutes east three hundred ninety-seven feet
41 to a point; thence nineteen degrees fifteen minutes west four
42 hundred twenty-nine and no-tenths feet to a point; thence south
43 twenty-six degrees thirty minutes west for one thousand eighty-
44 two and no-tenths feet to a point; thence south thirty-seven de-
45 grees no minutes west for eight hundred sixty-seven and no-
46 tenths feet; thence south fifty-three degrees fifteen minutes west
47 for eight hundred two and no-tenths feet; thence south sixty de-
48 grees forty-eight minutes west for one thousand two hundred
49 and thirty and no-tenths feet to a point in creek; thence along
50 property lines of Gullette and Orr, north twenty degrees no
51 minutes west for one thousand five hundred twenty-five and
52 four-tenths feet to a point; thence north fifty-three degrees
53 thirty-five minutes east for eight hundred twenty-five and no-
54 tenths feet to a point; thence north thirty-three degrees thirty-
55 five minutes east eight hundred ninety-three and no-tenths feet
56 to a point near the west edge of Heazlett avenue; thence north
57 twenty-five degrees fifty minutes east for one thousand seven
58 hundred seventy and no-tenths feet to a point on west side of
59 lot number eight, on plan of lots laid out for E. C. Stern, Holli-
60 days Cove, Hancock county, West Virginia; thence north one
61 degrees five minutes east for one hundred two and fifty-five one
62 hundredths feet to a point on north side of county road to
63 Marland Heights; thence north sixty-four degrees thirty-five
64 minutes west for seventy and no-tenths feet to a point; thence
65 north seventy-four degrees twenty-five minutes west for three
66 hundred eighty-five and five-tenths feet to a point; thence north
67 sixty-three degrees forty-five minutes west for two hundred ten
68 and no-tenths feet to a point; thence south seventy-six degrees
68a thirty-five minutes west for one hundred twenty-four and no-
69 tenths feet to a point; thence south sixty-one degrees thirty
70 minutes west for two hundred eighty-one and four-tenths feet
71 to a point; thence south eighty-eight degrees thirty minutes
72 west for two hundred two and nine-tenths feet to a point;
73 thence north twelve degrees forty-five minutes west for one
74 hundred one and no-tenths feet to a point; thence north forty-
75 eight degrees fifteen minutes east for seventy-six and two-tenths
76 feet; thence north sixty-seven degrees thirty-five minutes east

77 for one hundred fifty-six and no-tenths feet to a point; thence
78 north fifty-one degrees forty-seven minutes east for one hun-
79 dred six and no-tenths feet; thence north forty-seven degrees
80 forty minutes east for one hundred seven and no-tenths feet
81 to a point; thence north forty-two degrees fifteen minutes east
82 for one hundred five and one-tenth feet to a point; thence
83 north fifteen degrees forty-seven minutes east for eight hun-
84 dred ninety-seven and no-tenths feet to a point; thence north
85 seventy-three degrees thirty-five minutes east for one thousand
86 four hundred eighty-seven and no-tenths feet to a point on west
87 side of a twenty-foot alley and Ferguson avenue; thence south
88 eighty-seven degrees thirty minutes east along the south side of
89 Ferguson avenue, for a distance of one thousand fifty and no-
90 tenths feet to the place of beginning.

Sec. 4. The municipal authorities of the city of Hollidays
2 Cove shall consist of a mayor and five councilmen, who shall,
3 for the assessment year preceding their respective elections
4 as hereinafter provided, have been assessed with and paid taxes
5 in the city of Hollidays Cove, upon a valuation of at least five
6 hundred dollars worth of real estate or personal property
7 therein and any person elected to any one of such offices who
8 has not been assessed with and paid taxes on such amount of
9 property shall not qualify or enter into the performance of the
10 duties thereof, but such office shall thereby become vacant and
11 shall be filled by a qualified person, as provided herein for
12 other vacancies. In addition to the municipal authorities men-
13 tioned in this section above, the city may have a police judge,
14 city manager, city clerk, city auditor, city physician, health
15 commissioner, building inspector, city attorney, city engineer,
16 city tax collector, treasurer, lockup keeper, humane officer or
17 officers, police chief, fire chief and such number of policemen
18 and firemen as council by ordinance or resolution may direct,
19 or the mayor shall appoint.

20 The officers heretofore named in this section, other than the
21 mayor, councilmen and policemen, may be appointed by the
22 mayor with the consent of the council, but none of such officers
23 shall be appointed until council shall, by a majority of the
24 full membership thereof, authorize the filling of such office.
25 All of the officers named in this and the preceding section shall
26 be paid proper salaries which shall be fixed by the council,
27 except as herein otherwise provided, and such salaries shall
28 be within the limits provided for by this act.

Sec. 19. The council shall hold regular meetings on the first Monday following the first Tuesday of each month, and the hour and place of such meetings shall be fixed by the council in the rules adopted by it.

Sec. 32. The mayor and five members of council shall be elected for the term of two years, and their successors shall be elected every two years thereafter, and their terms of office shall begin on the first day of February of the year in which they shall be elected.

The mayor's salary shall be fixed by council, not to exceed five hundred dollars per year.

The mayor shall have the full and complete power of the removal of all officers appointed by him, subject to appeal to council, except in case of police officers, who shall be removed as hereinafter in this act is provided.

The mayor shall appoint or employ such other person or persons as the ordinances of the city may require or the council may authorize by proper resolution. All such officers shall be appointed for the term of two years and until their successors are appointed and qualified, unless they are removed in the way and manner in the act provided.

It shall be the duty of the mayor to attend all meetings of the council and preside over that body.

It shall be the duty of the mayor to see that all the laws and ordinances of the city are enforced and he shall have a general oversight of the peace, health and good order of the city. He shall discharge the functions assigned by this act to the police judge and city manager until these officers are appointed, or, in their absence or inability to act.

All fines of every kind collected by any officer or employee, including the police judge, when acting as a justice, shall be paid to the city treasurer.

Sec. 34. The city clerk shall be ex officio clerk of the city council; he shall keep a complete record of all ordinances, resolutions and acts of the city council. He shall enter in a separate volume all ordinances of a general nature, a violation of which shall subject any person to any penalty, and carefully index the same. All ordinances providing for the issuing of bonds, the creation of a debt, the construction of any public improvement, or of any local or temporary nature shall be entered in a separate volume by the city clerk, and carefully

10 indexed. He shall keep complete books of account showing
11 all financial transactions of the city, and of each department,
12 all receipts, expenditures made by the city, the sources of all
13 income, and the purposes of all expenditures. He shall make
14 out all vouchers and pay-rolls of the city, and shall do and per-
15 form all other duties which may be required of him by the
16 council by any ordinance or resolution.

17 He shall attend all meetings of the council and keep in
18 proper minute book a record of its proceedings, and sign the
19 record of each said proceeding.

20 He shall prepare and cause to be served all notices required
21 to be given to any person, firm or corporation, and after proper
22 service and return thereof of any notice, he shall file and pre-
23 serve the same.

24 He shall file in convenient form, so as to be readily accessible,
25 all correspondence carried on by the city or by any depart-
26 ment thereof, and, as custodian of all the books, records and
27 proceedings of the council, he shall make and certify copies
28 thereof whenever required, and affix the corporate seal of the
29 city to any paper required to be sealed and to any certified
30 copy of any paper, order or proceeding which he may make.
31 The minutes of every meeting, after being corrected, shall be
32 signed by the mayor and city clerk, and a copy of any record,
33 paper, entry, order, ordinance, resolution or proceeding made
34 by the council, or by the police court judge when properly
35 certified under the seal of the city shall be admissible as evi-
36 dence in any court in the state in any proceeding in which the
37 original paper or record, if present, would be admissible. He
38 shall, in case of the absence of the mayor, discharge the duties
39 and functions assigned by this act to the police judge.

Sec. 35. The police judge shall be ex officio a justice and a
2 conservator of the peace, with authority to issue process for
3 all offenses committed within the police jurisdiction of the city
4 of Hollidays Cove, of which a justice of the peace has juris-
5 diction under the state statutes, and for all violations of any
6 city ordinances, and shall have charge of and preside over the
7 police court of such city; and may commit persons charged
8 with felony or misdemeanor to jail or take bond for their ap-
9 pearance before the grand jury of the circuit court of Hancock
10 or Brooke county, depending on whichever court has jurisdic-
11 tion of the offense charged; said police judge shall keep a record

12 showing the style of each case, which record shall be indexed
13 and numbered. Before trying any person charged with any
14 violation of any ordinance, he shall issue his warrant, specify-
15 ing the offense or violation charged; he shall render judgment
16 in any case as the law of the state or the ordinance of the city
17 applying thereto may require; he shall also have the power to
18 issue executions for all fines, penalties and costs imposed by
19 him, and he may require immediate payment thereof, and in
20 default of such payment, may commit the person in default
21 to the jail of the county of Hancock or Brooke or some place
22 of imprisonment within Brooke or Hancock county, designated
23 by the council as the city jail, if there be one, until the fine and
24 penalty and costs shall be paid or satisfied, to be employed dur-
25 ing the term of imprisonment, as hereinafter provided, but the
26 term of imprisonment in any case of the violation of a city
27 ordinance, shall not exceed sixty days, and in all cases where
28 a person is sentenced to imprisonment, or to the payment of
29 a fine of ten dollars or more, such person shall be allowed an
30 appeal from such decision to the circuit court of said Hancock
31 county, upon the execution of an appeal bond, with surety
32 deemed sufficient by the said police judge in a penalty double
33 the amount of the fine and costs imposed by him, where the
34 penalty imposed for the violation of such ordinance is a fine
35 only, or in a sum not to exceed five hundred dollars, where
36 the penalty imposed is imprisonment, or both fine and impris-
37 onment, conditioned that the person proposing to appeal will
38 appear before the circuit court of Hancock county on the first
39 day of the next regular term thereof to answer for the offense
40 wherewith he is charged, and not depart thence without leave
41 of the court and satisfy all costs and fines imposed against
42 him; and in no case shall judgment for a fine of less than ten
43 dollars be given by the police judge, if the defendant, his agent
44 or attorney, object thereto. If such appeal is taken, the war-
45 rant of arrest, the transcript of the judgment, the appeal bond
46 and other papers of the case shall be forthwith delivered by
47 the said police judge to the clerk of said circuit court, and
48 the court shall proceed to try the case as upon indictment or
49 presentment and render such judgment, including that of cost,
50 as the law and the evidence may require.

51 The expense of maintaining such persons committed to the
52 jail of the county for violation of city ordinance by such police

53 judge, shall be paid by the city. The police judge shall account
54 for and pay over the amount of all the fines collected by him
55 weekly to the treasurer of the city, and shall make monthly
56 reports thereof, and all other matters pertaining to the council
57 of said city.

Sec. 46. The police judge, when appointed, shall have at-
2 tained the age of twenty-five years, and shall have been a resi-
3 dent of this state for a period of two years, and of the city of
4 Hollidays Cove previous to the beginning of his term of service
5 for a period of one year.

Sec. 53(a) In addition to the methods hereinbefore and here-
2 inafter prescribed for the payment of the cost of construction
3 and improvement of streets, alleys, sewers and sewer systems,
4 the city of Hollidays Cove is hereby authorized to issue certifi-
5 cates for the purpose of providing funds for the grading, pav-
6 ing, repaving, curbing, sewerage or otherwise improving the
7 streets and alleys of said city, or for constructing any sanitary
8 sewer therein, payment whereof shall be made by the property
9 owners abutting said construction or improvements as is here-
10 inafter provided. In ordering the construction or improve-
11 ment of any such street, alley, sewer or sewer system, and in
12 ascertaining the amount of the assessment to be levied against
13 each particular piece of property abutting thereon to pay the
14 cost thereof, council shall, except where it is in this act from
15 section fifty-three (a) to section fifty-three (p), both inclusive,
16 otherwise specifically provided, proceed in the same manner as is
17 hereinafter provided in sections fifty-four, fifty-five, fifty-six,
18 fifty-seven and sixty-one, of this act, for the levying and pay-
19 ment of special assessments levied and made to pay the cost
20 of abutting property owners for improvements made upon any
21 public street or alley, or the construction of any public sewer,
22 where the cost of such improvement is paid by the issuance of
23 bonds of said city in anticipation of the collection of special
24 assessments, except that the whole cost of such improvement,
25 including the cost of grading, paving, curbing and sewerage
26 street intersections, shall be apportioned against the several
27 properties abutting upon the street or portion thereof so im-
28 proved.

Sec. 53 (b) It is hereby provided that the cost of any im-
2 provement mentioned in section fifty-three (a) hereof, and for
3 which certificates are to be issued, shall be divided into ten

4 installments as nearly equal as possible, payable one each year
5 for ten successive years from the date thereof. Certificates
6 issued to pay such cost shall draw interest at the rate of six
7 per centum per annum, payable semi-annually, and may be
8 sold, negotiated and renegotiated at the pleasure of council, or
9 the holder thereof. They shall contain a provision that in
10 the event of default in the payment of any one of said certifi-
11 cates, or any interest thereon, by the owner of the property
12 therein mentioned and described, then, and in such an event,
13 all the certificates issued as against that particular property
14 concerning which there has been a default in payment of one
15 certificate, shall, after such default shall have continued for a
16 period of sixty days, forthwith become due and payable, and
17 the holder of such certificate or certificates may proceed to
18 collect all of such unpaid certificates, in the manner herein-
19 after provided.

Sec. 53 (c) Any certificate issued under the provisions of this
2 act for the payment of the cost of improving or constructing
3 any street or alley, or any sewer or sewerage system, shall be
4 negotiable at any bank or trust company within the counties
5 of Hancock and Brooke, and nothing contained in this act shall
6 be construed as imposing a time limit upon the enforcement
7 by appropriate suit of any lien created under the provisions
8 hereof.

Sec. 53 (d) In all cases where an assessment is about to be
2 levied upon the property abutting on a street or alley im-
3 proved in accordance with the provisions contained in this
4 and the three preceding sections, the council shall have the
5 right and power to, at the same time when it shall award a
6 contract for the making of said improvements, by resolution
7 entered of record by it, order that such certificates, when
8 issued, shall be sold, assigned and transferred to any person,
9 persons, firm or corporation, for a consideration, and apply
10 the amount received thereby to the payment of the cost of
11 such improvements, or council may order that such certificates
12 or any amount or number thereof, be transferred and assigned
13 to the contractor, to whom such contract is awarded, in con-
14 sideration of his performance of the provisions of his contract
15 or such part thereof as is provided for in the order of council:
16 *Provided, however,* That no sale, assignment or transfer of any
17 such certificate or certificates shall be made by the city at a

18 greater discount than five per cent of the aggregate sum rep-
19 resented by said certificate or certificates.

Sec. 53 (e) Upon the issuance of any certificate provided for
2 in the four preceding sections of this act, the clerk of the city
3 of Hollidays Cove shall cause an abstract of such certificates to
4 be recorded in the office of the clerk of the county court of the
5 county in which the property therein mentioned is located.
6 Such abstract shall be sufficient in form, if it contains such
7 provision or provisions as to show the then name or names of
8 the owner or owners of the said property, the amount of the
9 assessment as levied by council, and such description as would
10 enable a person of the average intelligence to understand the
11 property against which such lien exists. The provisions of
12 this section shall be construed liberally in favor of the holder
13 of any such certificate or certificates.

Sec. 53 (f) The lien created by any such assessment and by
2 the issuance of certificates as are mentioned in the five preced-
3 ing sections, may be released as is now provided by law for
4 the release of deeds of trust in the state of West Virginia, and
5 in addition thereto, upon presentation to the clerk of the
6 county court of the county wherein the real estate subject to
7 said lien is situated, of all of the certificates issued against any
8 particular property mentioned in the recorded abstract pro-
9 vided for in section fifty-three (e) of this act, showing that the
10 same have all been paid, the clerk of the county court of the
11 county in which said abstract is recorded is hereby authorized
12 and empowered to release the lien of such assessment as to
13 any such real estate by noting a release thereof on the record
14 of the lien as to such real estate in the margin of the trust
15 deed book where the same is recorded, and such annotation by
16 such clerk shall have the effect to release such real estate from
17 such lien, as effectively as a regularly executed and recorded
18 release thereof.

Sec. 53 (g) The proceeds of any such certificates, where the
2 same are not assigned or transferred to the contractor, shall
3 be applied to the payment of the cost of the making of the
4 improvement provided for in section fifty-three (a) hereof, to-
5 gether with all costs of advertising, engineering charges, at-
6 torney fees and other miscellaneous charges which may arise
7 directly or indirectly by reason of the making of said improve-
8 ments.

Sec. 53 (h) Any certificate issued by the city of Hollidays Cove under the provisions hereof, shall be and constitute a lien in the hands of the holder of any such certificate or certificates, upon the real estate in said certificate described, subsequent in priority only to tax liens, and the payment thereof may be enforced in the name of the holder of said certificate or certificates by a proper suit in equity, in any court having jurisdiction to enforce a lien upon the property in said certificate or certificates mentioned, and in the same manner in which a vendor's lien on real estate is enforced.

Sec. 53 (i) The city of Hollidays Cove, in the issuing, transferring and sale of any such certificate or certificates, shall under no circumstance or circumstances be held liable for the payment thereof, or any part thereof, or any interest thereon, either as a guarantor, or in any other manner whatsoever.

Sec. 53 (j) Upon entering any decree pertaining to the enforcement of any street improvement lien created by this act, the court having jurisdiction thereof shall assess as part of the court costs in said action a reasonable compensation to be paid by the defendant to the attorney for the plaintiff for his services to the plaintiff in connection with the enforcement of said lien, and as well, shall charge to the defendant all other costs necessary or incidental to the enforcement of the lien created under the provisions of section fifty-three (h) of this act.

Sec. 53 (k) Whenever said city shall issue or be about to issue any certificates for the construction or improvement of any street or alley, or the construction or improvement of any sewer or sewer system, there shall be submitted to the attorney general, for his approval or disapproval of the validity thereof, duly certified copies of all orders, notices, advertisements, affidavits, records and proceedings connected with or pertaining to the issuance of said certificates. The attorney general shall thereupon either approve or disapprove the validity of said certificates, and attach or stamp thereon his certificate to the effect that said certificates 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 the papers pertaining to any certificate issue submitted to him, and shall record his findings of approval or disapproval in a well-bound book kept

16 for that purpose in his office, which shall be kept open for in-
17 spection during business hours, to any person in interest.

Sec. 53 (l) Upon approving or disapproving any such cer-
2 tificates, the said attorney general shall immediately notify the
3 said city of his action, either by mail or telegram, or both, and
4 shall, as soon as can be done, notify the people in the political
5 division wherein such improvements are to be made, of his
6 approval or disapproval, by notice published in one issue of
7 some newspaper of general circulation in such political di-
8 vision.

Sec. 53 (m) After ten days shall have elapsed from the date
2 of the last publication of the notice by the attorney general
3 in the preceding paragraph mentioned, the said certificates,
4 the validity of which have been approval by the attorney
5 general, shall then become incontestable and shall be valid
6 and binding obligations against the property in said certifi-
7 cate mentioned, and the validity thereof shall not be con-
8 tested thereafter in any court of law or equity: *Provided, how-*
9 *ever,* That any person in interest within said political division,
10 feeling aggrieved by the action of the attorney general in ap-
11 proving or disapproving the validity of such certificates, may
12 within ten days after the date of the publication of the notice
13 provided for in section fifty-three (l) hereof (but not after said
14 ten days), present his or her petition to the supreme court of
15 appeals, or to a judge thereof in vacation, praying that the
16 action of the attorney general in approving or disapproving as
17 aforesaid, be reversed or modified; and if said court, or a judge
18 thereof in vacation, be of the opinion to hear and determine
19 the matters in said petition set out, the case shall be proceeded
20 with as in cases of original jurisdiction, the petitioner shall
21 file with the clerk of the court a bond with securities to be
22 approved by him, and in such sum as the court or judge may
23 fix, for the payment of such costs as may be awarded against
24 him in said court. The clerk of the court shall forthwith no-
25 tify the attorney general of any action taken by the court or
26 judge in vacation, upon such petition, and shall also notify the
27 clerk of the city of Hollidays Cove; and for the hearing thereof
28 the attorney general shall file with the clerk of said court all
29 the papers, documents, evidence and records or certified copies
30 thereof, which were before him and on which he based his ap-
31 proval or disapproval, and before the date fixed for a final
32 hearing, he shall file with the clerk of said court, a written

33 statement of his reasons for the approval or disapproval of
 34 said certificates. Upon the submission of the case, the court
 35 shall decide the matters in controversy, and enter such order
 36 thereon as to it may seem to be just; but hearings upon such
 37 cases shall have precedence upon those arising upon appeals
 38 and writs of error.

Sec. 53 (n) The cost of publishing the notice to property own-
 2 ers directed to be made in the three preceding sections, and the
 3 cost of certifying and copying all records, papers and pro-
 4 ceedings to be used by the attorney general in passing upon
 5 the validity of such certificates, and all necessary expenses in-
 6 curred by the attorney general in connection with any issue
 7 of certificates, shall be paid by the abutting property owners
 8 in the same manner as the actual cost of the construction or
 9 improvement made, if the same be finally approved; and if the
 10 same be finally disapproved, such expense shall be paid out of
 11 the general fund of the city of Hollidays Cove.

Sec. 53 (o) Any certificate or certificates issued under the pro-
 2 vision of this act shall be payable in full at such time when
 3 any interest thereon is payable, upon notice to the holder
 4 thereof in writing, if the holder be known, or, if the holder
 5 is unknown, then by publication of such notice in some news-
 6 paper of general circulation in said city, once a week for four
 7 successive weeks prior to the date when such interest is pay-
 8 able, which notice shall state the number of said certificate or
 9 certificates desired to be redeemed, together with a description
 10 of the property covered by said certificates. Should the holder
 11 of any such certificate or certificates fail or refuse to produce
 12 to the party entitled thereto, such certificate or certificates
 13 at the time mentioned in said notice, and turn over such cer-
 14 tificate or certificates and release the lien created thereby, under
 15 the provisions hereof, upon tender of payment at such time of
 16 the principal of such certificate or certificates in full, together
 17 with any accrued interest thereon, then all interest upon any
 18 such certificate or certificates, unaccrued, shall forthwith cease.

Sec. 53. (p) Any certificate or interest coupon mentioned
 2 in this act and issued for the purpose or purposes mentioned in
 3 section fifty-three (a) hereof, shall be sufficient if the same be in
 4 form or effect as follows:

5
 6

CERTIFICATE.

No.....

7 KNOW ALL MEN BY THESE PRESENT:

8 THAT, WHEREAS, The City of Hollidays Cove, in the Coun-
9 ties of Hancock and Brooke, in the State of West Virginia, has
10 made, or is about to make certain constructions or improve-
11 ments upon a certain street (or upon certain streets) of said
12 City, in accordance with Chapter.....,
13 Sections 53 (a) to 53 (o), both inclusive, of the Acts of the Legis-
14 lature of West Virginia for the year 1931, and in accordance
15 with a certain order or resolution of the council of said City,
16 adopted on the.....day of....., 19....; and,

17 WHEREAS, Such constructions or improvements abut certain
18 real estate of....., described
19 as follows: (Here copy description); and,

20 WHEREAS, The Council of said City has levied upon said
21 property an assessment of.....Dollars to
22 pay the pro rata share of said property, and the owner thereof
23 in and to the cost of such construction or improvement. Now,
24 therefore,

25 THIS INDENTURE WITNESSETH: That the now owner of the
26 property hereinbefore described,heirs and assigns,
27 are obligated to pay to the holder hereof, on or before the.....
28 day of....., 19....., the sum of.....
29 Dollars, with interest thereon from the date hereof, at the rate
30 of six per centum per annum, payable semi-annually until
31 paid, being one-tenth of the total assessment levied against
32 said property, in accordance with the said Order or Resolution
33 of Council, entered on theday of....., 19.....

34 This certificate is one of a series of ten certificates of like
35 tenor or effect, dated an even date herewith, and is payable
36 both as to principal and interest at the office of the Peoples
37 Bank of Hollidays Cove, West Virginia, or at the office of the
38 Clerk of the City of Hollidays Cove, the interest being payable
39 only upon presentation of interest coupons, hereto attached,
40 as they severally become due.

41 The assessment herein mentioned shall constitute a lien upon
42 the property herein mentioned, but the said City of Hollidays
43 Cove shall under no circumstance or circumstances, be held
44 liable for the payment of this certificate or any part thereof,
45 or any interest thereon, either as a guarantor or in any other
46 manner whatsoever.

47 Failure to pay this certificate or any interest thereon within

48 sixty days from the date when the same is due and payable
 49 shall forthwith operate to cause the entire unpaid amount of
 50 the whole assessment of.....Dollars
 51 to become due and payable.

52 IN WITNESS WHEREOF, The City of Hollidays Cove has
 53 caused this certificate to be signed by its Mayor, countersigned
 54 by its Clerk, and its corporate seal to be hereunto attached,
 55 this, the.....day of....., 19.....

56 CITY OF HOLLIDAYS COVE,
 57 *Hancock and Brooke Counties, West Virginia.*

58 [CORPORATE SEAL]

59 By.....
 60 *Mayor.*

61 Countersigned :
 62
 63 *Clerk.*

64 INTEREST COUPON.

65 On the.....day of....., 19....., the
 66 holder hereof is entitled to collect.....
 67 Dollars, being one-half year interest upon Certificate No.
 68 of the City of Hollidays Cove, West Virginia,
 69 subject to all the provisions of said certificate.

70
 71 *Clerk.*
 72 No.....

Sec. 54. Whenever the council shall deem it expedient to
 2 cause any street or alley in said city, or portion thereof to
 3 be paved, curbed or macadamized or otherwise improved in a
 4 permanent manner, upon the petition in writing of persons
 5 owning the greater amount of the frontage of the lots abutting
 6 on both sides of any street or alley, between any two cross
 7 streets or between a cross street and an alley, it shall order the
 8 work done in the following manner and upon the following
 9 terms: The contract for such paving or other improvements
 10 shall after due advertisement in which the council shall reserve
 11 the right to reject any and all bids, be let to the lowest re-
 12 sponsible bidder. Except where the improvement is paid for
 13 by the issuance of certificates as in this act is provided, the
 14 contractor shall look only to the city for the payment of the
 15 work, and in no sense to the abutting land owners. The total
 16 cost of curbing, grading and paving or otherwise improving

17-18 any such street or alley, with the exception in the case of a
19 street occupied by street-car tracks or other railways of the
19^a distance between the rails and two additional feet outside of
20 each rail, which portion shall be borne and paid entirely by the
21 street-car or other railway company operating such street or
22 other railway (unless otherwise provided by the franchise of
22^a such street-car or other railway company granted previous to
23 the passage of this act) shall be borne by the owners of land
24 abutting upon said street, alley or portion thereof, according
25 to the following plan, that is to say: Payment is to be made
26 by all lands owners on either side of such portion of a street
27 or block so paved or improved, in such portion of the total cost,
28 less the portion, if any, chargeable to such street-car or other
29 railway company, as the frontage in feet of his land so abut-
30 ting bears to the total frontage of all land so abutting on such
31 street, alley or portion thereof so paved or improved as afore-
32 said. The cost of such paving or improvement chargeable to
33 the abutting owners is not to include any portion or amount
34 paid for paving of squares at intersection of streets, which
35 shall in all cases be borne and paid by this city. When the
36 paving of any street or alley, or portion thereof, shall have
37 been let to contract, it shall be the duty of the engineer of
38 such city to cause the several frontages abutting thereon to be
39 measured and to calculate the assessment upon each and every
40 land owner so abutting, adding to the contract price all other
41 charges, costs and expenses necessary to complete said im-
42 provements and to certify the same to the council showing the
43 proper amount to be determined as provided in the foregoing
44 plan. It shall be the duty of the council to examine and com-
45 pare such assessment, amounts and names so certified to it,
46 and thereupon said council shall give notice by publication for
47 one issue in some newspaper of general circulation in said city,
48 that an assessment under this section is about to be laid against
49 the abutting property for paving or improvements done on
50 said streets or alleys, describing the location of such paving
51 or improvements, and any owner or owners thereof shall have
52 the right to appear before said council within two weeks from
53 such publication thereof, and move said council to correct any
54 apportionment or assessment excessively or improperly made
55 as charged, with corrections said council shall have the power
56 to make, and if found to be correct, or when corrected by the

57 council, as aforesaid, it shall enter the same together with a
58 description of the lots of land as to location, frontage, depth
59 and ownership, so far as the same may be ascertained, upon
60 its records, and to enter in its records that such owners and
61 lots be assessed and chargeable with the amount so ascertained
62 to be borne by them, respectively, and when so approved, cer-
63 tified and entered of record, the same shall be and constitute
64 an assessment against said owners and lots for such respective
65 amounts. And except where the cost of such improvement is
66 paid by the issuance of certificates, it shall be the duty of the
67 council to immediately certify such assessments to the treasurer
68 for collection as herein provided, and a copy of said order shall
69 be certified by the clerk to the clerk of the county court of the
70 county wherein said property is situated, who shall be required
71 to record and index the same in the property trust deed book
72 in the name of each person against whose property assessments
73 appear therein. The amounts so assessed against said abutting
74 land owners shall be paid in ten payments as follows: That
75 is to say, one-tenth of said amount, together with interest on
76 the whole assessment for one year, shall be paid unto the city
77 treasurer of the city, or the holders of any assessment cer-
78 tificate before the first day of May next after said assessments
79 have been certified to the county clerk. And a like one-tenth,
80 together with interest for one year upon the whole amount re-
81 maining unpaid on or before the first day of May in each suc-
82 ceeding year thereafter, until all has been paid and each of
83 said installments of one-tenth, beginning with the first, shall
84 bear interest on the amount of said installment at six per
85 centum per annum from the date of the making of the assess-
86 ment as herein provided, until paid: *Provided, however,* That
87 any abutting owner so liable for any portion of the cost of
88 such paving shall have the right at any time after the same is
89 certified as aforesaid, to the treasurer for collection, to antici-
90 pate the payment of any or all of said assessments, and shall
91 be allowed to pay the face of said assessment with interest at
92 six per centum per annum only to the time of payment. To
93 each of such installment of assessments remaining unpaid in
94 the treasurer's hands on the days herein specified for the pay-
95 ment thereof, a penalty of ten per centum shall be added and
96 except in cases where certificates are issued, any assessments
97 so remaining unpaid in the treasurer's hands on such date

98 shall be taken up by the council, and thereupon such council
99 shall place such assessments with the penalty added thereto,
100 in the hands of the city treasurer or other officer of said city,
101 whose duty it is to collect delinquent taxes and assessments to
102 be treated and considered, and payment thereof enforced in
103 all respects as herein provided for the collection of taxes due
104 the city, and they shall be a lien upon the property liable
105 therefor, the same as for taxes, which lien may be enforced in
106 the same manner as provided for taxes. The liens hereinbefore
107 provided for shall have priority over all other liens, except
108 those for taxes due the state and shall be on a parity with
109 taxes and assessments due the city. Whenever all such assess-
110 ments for paving, sewerage or curbing, macadamizing or other
111 improvements shall be paid in full to the treasurer, he shall
112 deliver to the party paying the same a release of a lien there-
113 for, which may be recorded in the office of the clerk of the
114 county court as other releases of liens, and whenever any such
115 assessments shall be shown to the satisfaction of the mayor or
116 other official performing the duties of mayor, to have been paid
117 in full to any officer entitled to receive the same, such mayor
118 or official may in like manner execute such release.

Sec. 55. Whenever the council shall order the construction of
2 any public sewer in said city, the owners of the property abut-
3 ting upon any street in which such sewer shall be constructed,
4 shall be charged with and liable for sewerage assessments as
5 follows: When a contract has been let for said sewer, the
6 engineer of such city shall report to the council, in writing, the
7 total cost of such sewerage, including all costs, charges and
8 expenses necessary to complete same, and a description of the
9 lots of land as to the location, frontage, depth, and ownership
10 liable for such sewer assessment, so far as the same may be
11 ascertained, together with the amount chargeable against each
12 lot and owner, estimated on the basis of one dollar per foot for
13 inside lots, and one dollar and twenty-five cents per foot for
14 corner lots, frontage measures on said sewer being considered,
15 except that such estimate as to corner lots fronting thereon and
16 having a greater depth than one hundred and fifty feet shall
17 be estimated at one dollar and fifty cents per foot frontage, and
18 any lot having a depth of two hundred feet or more and front-
19 ing on two streets, one in front and another in the rear of said
20 lot, shall be assessed on both of said streets, if a sewer is con-

21 structed on both streets, or if fronting on a street running back
22 two hundred feet or more to an alley, shall be assessed on both
23 the street and the alley if a sewer shall be constructed on both
24 street and alley; where a corner lot has been assessed on one
25 end, it shall not be assessed on the side; and thereupon said
26 council shall give like notice by publication as is required in
27 case of street paving assessments, and the same rights shall
28 exist as to the persons and property affected and the same duty
29 as to corrections by said council as are prescribed with reference
30 to paving, which report shall in like manner be examined by
31 the council, and if found to be correct or corrected as aforesaid,
32 and such estimated assessments to be a fair and equitable ap-
33 portionment of the cost of such sewer, it shall enter an order
34 upon its record setting forth such location, depth, ownership
35 and said amount of such sewer assessment, against each, respec-
36 tively, calculated as aforesaid, and the entry of such order shall
37 constitute and be an assessment for such proportion and amount
38 so fixed therein against such respective owners and lots, and if
39 after such advertisement, notice and hearing said council shall
40 find that such apportionment at such rate is unjust, or in-
41 equitable, it shall ascertain, fix and assess the cost thereof
42 among and upon the abutting owners respectively, justly and
43 equitably, and in like manner assess and enter the amount so
44 fixed respectively upon its records, and the council shall, in
45-55 either event thereupon certify the same to the treasurer for
56 collection, and certify a copy of such order to the clerk of the
57 county court of the county wherein said abutting property is
58 situate, who shall record the same in the proper trust deed book,
59 and index the same in the name of each owner of any such lot
60 so charged with such assessment, and such assessment so made
61 shall constitute and be a lien upon said lots respectively, which
62 shall have priority over all other liens except those for taxes
63 due the state, and shall be a parity with other taxes and assess-
64 ments due the city and shall be paid by the parties liable there-
65 for to the said treasurer or to the party holding any certificate
66 as in this act is provided, at all times in the manner and with
67 the attendant penalties for failure to pay promptly at the time
68 prescribed in all respects as hereinbefore provided in the case of
69 assessments for paving streets and alleys in a permanent man-
70 ner, and the parties liable therefor shall in the same manner
71 and to the same extent have the right and be entitled to antici-

72 pate any or all of such installments thereon as in such case pro-
73 vided. The liens herein and hereinbefore provided for street
74 paving, macadamizing, sewerage assessments and assessments
75 for other improvements shall constitute liens upon the real
76 etate upon which they are assessed, as against creditors of the
77 owners thereof, or purchasers for value, and without actual
78 notice of such liens only from and after the time that the state-
79 ment thereof certified as aforesaid, shall be filed for record in
80 the office of the clerk of the county court of the county wherein
81 said abutting property is situate.

Sec. 56. Whenever it is deemed expedient by the council of
2 said city to provide for the grading, paving, curbing, sewerage,
3 macadamizing or otherwise improving any street or alley there-
4 in, or constructing any sanitary sewer, to be paid for in whole
5 or in part by special assessments, said council shall declare by
6 resolution, three-fifths of the whole number elected thereto con-
7 ccurring by an aye and no vote, the necessity of such improve-
8 ment. At the time of the passage of said resolution, the council
9 shall have on file in the office of the city clerk, plans, specifica-
10 tions, estimates and profiles of the proposed improvements,
11 showing the proposed grade of the street and improvement,
12 after completion, with reference to the property abutting there-
13 on, which plans, specifications, estimates and profiles shall be
14 open to the inspection of all persons interested. Said resolu-
15 tion shall determine the general nature of the improvement,
16 what shall be the grade of the street, alley or other public
17 place to be improved, as well as the grade or elevation of the
18 curbs, and said council shall approve the plans, specifications,
19 estimates and profiles for the proposed improvement. Council
20 shall also determine in said resolution the method of paying
21 for the work contemplated in said plans and specifications,
22 whether by an appropriation for funds in the treasury un-
23 appropriated, or whether or not by the issuance of certificates
24 as in this act is provided, or whether or not bonds shall be
25 issued in anticipation of the collection of special assessments
26 to be made against the abutting property owners, as provided
27 for in this chapter. Assessments shall be payable in ten install-
28 ments as provided for herein. The resolution herein provided
29 for, declaring the necessity for such improvement, shall, after
30 its adoption, be published in some newspaper of general circu-
31 lation in the city for one issue of such newspaper, and an affi-

32 davit with a copy of such notice attached shall be filed with the
33 clerk of the council. Said resolution shall be in effect from and
34 after the publication thereof, as herein provided for.

Sec. 57. A notice of the passage of the resolution required
2 in the last preceding section, embodying a copy of said resolu-
3 tion, shall be served upon the owner of each piece of property
4 to be assessed, said service to be made in the manner provided
5 in section one of chapter one hundred and twenty-one of Barnes'
6 code of West Virginia of one thousand nine hundred
7 twenty-three: *Provided*, That if any of the owners or persons
8 be not residents of the county wherein said improvement is
9 proposed, or if it appears by the return in any case that the
10 owner cannot be found, then a notice of the passage of said
11 resolution shall be published in some newspaper of general cir-
12 culation in the city in which said improvement is proposed to
13 be made, once a week for two successive weeks, and such notice,
14 whether by service or publication, shall be completed at least
15 three days before said improvement is begun or the assessment
16 is levied and the return of the officer serving such notice or a
17 certified copy of said return, or where published, the certificate
18 of the publisher of said newspaper shall be prima facie evidence
19 of the service of the notice as herein required. *Provided further*,
20 That if the owner be a railroad company or other corporation,
21 that notice shall be served upon some agent or attorney for said
22 railroad company or corporation, within Hancock or Brooke
23 county: *Provided*, That there be such agent or attorney for
24 said railroad company or corporation within such county, and
25 such service shall be made two weeks before said improvement
26 is begun or the assessment is levied. Notice upon infants may
27 be served on their guardians and upon insane persons by serv-
28 ice upon their committee.

Sec. 58. Except as otherwise in this act provided, the city
2 shall pay the cost of paving the intersections at all cross streets
3 (but not including the places where private alleys or private
4 crossings cross the sidewalk, which shall be paid by the owner
5 or owners of said private alley or crossing at the time the
6 paving is laid on said crossing): *Provided*, That whenever
7 special assessments shall be hereafter levied under the provisions
8 of this chapter, made for the improvement of any street or
9 other public place (other than sidewalks) the property so

10 assessed shall not, except where otherwise herein so provided,
11 again be assessed for more than half the cost and expense of
12 repaving or repairing such street or other place, unless the
13 grade be changed; but, this exception shall not apply to the
14 paving of streets or other public places which were paved
15 or improved before the passage of this act.

Sec. 61. In any case in which special assessments have been
2 or shall hereafter be made upon property for the construction
3 of any improvements authorized by this act, and several kinds
4 of material have been named in the ordinance or ordinances
5 providing for the same, and on which bids have been received
6 for the construction of said improvement with any, either or
7 all of said materials, said assessments shall be valid and binding
8 assessments upon the property so assessed. In the case of the
9 construction of sewers required under the provisions of this act,
10 notice of the passage of said resolution as provided for herein
11 shall be made in the manner provided for in case of paving.

Sec. 73. It is hereby provided that any assessment, whether
2 the same be special or otherwise made upon property for any
3 of the purposes provided for in this act, may be collected in any
4 one of three ways:

5 *First:* By levy upon the personal property of the party or
6 parties against whom the said assessment is made.

7 *Second:* By returning delinquent to the auditor the real
8 estate of the party or parties against whom the said assessment
9 is made, in which case they shall be returned by the auditor to
10 the sheriff and the real estate sold by the sheriff the same as
11 provided by general law for the collection of state and county
12 taxes, or

13 *Third:* By a suit in chancery in the circuit court of
14 Hancock county, West Virginia, wherein the court may enter
15 a decree appointing a special commissioner to sell the real
16 estate upon which a lien is created by the provisions of this act
17 by reason of any improvements herein mentioned and the pro-
18 ceeds of such sale shall be distributed as follows:

19 (1) To the payment of the costs and expenses of such suit
20 and sale, including a reasonable fee to the attorney for the city
21 for his services in connection with said suit.

22 (2) To the payment of such assessment, penalty and
23 interest and the remainder, if any, shall be paid to the de-
24 fendant owner or owners of such real estate.

Sec. 92. The mayor may, in his discretion, from time to time, appoint, discharge and subject to the limitations contained in this act, fix the salaries of such number of police officers, with such rank as he shall deem proper.

The jurisdiction of all police officers appointed by the mayor under the provisions of this act shall extend to all parts of the city of Hollidays Cove, and to such other parts of Brooke county, West Virginia, and Hancock county, West Virginia, as do not exceed five miles in distance from said city.

All police officers appointed by the mayor under the provisions of this act are hereby authorized and empowered, within their jurisdiction as herein provided, as follows:

First: To make arrests of any and all persons charged with the violation of any ordinance of the city, or of any law of this state, or of the United States, and, when a witness to the perpetration of any offense or crime, or to the violation of any ordinance of the city or of any law of this state or of the United States, may arrest without warrants; to arrest and detain any and all persons suspected of the commission of any felony or misdemeanor, whenever complaint is made and a warrant is issued thereon for such arrest, and any and all persons so arrested shall be forthwith brought before the proper tribunal for examination and trial in the city or county within their jurisdiction where the offense for which any such arrest has been made was committed.

Second: To serve criminal process issued by any court or justice of the peace, anywhere within their jurisdiction: *Provided, however,* That they shall not serve civil process.

Third: To cooperate with constables, sheriffs, deputy sheriffs, officers of the department of public safety, officers of the prohibition department, and federal authorities in detecting crime and in apprehending any person or persons engaged in or suspected of the commission of any crime, misdemeanor or offense against the law of this state, or of the United States.

Fourth: To serve and execute warrants for the arrest of any person and warrants for the search of any premises, issued by any properly constituted authority, and shall generally exercise all the powers conferred by law upon a sheriff, constable or any other peace officer of this state, except that they shall not serve any civil process or exercise any of the powers of such officers in matters of a civil nature.

42 *Fifth:* Any police officer appointed under the provisions
 43 hereof, knowing or having reason to believe that anyone has
 44 violated the law within their jurisdiction, may make complaint
 45 in writing before any court or officer having jurisdiction, and
 46 procure a warrant for such offender, execute the same, and
 47 bring such person before the proper tribunal having jurisdic-
 48 tion. Such police officer shall make return on all such warrants
 49 to said tribunal, and his official title shall be "police officer of
 50 the city of Hollidays Cove," and such return shall have the same
 51 effect as if made by a sheriff.

52 *Sixth:* All police officers appointed under the provisions of
 53 this act shall have the right, at any place within their jurisdic-
 54 tion, to carry about their person, or otherwise, any revolvers,
 55 pistols or other weapons who shall have first given bond before
 56 the clerk of said city, with surety to be approved by said clerk,
 57 in a penalty of not less than thirty-five hundred dollars, condi-
 58 tioned for their faithful performance of their respective duties,
 59 which said officers shall be liable under their said official bond,
 60 for the damages done by the unlawful or careless use of any
 61 such weapon, whether such bond is so conditioned or not.

62 *Seventh:* No police officer appointed under the provisions
 63 hereof shall do anything or act until he shall first have filed
 64 his affidavit before the clerk of said city of Hollidays Cove,
 65 which affidavit shall be in form or effect as follows:

66 STATE OF WEST VIRGINIA,

67 COUNTY OF HANCOCK.

68 I do solemnly swear that I will support the Constitution of
 69 the United States and of the State of West Virginia, and that
 70 I will perform my duties as police officer of the city of Holli-
 71 days Cove, West Virginia, to the best of my skill and judgment,
 72 so help me God.

73

74 Subscribed and sworn to before me, this.....day of

75, 19.....

76

77 Notary Public.

Sec. 92 (a). In addition to all such police officers, if any, as
 2 may be appointed by the mayor under the provisions of this
 3 act, the council may, in regular or special session, a majority of
 4 the members elected to said council concurring therein by an
 5 aye and no vote, appoint such additional number of police

6 officers as in the judgment of council is proper, and shall in
7 the same order or resolution provide for the compensation of
8 any such police officer or police officers so appointed by it:
9 *Provided, however,* That no police officer appointed by council
10 or by the mayor, under the provisions of this act, shall receive
11 a greater salary than three thousand dollars a year.

12 The jurisdiction, rights, authority and powers of all police
13 officers appointed by council under the provisions hereof shall
14 be the same in every respect as is provided in section ninety-two
15 hereof, for police officers appointed by the mayor.

Sec. 92 (b). Police officers appointed under the provisions of
2 this act by the mayor may be discharged by the mayor at his
3 will, or they may be discharged by the council at any regular
4 or special meeting thereof, all of the members of council at-
5 tending such meeting voting in favor of such discharge: *Pro-*
6 *vided, however,* That no police officer, appointed by the mayor,
7 shall be discharged by council until he shall receive at least
8 five days' notice from the clerk of said council, stating that at a
9 time to be mentioned in said notice, the council will take up the
10 matter of his retention or discharge.

Sec. 92 (c). Where any police officer or police officers is or
2 are appointed by council under the provisions of this act, he, she
3 or they may be discharged only by council, a majority of the
4 members of council attending the meeting at which such dis-
5 charge is acted upon voting in favor of such discharge: *Pro-*
6 *vided,* That no advance notice, in this instance, of the contem-
7 plated action of council, need be given any such police officer
8 or police officers.

Sec. 103. The council shall have authority to levy and collect
2 any annual tax on real estate and personal property in said
3 city, and to impose a license and assess a tax thereon on wheeled
4 vehicles for public hire, and for all dogs kept within said city,
5 and to impose a tax upon all other subjects of taxation under
6 the several laws of the state which shall be uniform with respect
7 to persons and property within the jurisdiction of said city,
8 and shall only be levied on such property, real, personal and
9 mixed, on which the state imposes a tax: *Provided,* That no
10 greater levy shall be laid by said council on taxable property
11 of said city than one dollar upon each one hundred dollars of
12 the assessed valuation of the property of the municipality,

13 unless such greater levy shall be authorized by a vote of the
14 people at an election held pursuant to said chapter nine of the
15 acts of the legislature of the year one thousand nine hundred
16 eight, and subject to all the provisions of chapter eight and any
17 and all amendments thereto, except as herein provided. There
18 shall be a tax of two dollars annually assessed on each and
19 every inhabitant of said city over the age of twenty-one years,
20 who is subject to a capitation tax under the laws of the state
21 of West Virginia. The same shall be set out and included in
22 the personal property book against every such inhabitant, and
23 shall be collected under the authority of the city at the time of
24 collecting other levies and taxes.

Sec. 103 (a). All property, whether real, personal or mixed,
2 of every nature whatsoever, which under the provisions of sec-
3 tion two of this act is located within the boundaries of the city of
4 Hollidays Cove, shall be liable for taxes assessed by the council
5 of said city, for the year one thousand nine hundred thirty-
6 one, regardless of whether or not such property was located
7 within the boundary lines of the city of Hollidays Cove prior
8 to the passage and approval of this act.

Sec. 104. The city treasurer or tax collector shall have the
2 power to collect the city taxes except as otherwise provided in
3 this act, and he shall also have power to collect the city claims
4 which may be placed in his hands by the council for collection,
5 except that fines imposed by the police judge or mayor shall not
6 be collected by him.

7 All acts and parts of acts in conflict with this act are hereby
8 repealed.

CHAPTER 76

(Senate Bill No. 215—By Mr. Smith)

AN ACT to amend and re-enact certain sections of chapter eleven
of the acts of the legislature of one thousand nine hundred
and twenty-one (municipal charters), as amended, in whole or
in part, by chapter seventy-seven of the general acts of one
thousand nine hundred and twenty-three, and chapter twenty-
seven of the acts of one thousand nine hundred and twenty-
five (municipal charters), and chapter seventeen of the acts
of one thousand nine hundred and twenty-seven (municipal

charters), and chapter eleven of the acts of one thousand nine hundred and twenty-nine (municipal charters), in relation to the charter of the city of Huntington.

[Passed March 12, 1931; in effect from passage. Approved by the Governor.]

- SEC.
3(a). Territorial limits of first ward.
18. Additional municipal officers; abolition or combination of officers by board of commissioners; what officers appointed by mayor or by board of commissioners.
20. Nominations for elective officers.
30. Removal of appointive officers, with or without cause, by mayor or board of commissioners.
43. How vacancy in office of mayor or commissioner filled; removal, if

- SEC.
44(a). Mayor to designate vice-mayor; duties.
75. Civil service board, number, removal, term, powers and duties and examinations by; appointments to police and fire departments; suspension, trial, dismissal or reinstatement of appointees; rules for government of civil service appointees; rules governing examinations.

Be it enacted by the Legislature of West Virginia:

That sections three, eighteen, twenty, thirty, forty-three, forty-four, seventy-five, seventy-six, seventy-seven, and seventy-eight of the acts of the legislature of one thousand nine hundred and twenty-one (municipal charters), if and as amended, in whole or in part, by chapter seventy-seven of the general acts of one thousand nine hundred and twenty-three, and chapter twenty-seven of the acts of one thousand nine hundred and twenty-five (municipal charters), and chapter seventeen of the acts of one thousand nine hundred and twenty-seven (municipal charters), and chapter eleven of the acts of one thousand nine hundred and twenty-nine (municipal charters), in relation to the charter of the city of Huntington, be amended by changes, additions and/or consolidations, and re-enacted so as to read as follows:

That section three be amended by adding thereto a new section, designated section three(a), as follows:

Section 3(a). That all of the territory added to the corporate limits of the city of Huntington by chapter eleven of the acts of one thousand nine hundred and twenty-nine (municipal charters), shall be and remain a part of the first ward of said city, as heretofore established, bounded and described by and in section three.

Sec. 18. In addition to the municipal authorities mentioned in sections four and seven of this act, the city shall have a city clerk, treasurer, auditor, police judge, city attorney, chief of police, chief of fire department, city engineer, and such other officers and agents now existing and as the board of commissioners may hereafter change or create. The board of commissioners shall have the right to abolish any office which now

8 exists, or to combine the duties of two or more offices, but it
9 shall not have the power to create any new office except by
10 ordinance made and adopted in the manner provided in this
11 act. The mayor shall have the sole and exclusive right to name
12 and appoint the police judge, the chief of police, chief of the
13 fire department, and the city jailer, and all other officers in the
14 police department and fire department who as such are not
15 under civil service.

16 All other officers and employees of the city (excepting those
17 under civil service) shall be named, appointed and elected by
18 the board of commissioners.

Sec. 20. Candidates to be voted for at any general municipal
2 election for mayor or for the other members of the board of
3 commissioners, or members of the citizens board, shall be nomi-
4 nated on the fourth Monday in April preceding such election,
5 in the same manner as candidates for state and county offices
6 are nominated under the general election laws of the state.

Sec. 30. All officers appointed exclusively by the mayor (as
2 provided in section eighteen) shall hold their respective offices
3 at the pleasure of the mayor, and may be removed from office
4 by the mayor for or without cause, and all officers who are
5 appointed by the board of commissioners shall hold their re-
6 spective offices at the pleasure of the board, and may be removed
7 from office by the board for or without cause.

Sec. 43. If there shall occur at any time a vacancy in the
2 office of mayor or in the office of commissioner, by death, resig-
3 nation or removal from office hereinafter provided, the citizens
4 board shall fill such vacancy by appointment for the unexpired
5 term, and for that purpose the citizens board shall immediately
6 convene; but the person so appointed to fill any such vacancy
7 shall be of the same political party as the mayor or commis-
8 sioner whose office is vacated.

9 If the citizens board, after an investigation and hearing,
10 should find that the mayor or any commissioner is permanently
11 incapacitated for the performance of his duties during the re-
12 mainder of his term of office, the board may, by a vote of two-
13 thirds of its members, declare the office vacant. The mayor or
14 any commissioner may also be removed from office for cause
15 as provided in said act of one thousand nine hundred and
16 twenty-one. The person so appointed shall take and subscribe

17 to the oath of office and execute bond required by said act of
18 one thousand nine hundred and twenty-one.

Sec. 44. That section forty-four be amended by adding there-
2 to a new section, designated forty-four(a).

Sec. 44(a). The mayor shall, on entering upon the duties of
2 his office, designate and file with the city clerk (and shall
3 record the same in the minute book) the name of one of the
4 other two commissioners as vice-mayor of the city, which other
5 commissioner so designated shall, under the title of vice-mayor,
6 perform the duties of the mayor, so far as required, by the
7 mayor, during the absence of the mayor from the city or when
8 required by the citizens board while he is otherwise temporarily
9 incapacitated.

Sec. 75. The city shall create a board of five to be styled
2 "the civil service board", consisting of four members and
3 the president of the citizens board, ex officio, who shall pre-
4 side at all meetings of the board, but shall have the right to
5 vote only in case of a tie on any question arising before the
6 board. The citizens board shall appoint two members for the
7 board from each of the dominant political parties of the city,
8 and who shall not be a member of the citizens board or hold
9 an office or position with the city.

10 A member of the civil service board may be removed from
11 office in the manner and for the causes provided for the re-
12 moval of the mayor. The term of office of the members of
13 said board shall be the same as that for which the mayor was
14 elected.

15 The duties of the civil service board shall be to examine
16 and certify all applications for positions in the police depart-
17 ment or fire department, except the chiefs thereof; to hear and
18 determine all appeals made by members of either of those
19 departments, who are under civil service; to hear evidence,
20 summons witnesses and render judgments in all cases in which
21 charges have been preferred against any officer of either of
22 those departments; to make promotions, upon the reommenda-
23 tion of the mayor, of members of either of the departments
24 when it is deemed advisable for increased efficiency; to pre-
25 scribe rules for the conduct of the members and officers of
26 those departments; to make rules and regulations governing
27 the actions of the board and to keep the same in the records
28 of its proceedings.

29 The civil service board shall hold meetings for the purpose
30 of examining and certifying the eligibles to the appointment
31 of the police department and fire department, and to that end
32 shall give at least ten days' public notice of the time, place and
33 purpose of such meetings. The board may be called into
34 special session by its president or by a majority of its members
35 for the purpose of disposing of any matters coming within its
36 purview. The board shall hold at least two meetings during
37 any calendar year, and as many more meetings as may be
38 necessary to meet the requirements for the efficient manage-
39 ment of its affairs.

40 The city clerk shall be ex-officio clerk of said board.

41 Appointments to the police department and fire department
42 shall be made from the applicants of said respective positions,
43 which applicants, under civil service examinations, receive an
44 average grade of sixty or more, giving preference to the ap-
45 plicant receiving the highest grade and whose grade certificate
46 is the oldest, and likewise making such appointments so as not
47 to give either of the dominant political parties in the city, as
48 nearly as may be, more than one-half of the total number of
49 men under civil service in either department. When the list
50 of names of applicants who are eligible as prescribed in this
51 section shall have been exhausted, or when either dominant
52 political party shall be entitled to appointment and there shall
53 be no member of such party eligible on the list, then such ap-
54 pointment may be made from the list of persons who may
55 apply therefor, disregarding those applicants who stood the
56 civil service examination and received thereon a grade below
57 sixty.

58 All persons now under civil service in either of said depart-
59 ments shall have advantage of civil service and shall continue
60 in office, unless removed for cause and in the manner provided
61 in this section.

62 The mayor, or chief of either the police department or fire
63 department by and with the mayor's consent, may, as a matter
64 of discipline, suspend, without pay, for a period of not ex-
65 ceeding thirty days, any officer or member of either of those
66 departments, for just cause, by giving such officer or member
67 written notice of such suspension, defining the cause or causes
68 therefor. Such suspended officer or member shall have the
69 right, within ten days, but not later, to appeal to the civil

70 service board, if he deems such suspension unjust. If such
71 accused officer or member, upon a hearing before the civil
72 service board, is found not guilty, then he shall immediately
73 report for duty, and he shall be paid for the time lost by his
74 suspension. The mayor may, upon evidence which he deems
75 sufficient, dismiss any member of the police department or fire
76 department, by giving written notice to such person, clearly
77 defining the charges preferred against him, and fixing a time,
78 not later than ten days from that time, on which such member
79 may appear for trial before the civil service board; and should
80 the board, upon trial, find him guilty of the charges preferred,
81 the dismissal by the mayor shall stand affirmed, without pay
82 from the time of his dismissal by the mayor. But if such
83 person shall be acquitted of the charges preferred by the
84 mayor, he shall be reinstated to his position and shall be paid
85 for the time lost by him because of his dismissal by the mayor.
86 The action of the civil service board thereabout, in either of the
87 event of suspension or dismissal by the mayor as aforesaid,
88 shall be final, and no appeal therefrom shall lie.

89 The civil service board may make reasonable rules governing
90 the conduct of all persons while on duty and off duty, who are
91 under civil service; and the violation of such rules may be
92 cause for suspension or dismissal as provided in this section;
93 but causes for suspension or dismissal, as herein provided, is
94 not limited to the violation of said rules promulgated by the
95 board.

96 In making examinations and determining the fitness and
97 qualifications of applicants for positions the civil service board
98 shall take into consideration the size, age, health, physical ap-
99 pearance, habits, and moral surroundings of the applicant; and
100 after such examinations the board shall at once place on record
101 in the minutes of the civil service board the result of such
102 examination, giving the names of the applicants, positions
103 sought by them, and their respective percentages based on one
104 hundred, and stating the political party, if any, to which the
105 applicant holds allegiance.

106 All other acts and parts of acts coming within the purview
107 of this act, and inconsistent herewith, and not included in the
108 provisions of this act, are hereby repealed.

CHAPTER 77

(House Bill No. 297—By Mr. Rife)

AN ACT to amend and re-enact section two of chapter eleven of the acts of the legislature (municipal charters) of one thousand nine hundred twenty-nine, relating to the charter of the city of Huntington.

[Passed February 26, 1931; in effect from passage. Approved by the Governor.]

SEC.

2. Corporate limits.

Be it enacted by the Legislature of West Virginia:

That section two of chapter eleven of the acts of the legislature (municipal charters) of one thousand nine hundred twenty-nine, relating to the charter of the city of Huntington, be amended and re-enacted so as to read as follows:

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

3 Beginning at a stake at low-water mark of the Ohio river,
4 southerly side thereof, about a mile above the mouth of the Guy-
5 andotte river, in the west side of the Peck farm; thence souther-
6 ly with the west line of the Peck farm to the top of the river hill;
7 thence leaving the corporation line as heretofore established,
8 and continuing southerly with the west line of the Peck farm
9 and with the property lines in a general southerly direction
10 to the south line of the Chesapeake and Ohio railway com-
11 pany right-of-way; thence easterly and with the said south
12 right-of-way line of the Chesapeake and Ohio railway company
13 to a point where said line intersects with the west line of Fifth
14 street as shown upon plat number one of Altizer place, a map
15 of which was filed in the county court clerk's office of Cabell
16 county, West Virginia; thence with the westerly line of said
17 Fifth street southerly to the northerly line of state road number
18 three (now known at this point as Riverside drive); thence
19 westerly with the northerly line of said state road number three
20 to the easterly line of the International Nickel company prop-
21 erty; thence northerly with the east line of said International
22 Nickel company property to the southerly right-of-way line
23 of the Chesapeake and Ohio railway; thence westerly with
24 the south line of said railway company right-of-way line to the
25 top of the west bank of Pat's branch; thence southwesterly with

26 the west bank of Pat's branch to the southerly line of state road
27 number three; thence with said southerly line of said state road
28 number three and therewith in an easterly direction to a point
29 in said line where said state road number three turns in the
30 southerly direction to cross the Guyan river; thence continuing
31 with the west line of said state road number three southerly
32 to the south bank of Guyan river; thence westerly with the
33 south bank of the Guyan river to the east line of Elwood ave-
34 nue, as said latter line is shown on a map of Arlington addition,
35 Huntington, West Virginia, Arlington Land company, owners,
36 a subdivision of said city of Huntington, which said map was
37 made by R. W. Breece, engineer, and dated March twenty-eight,
38 one thousand nine hundred twenty-five, a copy of which map
39 is now filed in the office of the clerk of the county court of said
40 Cabell county; thence in a southerly direction along and with
41 the east side of Elwood avenue to the southerly side of Wash-
42 ington boulevard, as shown on said map; thence in an easterly
43 direction with the southerly line of Washington boulevard con-
44 tinuing with the same to the point of juncture of Washington
45 boulevard with Arlington boulevard, and thence continuing in
46 a southerly direction with the westerly line of Arlington boule-
47 vard to a point which is five hundred feet south of the top of the
48 bank of Guyan river; thence in an easterly direction at a right
49 angle to Arlington boulevard to a point in the southeasterly
50 corporation line of the city of Huntington, as heretofore con-
51 stituted by chapter one hundred fifty of the acts of the legisla-
52 ture of one thousand nine hundred one; thence south and then
53 westerly with said corporation line to the Huntington-Hamlin
54 pike; thence in a straight line and westerly direction to a point
55 on the west side of the McCoy (Eighth street) road two feet
56 northeast of the northeasterly corner of the F. L. Weymouth
57 land; thence westerly across the McCoy road to the northeast-
58 erly corner of the F. L. Weymouth land; thence following the
59 northeasterly line of the F. L. Weymouth land and the northerly
60 line of the land of F. L. and F. A. Weymouth to the intersection
61 of the present corporation line at the left fork of Hisey creek;
62 thence westerly with the northerly bank of the said left fork to
63 its intersection with the right fork; thence westerly with the
64 northerly bank of Hisey fork of Four Pole creek to a point
65 in the center of the Hisey fork of Four Pole creek, a corner of
66 Mrs. F. L. Whittaker and the Andrew J. Cox estate, thence in

67 a southerly direction and with the west line of the said Whit-
68 taker land to the southwesterly corner of same; thence con-
69 tinuing with the south line of the said Whittaker land in a
70 southeasterly direction to a large white oak, a corner to the Wm.
71 Long land (now Mullins), which is also the most southern cor-
72 ner to the said Whittaker land and on the Porter ridge, thence
73 southwesterly with the Long and Overby (now Mullins) lands
74 and with said Porter ridge to the northeast corner of the Ollis
75 Simmons land; thence with the east line of said Simmons land
76 and continuing with said Porter ridge to the northeast corner
77 of Sam Simmons land; thence with the east line of said Sam
78 Simmons land and the said Porter ridge in a southerly direc-
79 tion to the northeast corner of T. H. Reece's land; thence with
80 the north line of same and with said Porter ridge in a southeast-
81 erly direction to the southeast corner of said Reece's land;
82 thence with the east line of said Reece in a southerly direction
83 and with said Porter Ridge to a locust stump, a corner to the
84 said T. H. Reece and Oliver Morrow; thence in a southwesterly
85 direction and with the line between said Reece and Morrow
86 and continuing with said Porter ridge to the most southerly
87 corner of said Reece's land and on top of said Porter ridge;
88 thence leaving the said Reece and Morrow line and running
89 through the said Oliver Morrow lands in a southwesterly di-
90 rection and with the center of the main Porter ridge to the
91 Wayne county line, and with Wayne county line in a north-
92 westerly direction to a point in the south right-of-way of the
93 Chesapeake and Ohio railroad right-of-way; thence continuing
94 with the southerly line of the right-of-way of said railway com-
95 pany to the point of its intersection with the easterly corpora-
96 tion line of the town of Ceredo in Wayne county; thence in a
97 northerly direction with the said east corporation line of the
98 town of Ceredo to the southerly boundary line of the proposed
99 state road; thence easterly with the said southerly boundary of
99a the proposed state road, a distance of three hundred feet;
99b thence due north to the northerly boundary of the proposed
99c state road; thence westerly along the northerly boundary of
99d the proposed state road to the said easterly corporation line of
100 the town of Ceredo in Wayne county; thence in a northerly
101 direction with said easterly corporation line of the town of
102 Ceredo to the low-water mark of the southerly side of the Ohio

103 river; thence easterly with said low-water mark of the Ohio
104 river to the point of beginning.

105 *Provided*, That the territory embraced relating to that part
106 of the boundary line in Wayne county shall always remain in
107 Wayne county.

CHAPTER 78

(House Bill No. 257—By Mr. Fazenbaker)

AN ACT to amend and re-enact sections thirty and thirty-one, chapter eighty-nine, of the acts of the legislature of West Virginia, of one thousand nine hundred thirteen, passed on the third day of February, one thousand nine hundred thirteen; and known as the charter of the city of Keyser, relating to the authority of the city clerk, the city treasurer, collector and police judge; and repealing all acts and parts of acts inconsistent with this act.

[Passed March 2, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.
30. City clerk, term, oath of office and bond; duties as to records and city elections; notarial powers; to act as assessor; powers as assessor; city to furnish office; to be police judge; powers as police judge; appeal from decision; power to parole; record as police judge; to be city collector; pow-

SEC.
ers and bond as city collector; monthly report to council; quarterly reports; to be city treasurer; may appoint deputies with approval of council.
31. Powers and duties of treasurer; city depositors; payment of city warrants.

Be it enacted by the Legislature of West Virginia:

That sections thirty and thirty-one, of chapter eighty-nine, of the acts of the legislature of West Virginia of one thousand nine hundred thirteen, passed on the third day of February, one thousand nine hundred thirteen, be amended and re-enacted so as to read as follows:

Section 30. The city clerk shall serve for a term of two
2 years, unless sooner removed for cause. He shall, before enter-
3 ing upon the discharge of his duties as such clerk, take and
4 subscribe to the oath of office prescribed in section fifteen of
5 this act, and shall execute such bond covering his duties as
6 clerk, treasurer, collector and police judge as shall be fixed by
7 council which bond shall be approved by council and filed with
8 the cashier of one of the banks in the city, known as a depository
9 therefor, and a record showing the execution, approval and

10 filing of said bond shall be spread upon the minute books of
11 the city.

12 In addition to all the other duties prescribed in this act, the
13 city clerk shall keep the records of the council, and he, or his
14 deputy, shall be present at all regular and special meetings
15 of that body. It shall be his duty to properly record in a well-
16 bound book all the proceedings of council as well as a complete
17 record of all ordinances, franchises, bonds, permits and reso-
18 lutions adopted or passed by council, and to properly index the
19 same, for the convenience and inspection of the council, or any
20 city official or taxpayer.

21 Before any business at any regular meeting of the council is
22 undertaken it shall be the duty of the clerk to read publicly
23 to the council the minutes of all regular or special meetings
24 of that body, not theretofore read or approved, and upon
25 approval of same by council, the signatures of the mayor and
26 clerk shall forthwith be affixed. All records of council so
27 approved and signed, or duly authenticated copy thereof,
28 signed by the clerk and under the seal of the city, shall be
29 admitted as evidence in any proper case in any court in this
30 state.

31 The city clerk, except as may be otherwise herein provided,
32 shall be the custodian of the records and papers of the city
33 and the seal of the city, which shall be kept by him at
34 his office, and the records and papers shall be open to public
35 inspection at all proper hours. He shall, acting under existing
36 laws, insofar as they are not in conflict with this act, perform
37 such duties relating to all city elections held under this act,
38 as the clerks of the circuit or county courts perform, under
39 state laws, in relation to the holding of general or special
40 elections; and he shall likewise be the custodian of all regis-
41 tration books, ballot boxes, ballots, tally sheets, etc., pertaining
42 to all municipal elections.

43 The city clerk shall have power within the municipality to
44 administer oaths and take acknowledgments of deeds and other
45 instruments required by law to be acknowledged, in the same
46 manner and with like effect and under the same penalties as
47 notaries public, justices of the peace and other officers of the
48 state are authorized to administer oaths, or take acknowledg-
49 ments, under state laws.

50 It shall be the duty of the city clerk, who shall be the as-

51 sessor, to make an assessment of the property within the city
52 subject to taxation, substantially in the manner and form in
53 which assessments are made by the assessor of the county, and
54 return the same to the council on or before the first day of
55 August in each year, and for the purpose he shall have all
56 powers conferred by law on county assessors. He shall list
57 the number of dogs in the city and the names of the persons
58 owning the same, which list shall be returned to the council.
59 In order to aid the said council in ascertaining the property
60 and tithables subject to taxation by said city, the city clerk
61 (who shall act as assessor) of said city shall have access to all
62 books and public records of Mineral county without expense to
63 said city or assessor, and he shall also have the same power and
64 be subject to the same penalties in ascertaining and assessing
65 the property and subjects of taxation in said city as are grant-
66 ed and imposed upon the county assessors throughout the state
67 by the general state law, and the council shall also have author-
68 ity to prescribe by ordinance such other rules and regulations
69 as may be necessary to enable and require such assessor to as-
70 certain and properly assess all property and tithables liable to
71 be taxed by said city so that such assessment and taxation shall
72 be uniform, and to enforce such ordinance by reasonable fines
73 and penalties. And the said city assessor, making the valuation
74 for assessment shall make the same assessment for both real and
75 personal property as the assessor of said county for the assess-
76 ment year assessed by the county assessor. The city clerk shall
77 have an office in the city hall, council chamber or such other
78 place as the council may designate and provide. He shall keep
79 his office open for at least three consecutive hours in the fore-
80 noon and afternoon of each day.

81 In addition to the duties hereinbefore set out and other-
82 wise provided in this act, the city clerk shall by virtue of his
83 office be the police judge of the city, and his oath of office and
84 the conditions of his bond shall extend to and cover his duties
85 and obligations as police judge. The city clerk, shall, as such
86 police judge, be ex officio a justice of the peace with authority
87 to issue warrants or other process for all offenses within the
88 police jurisdiction of the city, of which a justice of the peace
89 has jurisdiction under state laws, and for all violations of any
90 city ordinance. In order to preserve the peace and good order
91 of the city and protect the persons and property therein, riot-

92 ous and disorderly persons in the city may be arrested and
93 detained before issuing any warrant therefor. He shall hold
94 daily session of his said court, Sundays excepted. He shall
95 have and exercise all of the civil jurisdiction conferred by law
96 upon justices of the peace, and before proceeding to act in
97 such capacity, he shall file with the clerk of the county court
98 of Mineral county, a certificate from the mayor of said city
99 showing his appointment and qualifications as city clerk, and
100 shall thereupon take the oath and execute the bond required
101 to be taken and executed by justices of the peace.

102 The police judge may commit persons charged with felony
103 or misdemeanor to jail or take bond for their appearance be-
104 fore the grand jury, but he shall receive no fees or other com-
105 pensation for such services; he shall have power to issue ex-
106 ecutions for all fines, penalties and costs imposed by him, and
107 he may require the immediate payment thereof, and in de-
108 fault of such payment may commit the person so in default
109 to jail, until the fine and penalty and costs shall be paid or
110 satisfied, and anyone so committed may be required to work
111 during imprisonment, as required by council.

112 If any person is sentenced to imprisonment, or any person
113 or corporation is assessed with a fine of ten dollars or more,
114 such person or corporation shall be allowed an appeal from
115 said decision of the police judge to the circuit court of Min-
116 eral county, upon the execution of an appeal bond with surety
117 deemed sufficient and approved by the police judge in a pen-
118 alty double such fine and costs conditioned that the person or
119 corporation proposing to appeal will perform and satisfy any
120 judgment which may be rendered against him or it by said
121 court on such appeal; and in no case shall a fine of less than
122 ten dollars be given by the police judge, if the defendant, his
123 agent or attorney request that the fine be made as much as ten
124 dollars.

125 If the appeal be taken, the warrant of arrest, the transcript
126 of the judgment, the appeal bond and other papers of the case
127 shall be forthwith delivered by the police judge to the clerk
128 of the court to which such appeal is taken, and said court shall
129 proceed to try the case as upon indictment or presentment and

130 render such judgment, including that of costs, as the law and
131 evidence may demand.

132 The police judge shall be authorized to suspend sentence or
133 parole any juvenile offender under the age of sixteen years,
134 who may be brought before him for the violation of any ordi-
135 nance of the city or charged with any misdemeanor under the
136 laws of the state; he shall prescribe the conditions of such
137 parole and enter them in his docket and may commit the of-
138 fender to the care and custody of any proper person with a
139 view to the correction and reformation of such offender, and
140 may take from such person such bond or security, conditioned
141 as he shall prescribe. The chief of police, or a policeman desig-
142-3 nated by him, shall attend all sessions of the police court and
144 perform such duties as may be required by ordinance or re-
145 quested by the police judge.

146 The police judge shall keep in a well-bound book a complete
147 record of all cases heard and considered by him, and he shall
148 account for all fines, as well as the fees of himself and other
149 officers, under salary, collected by him, and shall make month-
150 ly reports thereof, and of all other matters pertaining to his
151 office to the council of the city. In the absence of the
152 police judge the mayor of the city shall sit as such police
153 judge with the same power and authority.

154 The police judge, if an attorney, shall not practice in said
155 police court as an attorney or counselor, in any case appealed
156 or removed therefrom, but shall have the right to practice law
157 as an attorney in other courts and cases.

158 In addition to the other duties to be performed by the city
159 clerk, he shall also be the city collector, charged with the duty
160 of collecting all taxes, levies, assessments, water rents and all
161 other funds due the city, including licenses; and as such collec-
162 tor shall have and exercise all of the rights, authority and pow-
163 ers conferred upon town sergeants by the general law of the
164 state with reference to the collection of taxes and funds of
165 cities, towns and villages, and upon sheriffs with reference to
166 the collection of state and county taxes and funds. He shall at
167 least once in each week, or oftener if the council so require,
168 account for all moneys received by him as such collector; he
169 shall before entering upon the duties of his office give the bond
170 hereinbefore required, payable to the city of Keyser in the pen-
171 alty of not less than five thousand dollars, conditioned for the

172 faithful performance of the duties of the office of city clerk,
173 collector, treasurer and police judge and to account for and pay
174 over as required by law, all moneys which may come into his
175 hands by virtue of any and all of said offices, and shall be
176 chargeable with all of the city taxes, levies, assessments, li-
177 censes and water rents, from the time the bills therefor are re-
178 quired to be made up and collected, and with all moneys of the
179 city, including fines, fees and penalties, that may come into his
180 hands. He shall receive no fees or commissions for the services,
181 but shall account to the city for all fees received by him, except
182 those received by him when acting in civil suits, taking deposi-
183 tions or acknowledgments.

184 He shall at the first stated meeting of the council in each
185 month make his report to the council of all moneys and credits
186 coming to his hands as city clerk, treasurer, police judge and
187 collector, and he shall compile a detailed itemized statement
188 showing the receipts, expenditures and the financial condition
189 of the city quarterly, for each year, the statements showing
190 the receipts, expenditures and the financial condition of the
191 city quarterly, for each year, the statements to be distributed
192 to not less than three hundred responsible citizens of the city,
193 either by mail, or in any manner to be directed by the city
194 council. The second financial statement shall be a semi-annual
195 statement, the third statement shall refer only to the transac-
196 tions occurring within the three months constituting the third
197 quarter of the fiscal year, and the fourth statement shall be
198 an annual statement setting forth the financial condition of the
199 city for the entire fiscal year, and it shall not be required that
200 any of such financial statements shall be published in a news-
201 paper.

202 In addition to the duties of the city clerk hereinbefore enu-
203 merated, he shall act in the capacity and be the treasurer for
204 said city and perform the duties as prescribed in section thirty-
205 one hereof.

206 The city clerk may appoint such deputies and assistants with
207 the approval of the council, as the duties of his office render
208 necessary. The deputies shall take the oath required of the city
209 clerk, and shall give such bond as he may require, but such
210 deputies or assistants shall not perform any judicial duty of
211 the police judge.

Sec. 31. The treasurer shall be the same person who is ap-

2 pointed city clerk and shall receive and account for all moneys
3 from all sources of municipal revenue. All license taxes and
4 fees shall be paid to him direct by the person to whom such
5 license is issued, and no license shall be valid without the re-
6 ceipt of the treasurer for such tax and fees endorsed thereon.
7 All officers and agents of the city, authorized to receive money
8 for the city, or revenues thereof, from any source whatsoever,
9 shall pay over to the treasurer such money and revenues
10 within one week after the receipt thereof or sooner if required
11 by the council.

12 He shall keep the funds of the city in some bank or banks
13 within the city, which shall pay to the city two per centum or
14 more per annum interest on such deposits, payable quarterly,
15 based on the average daily balance on such funds in all accounts.
16 If no bank within the city is willing at any time to receive de-
17 posits of the treasurer, and to pay such interest thereon, the
18 treasurer shall report this fact to council, which shall there-
19 upon designate a bank or banks in which he shall deposit such
20 funds for the time being, and until some bank in the city will
21 receive deposits at the rate of interest so fixed.

22 Said bank or banks shall give bond in the penalty prescribed
23 by council, and with sureties to be approved by council, con-
24 ditioned for the prompt payment, whenever lawfully required,
25 of all public moneys, or parts thereof, which may be deposited
26 with them.

27 The treasurer shall pay all warrants, or other proper orders
28 legally drawn and presented, out of the moneys at the time in
29 the fund on which such warrant or order is drawn, but no money
30 shall be paid by him except as the same shall have been ap-
31 propriated by the council and upon an order signed by the
32 mayor, the city clerk and the commissioner of finance. The
33 treasurer shall perform any other duties which council may
34 from time to time prescribe and which are not inconsistent with
35 the general scope of his duties.

36 All acts and parts of acts inconsistent with this act are here-
37 by repealed.

CHAPTER 79

(House Bill No. 28—By Mr. Myers)

AN ACT to amend and re-enact sections four and seven of chapter eighty-two of the acts of the legislature of West Virginia, for the year one thousand nine hundred eleven, as amended and re-enacted by chapter sixteen, acts one thousand nine hundred twenty-one, and as amended and re-enacted by chapter seventy-six, acts one thousand nine hundred twenty-three, relating to the charter of the city of Moundsville, in the county of Marshall; making the offices of clerk, chief of police and solicitor elective.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

<p>SEC. 4. Municipal officers, number, elective and appointive, qualifications; additional officers.</p>		<p>SEC. 7. Terms of office; compensation of councilmen. 8. Act effective when ratified at special election.</p>
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Be it enacted by the Legislature of West Virginia:

That sections four and seven of chapter eighty-two of the acts of the legislature of West Virginia for the year one thousand nine hundred eleven, as amended and re-enacted by chapter sixteen, acts one thousand nine hundred twenty-one, and as amended and re-enacted by chapter seventy-six, acts one thousand nine hundred twenty-three, be amended and re-enacted so as to read as follows:

Section 4. The officers of said city shall be a mayor, clerk, 2 who shall be ex-officio collector, solicitor, chief of police, health 3 officer, treasurer, street commissioner, city engineer, sewer in- 4 spector, and two councilmen from each ward. The mayor, clerk, 5 solicitor, and chief of police shall be elected by the qualified 6 voters of said city.

7 The health officer, street commissioner, treasurer, sewer in- 8 spector and city engineer shall be appointed by the council, and 9 the councilmen shall be elected by the qualified voters of their 10 respective wards. No person shall be eligible to the office of 11 mayor unless he is a qualified voter thereof, nor unless he has 12 resided therein for at least six months before his election; and 13 in case of a councilman, unless he is a bona fide resident of the 14 ward from which he is elected and a freeholder of said city; and 15 a removal of a councilman from the ward in which he was 16 elected or his ceasing to be a freeholder in the said city shall

17 vacate his office, and no person shall be eligible to any city office
18 unless he be a taxpayer and a qualified voter thereof.

19 In addition to the municipal authorities mentioned in this
20 section the council may from time to time create and employ
21 other officers and agents and fix their salaries and compensa-
22 tion.

Sec. 7. The terms of office of the mayor, clerk, chief of police
2 and solicitor shall begin on the first Monday in April next suc-
3 ceeding his election and shall be for the term of two years, and
4 until his successors shall have been elected and qualified. The
5 treasurer, health officer, street commissioner, city engineer and
6 sewer inspector shall be appointed by the council and shall hold
7 their offices during the pleasure of the council. Any former
8 incumbent shall be ineligible for a second appointment unless he
9 shall have fully settled up the business of his former term or
10 terms. At the first election held after this act goes into effect,
11 there shall be elected a mayor, clerk, chief of police and solicitor,
12 whose term of office shall begin on the first Monday in April next
13 succeeding his election and shall be for the term of two years,
14 until his successor is elected and qualified; and one council-
15 man from each ward, whose term of office shall begin on the first
16 Monday in April next succeeding two years; one councilman
17 from each ward shall be elected and shall hold office for four
18 years from the first Monday in April next succeeding his elec-
19 tion and until his successor is elected and qualified. But noth-
20 ing in this section shall be construed to invalidate the election or
21 term of office of any councilman elected to office and whose term
22 of office begins on the first Monday in April in the year one
23 thousand nine hundred twenty-nine, under provisions of section
24 seven of the charter of said city of the act of one thousand nine
25 hundred twenty-three.

26 The council of said city shall have the right to fix a compen-
27 sation for the members thereof, which compensation, however,
28 shall not exceed one hundred and fifty dollars per year to each
29 member.

Sec. 8. The provisions of this act shall not be effective, un-
2 less and until at a special election in said city of Moundsville
3 held within two years after the date of the passage of this act
4 and called by the council thereof, a majority of the legally

5 qualified voters of said city shall favor such enactment. At
6 such election the ballot to be used shall be in the following
7 form:

8 For charter amendment.

9 Against charter amendment.

10 Such election shall be conducted and the returns thereof
11 made and the result declared in the same manner provided for
12 holding, ascertaining and declaring the result of other municipi-
13 pal elections within said municipality.

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

CHAPTER 80

(House Bill No. 267—By Mr. Butcher)

AN ACT to amend and re-enact subsection (d) of section fifty-four of an act of the legislature of West Virginia, passed on the thirtieth day of January, one thousand nine hundred twenty-nine, known as senate bill number seven, relating to the charter of the city of Parkersburg, and being chapter one of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine, relating to municipal charters.

[Passed February 17, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.
54(d). Who eligible to benefits pension
fund.

Be it enacted by the Legislature of West Virginia:

That subsection (d) of section fifty-four of an act of the legislature of West Virginia passed on the thirtieth day of January, one thousand nine hundred twenty-nine, known as senate bill number seven, relating to the charter of the city of Parkersburg, and being chapter one of the acts of the legislature of West Virginia of one thousand nine hundred twenty-nine, relating to municipal charters be, and the same is hereby amended and re-enacted so as to read as follows:

Section 54 (d). From and after the passage of this act, no
2 one shall be eligible to participate in the benefits of any such
3 pension fund:

4 (1) Who does not possess all the qualifications, and who has

5 not complied with all conditions therefor, prescribed by the
6 charter of the city of Parkersburg, and the general law, not in
7 conflict therewith; or

8 (2) Who has not been regularly and permanently appointed
9 to the department in the benefits of whose pension fund he
10 seeks to participate, after examination and recommendation by
11 the civil service board provided for in section twenty-eight of
12 the charter of the city of Parkersburg; or

13 (3) Who was so regularly and permanently appointed to
14 any such department after the passage of this act and who,
15 at the time of his said appointment, was over thirty-five years
16 of age; or

17 (4) Who has not passed the physical examination pre-
18 scribed by the trustees of such pension fund.

19 All acts and parts of acts inconsistent with this act are here-
20 by repealed.

CHAPTER 81

(House Bill No. 210—By Mr. Campbell)

AN ACT to amend and re-enact sections four, six, seven, eleven and
thirteen, of chapter one hundred eighteen of the acts of one
thousand nine hundred seventeen, relating to the charter of the
city of St. Albans.

[Passed March 11, 1931; in effect from passage. Approved by the Governor.]

SEC.

4. Elective and appointive officers;
terms of office; qualifications.
6. Elections, how conducted; when
held; who entitle to vote; con-
tested elections; tie vote; election
officials; how chosen.

SEC.

7. Elective officers; terms.
11. Written applications by persons
seeking appointive office.
13. Authority of council to remove
elective officers; notice; vacan-
cies.

Be it enacted by the Legislature of West Virginia:

That sections four, six, seven, eleven and thirteen, of the charter
of the city of St. Albans be amended and re-enacted to read as
follows:

Section 4. The officers of said city shall be a mayor, six
2 councilmen, a city manager, clerk, who shall be *ex officio* collector,
3 a 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, to serve during the will and
7 pleasure of the council, and the police judge and the chief of

8 police shall be appointed by the mayor and be approved by the
9 council, to serve during the will and pleasure of the mayor and
10 council.

11 No person shall be eligible to any elective office unless he is a
12 qualified voter of said city, nor unless he has resided therein for
13 at least one year before his election, and he must be a freeholder
14 of said city, and have paid taxes for the year preceding his elec-
15 tion on at least three hundred dollars' worth of real estate, in his
16 own or his wife's name. And no person shall be elected to any
17 office, or retain and hold the same who shall be or become an
18 officer or employee of any person, firm or corporation holding
19 any franchise or contract under or with said city.

Sec. 6. Elections shall be conducted under the general law
2 of this state.

3 The next election hereunder shall be held on the first Tuesday
4 in April, one thousand nine hundred thirty-one, and biennially
5 thereafter, as hereinafter provided. Every person who has
6 been a bona fide resident of the city for three months next pre-
7 ceding any election, and otherwise a qualified voter under the
8 constitution and laws of this state, shall be entitled to vote at
9 such election. The elections shall be held, conducted and the
10 results thereof be ascertained, returned and determined under
11 such rules and regulations as may be prescribed by the council
12 which shall not be inconsistent with the general laws of the state
13 governing municipal elections, and shall conform as nearly as
14 practicable to such laws. Contested elections shall be tried by
15 council, and the proceedings therein shall conform as nearly as
16 may be to similar proceedings in the case of the county and dis-
17 trict officers. The council shall be judge of the election returns
18 and qualifications of its own members. In case two or more
19 persons receive an equal number of votes for the same office, if
20 such number be the highest cast for such office, the city council
21 shall decide by vote which of them shall be returned elected, and
22 shall make their return accordingly.

23 The judges of the first election provided for in this section,
24 shall consist of three voters and taxpayers of said city, one of
25 which shall be appointed by the candidates of each of the two
26 principal parties participating in said election, and the third to
27 be chosen by the council of the town of St. Albans.

Sec. 7. At the first election provided for in section six, there
2 shall be elected a mayor and four councilmen. The mayor shall

3 be elected for a term of two years, 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 four years, and the
6 councilman receiving the next highest number of votes shall
7 serve for a term of three years, commencing the first Monday in
8 May, one thousand nine hundred thirty-two, and the councilman
9 receiving the next highest number of votes shall serve for a term
10 of one year, commencing the first Monday in May, one thousand
11 nine hundred thirty-two. At the next election held as provided
12 for in section six, there shall be elected a mayor for a term of
13 two years, or until his successor is duly elected and qualified,
14 and three councilmen for a term of four years each; and there-
15 after at each biennial election there shall be elected three council-
16 men to serve for a term of four years each, and the mayor for a
17 term of two years, and their terms of office shall begin the first
18 Monday in May next after said election.

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, and the council shall in
4 each case appoint such person or persons as in their judgment
5 are competent and qualified to fill the respective positions. The
6 council shall have the right to reject all applicants.

Sec. 13. The council shall have the authority to remove from
2 office any elective officer of the city for misconduct, drunken-
3 ness or neglect of duty, by an affirmative vote of two-thirds of the
4 members of the council; but only after reasonable notice to such
5 officer, and a hearing of the charges preferred; and any vacancy
6 in office, however occasioned, may be filled by the council for the
7 unexpired term or until the next succeeding election.

CHAPTER 82

(House Bill No. 190—By Mr. McGuire)

AN ACT to amend and re-enact chapter fourteen of the acts of the legislature, passed February twenty-first, one thousand eight hundred eighty-seven, entitled an act to create a municipal corporation of the city of Wellsburg, in the county of Brooke and to grant a charter thereto, to amend a charter of the city of Wellsburg and all acts of the legislature amendatory thereon.

[Passed February 11, 1931; in effect from passage. Became a law without the approval of the Governor.]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. City a body corporate; powers; title to city property. 2. Boundaries. 3. Elective and appointive officers; assistants. 4. General powers and duties of mayor; police powers; sentences to labor by. 5. Wards; precincts in. 6. Date of first election and terms of officers; succeeding terms; filling of vacancies; expiration of terms of present officers. 7. Oath of officers. 8. Qualification of voters. 9. Number and terms of councilmen. 10. Number of elective officers; referendum as to elective or appointive chief of police; term of city clerk. 11. Street commissioner, appointment, duties and compensation. 12. Powers, duties and compensation of officers established by ordinance. 13. The vote, how decided. 14. Contested elections, how decided. 15. Vote by mayor; committees of council; interest of councilmen. 16. Record of council. 17. Clerk's duties. 18. Signing of record; recordation of ayes and noes. 19. Powers of council; extension of powers beyond corporate limits. 20. City licenses; certain acts prohibited. 21. Cost of paving or repaving; previous method for paving and sewerage adopted herein; acceptance. 22. Semi-annual report by city collector. 23. Power of council as to building; yards, etc.; zoning; purposes of zoning regulations; how adopted; how changed; zoning commis- | <p>SEC.</p> <ol style="list-style-type: none"> sion; board of adjustment, number and meetings; appeals to; action on; powers of board; appeals from decision of board; hearing upon; remedies when building code violated; when building code governs; municipal planning commission, compensation and duties; plans of land and streets to be submitted to commission; expenses of. 24. Chief of police, powers and duties; bond and salary. 25. Condemnation proceedings by city. 26. Meetings of council. 27. City elections. 28. Payment of salaries. 29. How money appropriated by council. 30. Certified copies of ordinances as evidence. 31. City not to pay district or county road levies. 32. Additional method to secure laying of sidewalks; cost of. 33. Publication of financial statement; what statement to show; distribution of report. 34. Preparation and collection of tax bills; power and bond of city collector. 35. Dates of tax collections. 36. Lien for taxes; how enforced; delinquent list. 37. Further power of council; construction of ordinances. 38. Water board, number, term, organization; power and duties. 39. Termination of fiscal year in one thousand nine hundred thirty-one; what time levy one thousand nine hundred thirty-one to cover. 40. Validity of present ordinances. 41. Inconsistent acts repealed. |
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Be it enacted by the Legislature of West Virginia:

That chapter fourteen of the acts of one thousand eight hundred eighty-seven, and all acts of the legislature amendatory thereof, be amended and re-enacted so as to read as follows:

Section 1. The inhabitants of the portion of the county of

2 Brooke, in the state of West Virginia, within the limits of the
3 city of Wellsburg as they now are, or as they may hereafter be,
4 shall be and continue a body politic and corporate, by the name
5 and style of "City of Wellsburg," and as such, and by that
6 name, shall have perpetual succession and may contract and be
7 contracted with, sue and be sued, plead or be impleaded, answer
8 and be answered unto, and may purchase, acquire by condem-
9 nation proceedings for public use, take, receive, hold and use
10 goods and chattels, lands and tenements and choses in action,
11 or any interest, right or estate, therein either for the proper
12 use of said city, or in trust for the benefit of any person or as-
13 sociation therein; and the same may grant, sell, convey, trans-
14 fer and assign, let, pledge, mortgage, charge and encumber, in
15 any case and in any manner in which it would be lawful for
16 private individuals so to do, except where its power may be
17 limited by law; and may have and use a common seal, and alter
18 and renew the same at pleasure; and generally have all the
19 rights, franchises, capacities and powers appertaining to mu-
20 nicipal corporations in this state.

21 All real and personal estate, and all funds, rights, titles, taxes,
22 credits and claims and rights of action owned by the city of
23 Wellsburg immediately before this charter takes effect of which
24 are then held in trust or have been appropriated for the use or
25 benefit of said city or of the inhabitants thereof, shall be and
26 the same are hereby transferred to and vested in the city of
27 Wellsburg under this charter.

28 All lawful contracts with and all lawful rights, claims and de-
29 mands against the city of Wellsburg, at the time this charter
30 takes effect, shall be good in law against the said city under
31 this charter.

Sec. 2. The boundaries of the city of Wellsburg shall be as
2 follows: Beginning at the mouth of Buffalo creek and extend-
3 ing eastwardly along the center line of the meandering of said
4 creek to a point where the county bridge now crosses the said
5 creek a short distance east of the P. W. & Ky. R. R. bridge and
6 the bridge of the Pan Handle Traction Company; thence in
7 an easterly direction to the east side of the Wellsburg and
8 Bethany Turnpike; thence northerly along the east side of the
9 Wellsburg and Bethany Turnpike to the east line of the Pan
10 Handle Traction Company; thence following the east line of
11 the Pan Handle Traction Company in a northeasterly direction
12 until it strikes a line running parallel to Commerce street and

13 fifty feet distant westwardly therefrom; thence in a southerly
14 direction along a line parallel to Commerce street and fifty feet
15 distant westwardly therefrom to the south line as shown on the
16 Tyers plat, recorded in deed book thirty-nine at page five hun-
17 dred forty-five of the records of Brooke county; thence in a
18 straight line in an easterly direction to the line of the lands of
19 F. A. Chapman; thence in a northerly direction along the west
20 line of the lands owned by F. A. Chapman and the lands owned
21 by S. H. Hubbard and Dorrie Hubbard to a corner at the join-
22 ing of the lands of S. H. Hubbard and Dorrie Hubbard with those
23 of Josephine Du Pont Leonard and of the J. F. Cree Estate;
24 thence in a northerly direction in a straight line across the lands
25 of J. F. Cree, now deceased, to the southeast corner of lot fifty-
26 four of the plan of lots platted and recorded by I. H. Duval;
27 thence in a northerly direction in a straight line to the north-
28 east corner of lot fifty-two of said plan of lots; thence in a north-
29 east direction in a straight line to the southeast corner of the
30 lands of H. W. Paull; thence in a northerly direction along
31 east boundary line of the property of said H. W. Paull of the
32 property of Elizabeth P. Jacobs, of the property of Thomas
33 Boyd, deceased, of the property of W. H. Tarr, deceased, and
34 the property of Miss Lou Tarr, deceased; of the property of
35 G. L. and S. R. Caldwell, of the property of A. P. Oxtoby, of the
36 property platted into lots by Fred L. Hall, of the property of
37 Edward Rithner and of the property of the Brooke Cemetery
38 Company; thence from the northeast corner of the said ceme-
39 tery property in a northwesterly direction in a straight line
40 to a point in a ravine situate at the foot of what is known as
41 Gilchrist Hill and four hundred feet east of the Ohio river;
42 thence in a westwardly direction following the meandering of
43 said run or ravine to the east shore of the Ohio river; thence
44 on a direct line to the west shore of said river; thence extend-
45 ing along the west shore of said river in a southerly direction
46 to a point opposite the mouth of Buffalo creek; thence from
47 said point to the mouth of said Buffalo creek, the place of be-
48 ginning, including all the land and water between the boundary
49 lines aforesaid.

50 The boundaries of the city of Wellsburg shall also extend
51 to and include the tract of land conveyed to the city by I. H.
52 Duval and wife, by deed dated March twenty-ninth, one thou-
53 sand eight hundred eighty-six, recorded in deed book number
54 twenty-six, page four hundred sixty-six, of the records of

55 Brooke county, which said tract contains the reservoir of the
56 city water works.

Sec. 3. The officers of the city shall be a mayor, two council-
2 men from each ward, city collector and treasurer, city clerk and
3 chief of police. The mayor, members of council, city collector
4 and treasurer, city clerk and chief of police, of said city shall
5 be elected by the voters of said city as hereafter provided. The
6 other officers shall be appointed by the council: *Provided fur-*
7 *ther,* That the chief of police or other elective officer may desig-
8 nate and nominate such assistants as are herein provided for,
9 who shall be appointed by said council unless good cause be
10 shown for the rejection of such nomination or nominations.

Sec. 4. The mayor shall be the chief executive officer of said
2 city; he shall take care that the provisions of this act, and the
3 orders, by-laws, ordinances, acts and resolutions of the council
4 of said city are faithfully executed; he shall have authority to
5 convene council in special session whenever he may deem it
6 advisable to do so, and shall be ex-officio a justice and con-
7 servator of the peace within said city, and shall within the same
8 have, possess and exercise all the powers and perform all the
9 duties vested by law in a justice of the peace, except that he shall
10 have no jurisdiction in civil cases or causes of action arising out
11 of the corporate limits of the city; he shall have the same powers
12 to issue attachments in civil cases as a justice of this county
13 has, although the cause of action may have arisen out of the city;
14 but in such cases he shall have no power to try the same, but
15 such attachment shall be returnable to and be heard by some
16 justice of his county; any warrant or other process issued by
17 him may be executed any place within the county of Brooke;
18 he shall have control of the police of said city, and may appoint
19 special police officers whenever he may deem it necessary; and
20 it shall be his duty especially to see that the peace and good
21 order of the city are preserved and that persons and property
22 therein are protected, and to this end he may cause the arrest
23 and detention of all riotous and disorderly persons in the city
24 before issuing his warrant therefor; he shall have power to issue
25 executions for all fines, penalties and costs imposed by him, or
26 he may require immediate payment thereof, and in default of
27 such payment he may commit the party in default to the jail of
28 Brooke county, or other place of imprisonment in said city until
29 the fine or penalty and costs are paid; but the term of imprison-
30 ment shall not exceed thirty days; he shall from time to time

31 recommend to council such measures as he may deem necessary
32 or needful for the welfare of the city. The expense of maintain-
33 ing any person imprisoned by him, except it be to answer an in-
34 dictment, or be under the provisions of section two hundred
35 twenty-seven and two hundred twenty-eight of chapter fifty of
36 the code of West Virginia, shall be paid by the city. The mayor
37 shall not receive any money belonging to the state or individuals,
38 unless he shall give such bond and security required of a justice
39 of the peace by chapter fifty of the code of West Virginia; and
40 all the provisions of said chapter relating to moneys received by
41 justices shall apply to like moneys received by the mayor; and
42 for such services when acting in the capacity of a justice of the
43 peace, he shall receive such fees as are allowed by law to justices
44 for similar services.

45 It shall be lawful for the mayor, when any person is fined by
46 him, at his discretion, to sentence such person to labor without
47 compensation, on any of the streets or alleys, or any of the public
48 works or improvements, undertaken, or to be undertaken by the
49 city, in lieu of the fine so imposed for a period not exceeding
50 thirty days. In rendering such judgment, and giving such sen-
51 tence, the mayor shall ascertain and fix the amount of the fine
52 upon the payment of which, with the costs of prosecution, such
53 person shall be discharged from sentence to labor. Such person
54 so sentenced to labor, shall be confined in the jail of Brooke
55 county, or other place of imprisonment in said city, while not
56 at labor.

Sec. 5. The city of Wellsburg shall be divided into four wards
2 as nearly equal in population as practicable. The members of
3 council from each ward shall be elected by the voters thereof and
4 the council shall establish one or more voting places in each ward,
5 and when more than one voting place shall be established in a
6 ward, the council shall establish as many precincts as there are
7 voting places numbering the same and establish the boundary
8 line thereof. Council shall have authority to alter the boundaries
9 of any of the wards of said city and to increase the number of
10 said wards keeping in view the equality of population.

Sec. 6. The first election under this act shall be held on the
2 second Tuesday of June one thousand nine hundred thirty-one
3 and an election shall be held annually thereafter on the second
4 Tuesday of June. The officers elected under this act shall hold
5 their office from the first day of July next succeeding their elec-
6 tion until their successors are elected and qualified. The terms

7 of all officers elected after said election shall commence on the
8 first day of July next succeeding their election. Vacancies in
9 all offices shall be filled by the council of said city until the next
10 city election, at which time the unexpired term of any officer
11 who has died, resigned or in any manner been removed, shall be
12 filled by election.

13 The present year of all officers of the city now terminates
14 upon the first Monday of May, this time being changed in this
15 act to the first day of July. All present officers whose time of
16 office terminates upon the first Monday of May shall continue to
17 hold their respective offices until the first day of July succeeding
18 the expiration of their former term.

Sec. 7. Every person elected or appointed to an office in said
2 city, shall within twenty days after this election or appoint-
3 ment and before entering upon the duties of his office, take and
4 subscribe to the oath required by law, to be administered by the
5 mayor, clerk or any other person legally authorized so to do.

Sec. 8. All citizens of this state who have been bona fide resi-
2 dents of the said city for not less than sixty days next preceding
3 the election, and who are qualified voters under the constitution
4 and laws of this state, shall be entitled to vote at all municipal
5 elections held in said city, but only in the ward of which they
6 are residents.

Sec. 9. The council of the city, shall, after the first day of
2 July one thousand nine hundred thirty-one consist of two mem-
3 bers from each ward within said city, one member from each
4 ward to be elected annually at the city election to be held upon
5 the second Tuesday of June of each year and to hold office for the
6 term of two years or until his successor is elected and qualified.

Sec. 10. At the election of officers to be held upon the second
2 Tuesday of June one thousand nine hundred thirty-one, after
3 the passage of this act, there shall be elected a mayor, city col-
4 lector and treasurer, chief of police and one councilman from
5 each ward; and thereafter the mayor, city collector and treas-
6 urer and chief of police shall be elected every two years and shall
7 hold their respective offices for the term of two years and until
8 their successor shall be elected and qualified: *Provided fur-*
9 *ther, That a referendum may be had on the question of*
10 *whether or not the office of chief of police shall be an elective or*
11 *appointive position, and if and upon, its submission to the*
12 *voters of said city, a majority of said votes shall favor said office*

13 as being an appointive one, then the city council shall make such
14 appointment and the duties of said officer shall be and remain
15 the same, as herein provided.

16 The city clerk elected in said city at the election held therein
17 on the second Tuesday of April, one thousand nine hundred
18 thirty shall hold his office until the first day of July, one thou-
19 sand nine hundred thirty-two, and thereafter a city clerk shall
20 be elected every two years, who shall hold his office for the term
21 of two years and until his successor is elected and qualified.

Sec. 11. The street commissioner shall be appointed by the
2 council, and shall hold his office at their pleasure; and perform
3 such duties and receive such compensation therefor as the coun-
4 cil may from time to time prescribe.

Sec. 12. The powers, duties and compensation of all officers
2 shall be established by ordinance; but the compensation pertain-
3 ing to any office shall not be increased or diminished so as to
4 affect any officer subsequent to his election or appointment and
5 during the term for which he was elected or appointed.

Sec. 13. When two or more persons shall receive an equal
2 number of votes for the same office, if such number be the
3 highest number cast for each office, the council shall decide by
4 lot which of them shall be returned as elected.

Sec. 14. All contested elections shall be decided by the
2 council.

Sec. 15. The mayor shall by virtue of his office, preside over
2 the council, but shall only have a vote in case of a tie. The com-
3 mittees of the council shall be selected by the hold-over members
4 of this body and confirmed by council.

5 No member of the council shall vote on any order, measure,
6 resolution or proposition in which he may be interested other-
7 wise than as a citizen of said city.

Sec. 16. The council shall cause to be kept in a well bound
2 book, an accurate record of all its proceedings which shall be
3 fully indexed and open to the inspection of the public.

Sec. 17. The clerk of said city shall be clerk of the council,
2 and all of the committees thereof; have charge of all the records
3 and archives, make out an assessment book from the books of the
4 assessor of Brooke county and perform such other duties per-
5 taining to his office as the council may prescribe.

Sec. 18. At each meeting of council the proceedings of the
2 last meeting shall be read and corrected, if erroneous, and signed
3 by the presiding officer and clerk. Upon the call of any member

4 for the yeas and nays on any question, the same shall be taken and
5 recorded in the journal.

Sec. 19. The council shall have plenary power and authority
2 therein by ordinance or resolution as the case may require, (so
3 far as such power or authority is not in conflict with the con-
4 stitution and laws of this state or the constitution of the
5 United States) to lay off, vacate, close, open curb, recurb, pave
6 or repave and keep in good repair, roads, streets, alleys, side-
7 walks, crosswalks, drains and gutters, for the use of the public,
8 and to improve and light the same, and have them kept free
9 from obstructions on or over them; to prevent by proper fines
10 and penalties the throwing, depositing or permitting to re-
11 main on any street, sidewalk, alley, lane, square or other public
12 place any glass, scrap iron, nails, tacks, wire, other litter, or
13 any offensive matter or any thing likely to injure the feet of
14 persons or animals or the tires of vehicles; to regulate the use
15 of streets, alleys, lanes and sidewalks for vehicles propelled by
16 man power, and for other vehicles the use of which is not
17 regulated by general laws; to regulate the width of sidewalks
18 on the streets, and, subject to section twenty-one hereof, to
19 order the sidewalks, footways and crosswalks to be curbed,
20 recurbed, paved, repaved and kept in good order, free and
21 clean, by the owners or occupants thereof, or of the real prop-
22 erty next adjacent thereto; to establish and regulate markets,
23 and prescribe the time of holding the same; to prevent injury
24 or annoyance to the public or individuals from anything dan-
25 gerous, offensive or unwholesome; to prevent hogs, cattle, horses,
26 sheep, dogs or other animals, and fowls of all kinds, from going
27 at large in such town; to protect places of divine worship and
28 to preserve peace and order in and about the premises where
29 held; to arrest, convict and punish any person for keeping a
30 house of ill-fame, or for letting to another person any house or
31 other building for the purpose of being used or kept as a house
32 of ill-fame, or for knowingly permitting any house owned by
33 him, or under his control, to be kept or used as a house of ill-
34 fame, or for loafing, boarding or loitering in a house of ill-fame,
35 or frequenting same; to arrest, convict and punish any person
36 for importing, printing, publishing, selling or distributing any
37 book or other thing containing obscene language; to arrest, con-
38 vict and punish any person for cruelly, unnecessarily or need-
39 lessly beating, torturing, mutilating, killing or overloading or

40 overdriving, or wilfully depriving of necessary sustenance, any
41 horse or other domestic animal; to arrest, convict and punish
42 any person for gambling or keeping gaming tables, commonly
43 called A. B. C. or E. O. table or faro bank or keno table, or
44 table of like kind, under any denomination, whether the gaming
45 table be played with cards, dice or otherwise, or any person who
46 shall be a partner or concerned in interest, in keeping or ex-
47 hibiting such table or bank, or keeping or maintaining any
48 gaming house or place, or betting or gambling for money or any-
49 thing of value; to license, or for good cause to refuse to license
50 in a particular case, or at its discretion to prohibit in all cases,
51 the operation of pool and billiard rooms and maintaining for
52 hire of pool and billiard tables, notwithstanding the general law
53 as to state licenses for such business. When the council, in the
54 exercise of its discretion, shall have refused to grant a license
55 to operate a pool or billiard room mandamus shall not lie to com-
56 pel the council to grant such license, unless it shall clearly ap-
57 pear that the refusal of the council to grant such license is dis-
58 criminatory or arbitrary. In the event that the council de-
59 cides to license any such business, the council shall have power
60 and it shall be the duty of the council, to make and enforce
61 reasonable ordinances regulating the licensing and operating
62 of such businesses; the council shall also have such power and
63 authority to arrest, convict and punish any person for carrying
64 about his person any revolver or other pistol, dirk, bowie-knife,
65 razor, slung shot, billy, metallic or other false knuckles, or any
66 other dangerous or other deadly weapon of like kind or charac-
67 ter, within such town; to arrest, convict and punish any person
68 for driving or operating, within such town, a motor vehicle
69 when intoxicated or under the influence of liquor, drugs or nar-
70 cotics; to provide penalties for the offenses and violations of
71 law mentioned herein in addition to the penalties provided in
72 section twenty-three of this article, but which shall not exceed
73 the penalties provided for like offenses and violations in this
74 chapter, and in chapter sixty-one of this code; to abate or cause
75 to be abated anything which, in the opinion of a majority of the
76 whole council, shall be a nuisance; to regulate the keeping of
77 gunpowder and other combustibles; to acquire, by purchase,
78 condemnation and otherwise, land in or near the city for pro-
78a viding and maintaining proper places for the burial of the dead
79 and to regulate interments therein upon such terms and con-

80 ditions as to price and otherwise as may be determined by the
81 council, and in order to carry into effect such provisions the
82 council may acquire any cemetery or cemeteries already estab-
83 lished; to provide for the regular building of houses or other
84 structures, and for making of division fences by the owners of
85 adjacent premises and the drainage of lots by the proper drains
86 and ditches; to make regulations guarding against danger or
87 damage by fire; to prevent the illegal sale of intoxicating liquors,
88 drinks, mixtures and preparations therein; to protect the per-
89 sons and property of the inhabitants of such city, and to pre-
90 serve peace and good order therein, except as otherwise pro-
91 vided, to prescribe the powers and define the duties of the offi-
92 cers appointed by the council, fix their terms of service and
93 compensation, and require and take from them bonds, when
94 deemed necessary, payable to such city, in its corporate name,
95 with such sureties and in such penalty as the council may see
96 fit, conditioned for the faithful discharge of their duties; to
97 require and take from employees and contractors bonds in such
98 penalties with such sureties and with such conditions, as council
99 may see fit; to erect, or authorize or prohibit the erection of,
100 gas works, electric light works or water works within or with-
101 out the town and to prevent injury to such works or the pollu-
102 tion of the water and its maintenance in a healthful condition
103 for public use within the town; to regulate and provide for the
104 weighing of hay, coal and other articles sold or for sale in the
105 town; to provide a revenue for the city and appropriate the
106 same to its expenses, which power shall include the power to
107 tax dogs; to impose a license tax on persons or companies keep-
108 ing for hire carriages, hacks, buggies or wagons; or for carry-
109 ing passengers for pay in any such vehicle, in such town; to
110 adopt rules for the transaction of business, and the govern-
111 ment and regulation of its own body.

112 . Wherever the powers herein granted cannot be reasonably
113 and efficiently exercised by confining the exercise thereof with-
114 in the corporate limits the powers of the corporation shall ex-
115 tend beyond the corporate limits to the extent necessary to the
116 reasonably efficient exercise of such powers within the cor-
117 porate limits. But such powers, unless otherwise provided,
118 shall not extend more than one mile beyond the corporate
119 limits, nor shall such powers extend into the corporate limits
120 of another municipal corporation.

Sec. 20. Whenever anything for which a state license is required is to be done within said city, also to include miniature golf course, the council may require a license therefor and may impose a tax thereon for the use of said city.

It shall be unlawful for any person in said city to hold himself or herself out as a fortune teller, clairvoyant, mind reader, or palmist and purport and claim to tell the future or the past by the above or any other hidden and secret methods or science, or to practice the above calling, avocation or profession, and the council may pass an ordinance prohibiting the same and prescribing penalties for its violation. Nothing in this section contained shall be construed so as to control any religious association or body.

Sec. 21. If the owner of any real property next adjacent to any sidewalks, crosswalks, drains and gutters within said city, shall fail or refuse to curb, pave, recurb or repave or to keep the same clean in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city and to assess the amount of such expense to such owner of the property abutting thereon and the same may be collected by the city collector and treasurer in the same manner provided for the collection of city taxes. Council shall always have authority to pave or repave, curb or recurb or otherwise permanently improve streets, alleys, crosswalks, drains and gutters and sewers in said city at the expense of the city.

The city of Wellsburg having upon the ninth day of April, one thousand nine hundred eight, by a special election, adopted, chapter eight of the acts of the legislature of one thousand nine hundred eight, as a method for paving and sewerage in said city, therefor, article eight of chapter eight of the official code of West Virginia, one thousand nine hundred thirty-one, is hereby adopted and made a part of the charter of the city of Wellsburg, with the exception that all paving and repaving, curbing and recurbing and sewerage, which shall be done in the city, the whole cost thereof, other than that portion which is chargeable to a street railway company, or other railway company, shall, including the intersection of streets and alleys, be charged to the owners of the property abutting upon any street so improved or sewerage.

Sec. 22. It shall be the duty of the city collector and treas-

2 urer at least once every six months during his continuance in
3 office and oftener, if required by council, to render an account
4 of the taxes, fines, penalties, assessments and other claims in his
5 hands for collection and to read a list of such as he shall not
6 have been able to collect by reason of insolvency, removal or
7 other causes; to which list he shall make affidavit that he used
8 due diligence to collect the same but has been unable to do so,
9 and if the council shall be satisfied of the correctness of said
10 list and affidavit, it shall allow the city collector and treasurer
11 a credit for said claim; he shall pay any money in his hands to
12 the city, upon the order of council and not otherwise.

Sec. 23. For the purpose of promoting health, safety, mor-
2 als, or the general welfare of the community, council is hereby
3 empowered to regulate and restrict the height, number of
4 stories, and size of buildings and other structures, the per-
5 centage of lot that may be occupied, the size of yards, courts,
6 and other open spaces, the density of population, and the lo-
6a cation and use of buildings, structures, and land for trade, in-
6b dustry, residence or other purpose.

7 *Districts.* For any or all of such purposes the council may
8 divide the municipality into districts of such number, shape
9 and area as may be deemed best suited to carry out the pur-
10 poses of this article; and within such districts it may regulate,
11 and restrict the erection, construction, reconstruction, altera-
12 tion, repair or use of buildings, structures, or land. All such
13 regulations shall be uniform for each class or kind of build-
14 ings throughout each district, but the regulations in one dis-
15 trict may differ from those in other districts.

16 *Purposes in View.* Such regulations shall be made in ac-
17 cordance with a comprehensive plan and designed to lessen
18 congestion in the streets; to secure safety from fire, panic and
19 other dangers; to promote health and the general welfare; to
20 provide adequate light and air; to prevent the overcrowding
21 of land; to avoid undue concentration of population; to facili-
22 tate the adequate provision of transportation, water, sewerage,
23 schools, parks, and other public requirements. Such regula-
24 tions shall be made with reasonable consideration, among other
25 things, to the character of the district and its peculiar suit-
26 ability for particular uses, and with a view to conserving the
27 value of buildings and encouraging the most appropriate use
28 of land throughout such municipality.

29 *Method of Procedure.* The council shall provide for the
30 manner in which such regulations and restrictions and the
31 boundaries of such districts shall be determined, established,
32 and enforced, and from time to time amended, supplemented,
33 or changed. However, no such regulation, restriction, or boun-
34 dary shall become effective until after a public hearing in re-
35 lation thereto, at which parties in interest and citizens shall
36 have an opportunity to be heard. At least fifteen days' notice
37 of the time and place of such hearing shall be published, in an
38 official paper, or a paper of general circulation, in such mu-
39 nicipality.

40 *Changes.* Such regulations, restrictions, and boundaries,
41 may from time to time be amended, supplemented, changed,
42 modified, or repealed. In case, however, of a protest against
43 such change, signed by the owners of twenty per cent or more
44 either of the area of the lots included in such proposed change,
45 or of those immediately adjacent in the rear thereof extend-
46 ing one hundred feet therefrom or of those directly opposite
47 thereto extending one hundred feet from the street frontage
48 of such opposite lots, such amendment shall not become effective
49 except by the favorable vote of three-fourths of all members
50 of the council of such municipality. The provisions of the
51 previous section relative to public hearings and official notice
52 shall apply equally to all changes or amendments.

53 *Zoning Commission.* In order to avail itself of the zoning
54 powers conferred by this article, the council shall appoint a
55 commission, consisting of freeholders of the municipality, to
56 be known as the zoning commission, to recommend the boun-
57 daries of the various original districts and appropriate regu-
58 lations to be enforced therein. Such commission shall make
59 a preliminary report and hold public hearings thereon before
60 submitting its final report, and council shall not hold its public
61 hearings or take action until it has received the final report of
62 such commission. Where a municipal planning commission al-
63 ready exists, it may be appointed as the zoning commission.
64 The members of the commission shall serve without compen-
65 sation.

66 *Board of Adjustment.* The council may provide for the ap-
67 pointment of a board of adjustment, and in the regulations and
68 restrictions adopted pursuant to the authority of this article
69 may provide that the said board of adjustment may, in ap-

70 appropriate cases and subject to appropriate conditions and safe-
71 guards, make special exceptions to the terms of the ordinance
72 in harmony with its general purpose and intent and in ac-
73 cordance with general or specific rules therein contained.

74 The board of adjustment shall consist of five members each
75 to be appointed for a term of three years and removable for
76 cause by the appointing authority upon written charges and
77 after public hearing. Vacancies shall be filled for the unex-
78 pired term of any member whose term becomes vacant.

79 The board shall adopt rules in accordance with the provisions
80 of an ordinance adopted pursuant to this article. Meetings
81 of the board shall be held at the call of the chairman and at
82 such other times as the board may determine. Such chairman,
83 or in his absence the acting chairman, may administer oaths
84 and compel the attendance of witnesses. All meetings of the
85 board shall be open to the public. The board shall keep min-
86 utes of its proceedings, showing the vote of each member upon
87 each question, or, if absent or failing to vote, indicating such
88 fact, and shall keep records of its examinations and other of-
89 ficial actions, all of which shall be immediately filed in the
90 office of the board and shall be a public record.

91 Appeals to the board of adjustment may be taken by any
92 person aggrieved or by any officer, department, board, or
93 bureau of the municipality affected by any decision of the ad-
94 ministrative officer. Such appeal shall be taken within a reason-
95 able time, as provided by the rules of the board, by filing with
96 the officer from whom the appeal is taken and with the board of
97 adjustment a notice of appeal specifying the grounds thereof.
98 The officer from whom the appeal is taken shall forthwith trans-
99 mit to the board all the papers constituting the record upon
100 which the action appealed from was taken.

101 An appeal stays all proceedings in furtherance of the ac-
102 tion appealed from, unless the officer from whom the appeal
103 is taken certifies to the board of adjustment after the notice of
104 appeal shall have been filed with him that by reason of facts
105 stated in the certificate a stay would, in his opinion, cause immi-
106 nent peril to life or property. In such case proceedings shall
107 not be stayed otherwise than by a restraining order which may
108 be granted by the board of adjustment or by a court of record
109 on application on notice to the officer from whom the appeal is
110 taken and on due cause shown.

111 The board of adjustment shall fix a reasonable time for the
112 hearing of the appeal, give public notice thereof, as well as due
113 notice to the parties in interest, and decide the same within a
114 reasonable time. Upon the hearing any party may appear in
115 person or by agent or by attorney.

116 The board of adjustment shall have the following powers:

117 (a) To hear and decide appeals where it is alleged there is
118 error in any order, requirement, decision, or determination
119 made by an administrative official in the enforcement of this
120 article or of any ordinance adopted pursuant thereto;

121 (b) To hear and decide special exceptions to the terms of
122 the ordinance upon which such board is required to pass under
123 such ordinance;

124 (c) To authorize upon appeal in specific cases such variance
125 from the terms of the ordinance as will not be contrary to the
126 public interest; where, owing to special conditions, a literal
127 enforcement of the provisions of the ordinance will result in
128 unnecessary hardship, and so that the spirit of the ordinance
129 shall be observed and substantial justice done.

130 In exercising the above mentioned powers such board may,
131 in conformity with the provisions of this article, reverse or
132 affirm, wholly or partly, or may modify the order, requirement,
133 decision, or determination appealed from, and may make such
134 order, requirement, decision, or determination as ought to be
135 made, and to that end shall have all the powers of the officer
136 from whom the appeal is taken.

137 The concurring vote of four members of the board shall be
138 necessary to reverse any order, requirement, decision or deter-
139 mination of any such administrative official, or to decide in
140 favor of the applicant on any matter upon which it is required
141 to pass under any such ordinance, or to effect any variation in
142 such ordinance.

143 Any person or persons, jointly or severally, aggrieved by any
144 decision of the board of adjustment, or any taxpayer, or any
145 officer, department, board, or bureau of the municipality, may
146 present to a circuit court of the county, a petition, duly veri-
147 fied setting forth that such decision is illegal, in whole or in
148 part, specifying the grounds of the illegality. Such petition
149 shall be presented to the court within thirty days after the
150 filing of the decision in the office of the board.

151 Upon the presentation of such petition the court may allow

152 a writ of certiorari directed to the board of adjustment to re-
153 view such decision of the board of adjustment and shall pre-
154 scribe therein the time within which a return thereto must be
155 made and served upon the realtor's attorney, which shall not
156 be less than ten days and may be extended by the court. The
157 allowance of the writ shall not stay proceedings upon the de-
158 cision appealed from, but the court may, on application, on
159 notice to the board and on due cause shown, grant a restrain-
160 ing order.

161 The board of adjustment shall not be required to return the
162 original papers acted upon by it, but it shall be sufficient to re-
163 turn certified or sworn copies thereof or of such portions
164 thereof as may be called for by such writ. The return shall
165 concisely set forth such other facts as may be pertinent and
166 material to show the grounds of the decision appealed from
167 and shall be verified.

168 If upon the hearing, it shall appear to the court that testi-
169 mony is necessary for the proper disposition of the matter, it
170 may take evidence or appoint a referee to take such evidence
171 as it may direct and report the same to the court with his
172 findings of fact and conclusions of law, which shall constitute
173 a part of the proceedings upon which the determination of the
174 court shall be made. The court may reverse or affirm, wholly
175 or partly, or may modify the decision brought up for review.

176 Costs shall not be allowed against the board unless it shall
177 appear to the court that it acted in bad faith or with malice in
178 making the decision appealed from.

179 *Remedies.* In case any building or structure is erected, con-
180 structed, reconstructed, altered, repaired, converted, or main-
181 tained, or any building, structure or land is used in violation
182 of this article or of any ordinance or other regulation made
183 under authority conferred hereby, the proper local authori-
184 ties of the municipality, in addition to other remedies, may in-
185 stitute any appropriate action or proceedings to prevent such
186 unlawful erection, construction, reconstruction, alteration, re-
187 pair, conversion, maintenance, or use, to restrain, correct, or
188 abate such violation, to prevent the occupancy of such building,
189 structure, or land, or to prevent any illegal act, conduct busi-
190 ness, or use in or about such premises.

191 *Conflict With Other Laws.* Wherever the regulations made
192 under authority of this article require a greater width or size

193 of yards, courts, or other open spaces, or require a lower height
194 of building or less number of stories, or require a greater per-
195 centage of lot to be left unoccupied, or impose other higher
196 standards than are required in any other statute or local ordi-
197 nance or regulation, the provisions of the regulations made
198 under authority of this article shall govern. Wherever the
199 provisions of any other statute or local ordinance or regula-
200 tion require a greater width or size of yards, courts, or other
201 open spaces, or require a lower height of building or a less
202 number of stories, or require a greater percentage of lot to be
203 left unoccupied, or impose other higher standards than are
204 required by the regulations made under authority of this
205 article, the provisions of such statute or local ordinance or
206 regulation shall govern.

207 *Power to Appoint Municipal Planning Commission.* The
208 council is hereby authorized to appoint a municipal planning
209 commission.

210 *Municipal Planning Commission; Compensation.* The mu-
211 nicipal planning commission shall consist of not less than five
212 citizens, all of whom shall be taxpayers and residents, who
213 shall be nominated by the mayor and confirmed by the council
214 of the town. The members of the commission first appointed
215 shall serve respectively for terms of one year, two years and
216 three years, divided equally or as nearly equally as possible be-
217 tween these terms. Thereafter members shall be appointed for
218 terms of three years each. Vacancies shall be filled by ap-
219 pointment for the unexpired term only. Members of the com-
220 mission shall serve without compensation.

221 *Duties of Commission.* The duties of the commission shall
222 be to prepare plans for the development of the whole or any
223 portion of the municipality and of any land outside of the
224 municipality which, in the opinion of the commission, bears
225 relation to the planning of the municipality: *Provided, how-*
226 *ever,* That the power of the municipal planning commission
227 shall not extend beyond the territorial limits of the munici-
228 pality except so far as is reasonably necessary to protect the
229 community, both within and without the corporate limits,
230 against the inadequate streets, highways, and sewers, and in-
231 adequately planned and zoned territory: *Provided further,*
232 That when two or more municipal corporations in close prox-
233 imity might otherwise have conflicting jurisdiction under this

234 section, the first municipal corporation to exercise such extra-
235 territorial jurisdiction shall thereby acquire exclusive jurisdic-
236 tion over such territory. Such plans shall show recommenda-
237 tions for new streets, bridges, parks, parkways, playgrounds
238 and any other public areas or public improvements. When-
239 ever the commission shall have agreed upon a plan for the
240 development of the municipality or any portion thereof, such
241 plan or plans shall be submitted to the mayor and council for
242 their consideration and action.

243 Before final action shall be taken by any municipality or de-
244 partment thereof on the location and design of any public
245 building, public memorial, street, park, parkway, playground
246 or other public area, such question shall be submitted to the
247 municipal planning commission for investigation and report.

248 *Plans of Land and Streets to be Submitted to Commission*
249 *and Approved by Mayor and Council.* All plans, plats, or re-
250 plats of land laid out in building lots, and the streets intended
251 to be dedicated to public use, shall be submitted to the mu-
252 nicipal planning commission for their consideration and no
253 such plat or replat shall be filed in the office of the clerk of the
254 county court, as provided by law in other cases, until such plat
255 or replat shall have indorsed upon it the fact that it has first
256 been submitted to the municipal planning commission, and
257 by the municipal planning commission to the mayor and coun-
258 cil and by the mayor and council duly approved.

259 *Commission May Employ Help; Expenses.* The municipal
260 planning commission shall have the power and authority to
261 employ engineers and clerks, and/or any other help neces-
262 sary, and to meet such expenses the municipal planning com-
263 mission shall submit to the mayor and council its budget for
264 each fiscal year, itemizing expenses and amounts, and the pur-
265 pose. The council shall thereupon consider such budget and
266 make such allowances to the municipal planning commission
267 as it shall deem proper.

Sec. 24. The chief of police, shall, subject to the directions
2 of the mayor, have charge of and be responsible for the police
3 force of the city and see that all subordinate police officers
4 faithfully perform their official duties; he shall nominate, and
5 by and with the advice and consent of the council, a majority
6 of all the councilmen elected concurring by yeas and nays, ap-
7 point all the subordinate police officers; he shall be ex officio a

8 constable within the corporate limits of his city; may execute
9 any writ or process issued by the mayor or justice of the peace
10 at any place in Brooke county. It shall be the duty of the chief
11 of police to collect all fines and costs at the time of trial or
12 assessment of said fines and costs by the mayor, and make
13 monthly reports thereof to the council and pay said fines and
14 costs and all city moneys that may come into his possession to
15 the city collector and treasurer weekly; and he shall have in all
16 respects the same power to enforce the collection of fines and
17 costs as the sheriff of Brooke county now has, or may hereafter
18 have. to enforce the collection and payment of fines and costs:
19 he shall have all the powers, rights and privileges within the
20 corporate limits of the city and anywhere within Brooke county
21 in regard to the arrest of persons, the collection of claims
22 and the execution and return of process, that can be legally
23 exercised by a constable of a district in which the said city is sit-
24 uated. and he and his sureties shall be liable to all fines, penalties
25 and forfeitures that a constable of a district is liable to, for any
26 failure or dereliction in his office, to be recovered in the same
27 manner and in the same courts that the fines, penalties and for-
28 feitures may be recovered against such constable. All subordi-
29 nate police officers shall have all the powers, rights and priv-
30 ileges of a constable of the district within the corporate limits
31 of the city, in regard to the arrest of persons and the execution
32 and return of all criminal writs and process issued by the mayor,
33 but the council may exempt them from giving the bond required
34 by constables.

35 The chief of police shall before entering upon the duties of
36 his office, execute a bond for the faithful performance by him
37 of the duties of his office, and for the accounting for and paying
38 over as required by law, all the money which may come into
39 his hands by virtue of his office, with sureties satisfactory to the
40 council in a penalty of two thousand dollars, and shall for his
41 compensation receive a salary of not less than one hundred fifty
42 dollars nor more than two hundred dollars per month during
43 his tenure of office, the same to be affixed by the council.

Sec. 25. Said city shall have the right to condemn real estate
2 therein for streets, alleys and other purposes of public utility,
3 and proceedings for such condemnations shall be as prescribed
4 in chapter fifty-four of the code of West Virginia, and shall be
5 at the expense of said city.

Sec. 26. The meetings of council shall be at such times and places as council may from time to time prescribe.

Sec. 27. Council shall appoint three commissioners and two clerks in each ward, before each annual election, who shall hold the election herein provided for. Said commissioners shall make return of the elections so held by them, to the council of said city, as soon as practicable after such elections are held; and council shall thereupon ascertain and publish the result of such election and enter said result upon the journal thereof. The city clerk shall provide the necessary poll books and ballot boxes for such elections, at the expense of the city, and the provisions of chapter three, of the code of West Virginia, insofar as they are applicable thereto, and not inconsistent with the provisions of this act, shall apply to and govern such elections.

Sec. 28. All salaries herein provided shall be paid monthly or quarterly as determined by council.

Sec. 29. All propositions involving the appropriation of money shall be read before the council and referred to the proper committees thereof which shall examine the same and report thereon as soon as practicable and any propositions involving the appropriation of one thousand dollars or more shall not pass unless at least two-thirds of the members of council are present at the time the same is acted upon.

Sec. 30. All ordinances of said city and all entries in the journal of the council thereof which shall be printed or published by authority of the council, or which shall be certified to be corrected by the city clerk of the city, under the seal thereof, shall be received by all the courts and justices of the state as prima facie correct.

Sec. 31. The city shall construct, keep in repair and maintain its own roads, streets and alleys and by reason thereof shall not be required to pay any district or county road levies for the construction or maintenance of roads outside of the city limits, except levies to pay the bonded indebtedness of the county of Brooke, now outstanding.

Sec. 32. In addition to the method of securing the laying of sidewalks set out in section twenty of this charter, the council of said city may cause any sidewalk to be constructed, laid, relaid or otherwise permanently improved in the city of Wellsburg, in the following manner and upon the following terms: Notice shall first be given the abutting property owners by pub-

7 lication for two successive weeks in one newspaper published in
8 said city by giving location of property in front of which side-
9 walks shall be laid, but no error in said publication shall in any
10 way affect the validity of the certificate hereinafter provided
11 for, or any of them. The contract for same shall, after due
12 advertisement in which council shall reserve the right to reject
13 any and all bids, be let to the lowest responsible bidder and upon
14 completion and acceptance of the work council shall order the
15 mayor and city clerk to issue to the contractor doing the work
16 a certificate for the amount of the assessment to be paid by the
17 owner of any lot or fractional part thereof fronting on such
18 sidewalk, and the amount specified in said assessment certificate
19 shall be a lien in the hands of the holder thereof upon the lot or
20 part of a lot fronting on such sidewalk and such certificate shall
21 draw interest from the date of said assessment, and the payment
22 may be enforced in the name of the holder of such certificate
23 by a proper suit in equity in any court having proper jurisdic-
24 tion to enforce such liens and council shall fix the amount of
25 such assessment and do all things in connection therewith neces-
26 sary as is provided for paving or improving streets and alleys
27 and such certificates shall be issued one for each abutting lot or
28 portion thereof payable six months from the date of the com-
29 pletion and acceptance of the work and shall be a lien in the
30 hands of the holder thereof upon the particular lot against
31 which they are assessed in the same way and manner and of the
32 same effect that assessments for street paving liens under the
33 other provisions of this act created: *Provided, however,* That
34 council shall not receive any bids or let any sidewalk contract
35 between the first day of October and the first day of March of
36 of any year. Nothing in this section shall be so construed as to
37 prevent any abutting lot owners from having his own sidewalk
38 put in if done before the advertising hereinbefore mentioned
39 and provided same is done according to the lines, grades and
40 specifications of the city engineer, for which no charge shall
41 be made. The total cost of constructing, laying, relaying or
42 otherwise permanently improving any sidewalk or walks shall
43 be borne by the owners of the land abutting upon said sidewalk;
44 corner lots shall be assessed for the amount in front or alongside
45 of said lot and extended to the curb line.

Sec. 33. The municipal corporation shall cause to be pub-
2 lished in two newspapers of opposite politics, if there be such

3 published therein, at a compensation not to exceed the rate pro-
4 vided by law for like publications, for one issue, or, if no such
5 newspaper be published therein, to publish in pamphlet form
6 not less than one hundred copies of a sworn statement of the
7 financial condition of such corporation. Such statement shall
8 contain a summary account of the receipts and expenditures of
9 the city or municipality showing the source from which all
10 money was derived, and the purpose for which expended, and
11 also a specific statement of the debts of such municipal corpo-
12 ration, showing the purpose for which any debt was contracted,
13 the time it becomes due, the rate of interest, up to what time
14 the interest thereon has been paid, the amount of money in the
15 treasury at the end of the preceding administration and the
16 debts contracted by it. Such statement shall be prepared by
17 the municipal corporation every twelve months and shall then
18 be printed according to the provisions of this section. Either
19 method of the report shall be sworn to by the recorder, by the
20 mayor and two members of the city council. One copy of such
21 printed report shall be delivered to the judge of the judicial
22 district, one to the clerk of the county court, one to the clerk
23 of the circuit court, one shall be kept as a part of the records of
24 the city or municipal corporation, and the remainder shall be
25 held for distribution as called for by the taxpayers. If a city
26 council fail or refuse to perform the duties hereinbefore named,
27 every member of such council and the recorder thereof concur-
28 ring in such failure or refusal shall be guilty of a misdemeanor,
29 and upon conviction thereof, shall be fined not less than ten nor
30 more than one hundred dollars. If any of the provisions of this
31 section are violated, it shall be the duty of the prosecuting attor-
32 ney of the county in which such violations are made to imme-
33 diately present the evidence thereof to the grand jury if in
34 session, and if not in session, he shall cause such violation to be
35 investigated by the next succeeding grand jury.

Sec. 34. It shall be the duty of the city collector and treas-
2 urer to prepare the tax bills which shall be based upon the
3 county assessor's valuation of real and personal property within
4 the city; it shall be the duty of the police officers to make a list
5 of all dogs in the municipality and the names of the owners
6 thereof which list shall be returned to the council.

7 It shall be the duty of the city collector and treasurer to col-
8 lect all taxes, special assessments and other moneys other than

9 fines due the municipality and he is hereby vested with the
10 same rights to distrain for the same as is vested in the sheriff
11 for the collection of taxes. He shall give bond conditioned ac-
12 cording to law in such penalty and with such security as the
13 council may require and in a sum not less than ten thousand
14 dollars.

Sec. 35. The city collector and treasurer shall begin the collec-
2 tion of taxes upon the first day of October of each year; when
3 the taxes of any one person or corporation amount to a sum
4 greater than ten dollars they may be collected, the one-half dur-
5 ing the month of October and the remaining one-half during the
6 month of April of the following year; all unpaid taxes shall
7 bear interest at the same rate as state and county taxes, thirty
8 days after the same are due.

Sec. 36. There shall be a lien on all real estate within the
2 municipality for the taxes assessed thereon for municipal pur-
3 poses. The lien for municipal taxes shall attach and the taxes
4 shall become due at the same time, be subject to the same dis-
5 count, and bear interest at the same rate and from thirty days
6 after due, the same as state and county taxes; and such lien
7 may be enforced by the council in the same manner provided by
8 law for the enforcement of the lien for state and county taxes,
9 or in such other manner as the council may by ordinance pre-
10 scribe. If any real estate within such municipality be returned
11 delinquent for the non-payment of the taxes thereon, copies of
12 such delinquent list may be certified by the council to the audi-
13 tor, and such real estate may be sold for the taxes, interest and
14 costs of publication thereon, in the same manner, at the same
15 time and by the same officer as real estate is sold for the non-
16 payment of state and county taxes: *Provided*, That any such de-
17 linquent real estate list of any municipality that may be certified
18 to the auditor as herein provided shall be so certified to them
19 before the first day of September in the year next succeeding
20 that for which such taxes were assessed: *Provided further*, That
21 in all cases where a delinquent list of real estate is certified to
22 the auditor as aforesaid, the council shall at the same time cer-
23 tify a like list to the clerk of the county court of the county
24 wherein such real estate is situated and returned delinquent by
25 such council; and it shall be the duty of such clerk forthwith to
26 record the list so certified to him in the record of delinquent real
27 estate kept in his office, and in which is recorded the delinquent

28 list of real estate returned by the sheriff of his county. The
29 council shall pay to such clerk for recording such list a reason-
30 able compensation therefor, not to exceed one cent for each
31 parcel of real estate so certified to him and twenty-five cents
32 for recording the certificate of such list.

33 The city collector and treasurer, after ascertaining which of
34 the taxes in the city cannot be collected, shall, on or before the
35 first Monday in June next succeeding the year for which such
36 taxes are assessed, make out an alphabetical list of the taxes on
37 personal property and real property which have not been paid
38 and the collector and treasurer returning such list shall at the
39 foot thereof subscribe the following oath: I, A. B., city collector
40 and treasurer of the city of Wellsburg, do swear that the fore-
41 going list is, I verily believe, correct and just; that I have re-
42 ceived no part of the taxes for which the persons and property
43 therein mentioned are returned delinquent; and that I have
44 used due diligence to find property within the city liable to dis-
45 tress for such taxes, but have found none.

46 A copy of every such list shall be posted at the front door of
47 the city hall at least two weeks before the session of the council
48 at which they are presented for examination.

Sec. 37. To carry into effect the powers conferred upon such
2 town or its council, by this chapter or by any future act of the
3 legislature of the state, the council shall have power to make
4 and pass all needful orders, by-laws, ordinances, resolutions,
5 rules and regulations, not contrary to the constitution and laws
6 of this state; and, for a violation thereof, to prescribe reason-
7 able fines, penalties and imprisonments in the county jail or the
8 place of imprisonment in such corporation, if there be one, for
9 a term not exceeding thirty days. Such fines, penalties and
10 imprisonments shall be recovered, imposed or enforced under
11 the judgment of the mayor of such town or the person lawfully
12 exercising his functions.

13 The fact that a municipal ordinance vests in the council or
14 some other body or officer a discretion to do, or refuse to do, a
15 given thing, shall not invalidate such ordinance when it would
16 be impractical to lay down by ordinance for all cases a uniform
17 guide for exercising such discretion. This section shall not be
18 construed to mean that a delegation of discretion in any other
19 case shall necessarily invalidate an ordinance. But, if in any
20 case, a delegated discretion is exercised in an arbitrary or dis-

21 criminatory manner, such ordinance, as so applied, shall be un-
22 lawful and void.

Sec. 38. The council may appoint a water board consisting
2 of three members, each for the term of three years, and their
3 appointments shall be so made that the term of one member
4 shall expire each year. The board shall appoint from their own
5 number, a president, who shall, when present, act as chairman
6 at all meetings of the board. They may also appoint a clerk
7 to have charge of all records. The board shall have authority,
8 and it shall be their duty, to employ sufficient men; to properly
9 operate the water works and pay all proper running expenses
10 of the water works; to purchase and pay for all tools and work-
11 ing equipment necessary for the use of their employees; to ob-
12 tain and pay for the advice and plans of expert hydraulic en-
13 gineers whenever the board may consider the same necessary;
14 to make any and all necessary repairs and improvements and
15 to keep on hand such stocks of extra parts of machinery, pipes,
16 various and other extra material of the kind in common use
17 about the water works for repairs and for extensions of mains
18 and which may at any time be, in their judgment, prudent to
19 have: *Provided*, That in regard to the improvements and exten-
20 sions of mains, the matter shall first be submitted to the city
21 council for their approval.

Sec. 39. The tax levy which was laid in August of the year
2 one thousand nine hundred thirty, having been laid to cover
3 a period of twelve months only, and, by the terms of this act the
4 beginning and ending of the fiscal year having been changed
5 from the first Monday in May to the first day of July, therefore
6 for the years one thousand nine hundred thirty and one
7 thousand nine hundred thirty-one, the fiscal year shall
8 terminate upon the first Monday in May one thousand nine
9 hundred thirty-one and the books and all accounts shall
10 close upon that day; the present officers of the city, however,
11 shall hold over and continue their term of office until July
12 first as set forth in section five of this act; when the levy is laid
13 in August one thousand nine hundred thirty-one, the same
14 will be to take care of the expense of the city from the first
15 Monday in May one thousand nine hundred thirty-one to
16 the first day of July, one thousand nine hundred thirty-two,
17 and may be fourteen-twelfth times the levy authorized to
18 general purposes by section seven of article eight of chapter

19 eleven of the new code, and there shall be a sufficient levy
20 to take care of the sinking fund and interest on the bonded
21 indebtedness of the city for a period of fourteen months.

Sec. 40. All ordinances now in effect shall still remain of
2 full force and virtue, excepting when they are in conflict and
3 inconsistent with this act, and when in conflict or inconsistent
4 with this act, that portion of such ordinance or ordinances which
5 are in such conflict or inconsistency are hereby repealed.

Sec. 41. All acts and parts of acts which are in conflict and
2 inconsistent with this act, are hereby repealed and declared
3 inoperative insofar only as they are in conflict or inconsistent
4 with this act.

CHAPTER 83

(Com. Sub. for House Bill No. 48—By Mr. Carter)

AN ACT to amend and re-enact sections five, forty-six and seventy-
seven of the greater Wheeling charter.

[Passed March 12, 1931; in effect from passage. Approved by the Governor.]

SEC.

5. When elections for manager-mayor
and councilmen held; how con-
ducted; appointment and qualifi-
cation of registrars; vacancy;
oath; registration of voters; sit-
tings for correction of registra-
tion; election of city executive
committee; terms of members and

SEC.

filling of vacancies; definition of
"political party"; one male and
one female candidate to be elected
from each ward.
46. For what business of vacation city
license may be required.
77. When taxes become due.

Be it enacted by the Legislature of West Virginia:

That sections five, forty-six and seventy-seven of the greater
Wheeling charter, be amended and re-enacted to read as follows:

Section 5. The first election for manager-mayor and coun-
2 cilmen under this amendment to the charter shall be held on
3 the fourth Thursday in May, one thousand nine hundred twen-
4 ty-nine and every regular city election for manager-mayor and
5 councilmen shall be held biennially thereafter on the fourth
6 Thursday in May. All elections for manager-mayor and coun-
7 cilmen shall be conducted and the results ascertained and de-
8 clared in accordance with the election laws of West Virginia
9 in effect at the time of said election so far as the same may be
10 applicable and not inconsistent with any of the provisions of
11 this act, except that all other elections or votes on any question
12 by the qualified voters of said city shall be held or taken at

13 such places under the supervision of such persons and subject
14 to such regulations as are consistent with the said election laws
15 of West Virginia and ordained by council.

16 The city council at its regular meeting held on the first Tues-
17 day in April next before every election for the offices of man-
18 ager-mayor and councilmen shall appoint for each voting pre-
19 cinct in the city two competent persons as registrars one each
20 from the two political parties which at the last preceding state
21 and county election cast the highest number of votes in the
22 county of Ohio, but the city executive committee of such po-
23 litical parties shall present to the council a writing signed by
24 the chairman of the committee of each party requesting the
25 appointment of a qualified voter of his political party, as
26 registrar, with his city address, for each precinct in the city and
27 the council shall appoint the person named in such writing as
28 such registrar. No person shall be eligible to appointment as
29 a registrar, or in any way act as such, who has been convicted
30 of a felony, or who holds any elective or appointive office or
31 is an employee under the laws of the city of Wheeling, county
32 of Ohio, state of West Virginia, or of the United States, or who
33 is not a qualified voter in the precinct for which he is appoint-
34 ed, or who can not read and write the English language. If
35 such registrar shall fail or refuse to serve, the vacancy shall be
36 filled either by the city council, or the manager-mayor of the
37 city in vacation, in the manner hereinbefore provided for the
38 appointment of registrars, and the city clerk shall notify all
39 such persons of their appointment as registrars. Said regis-
40 trars shall before entering upon the discharge of their duties
41 take an oath to support the constitution of the United States,
42 the constitution of West Virginia, and to perform the duties
43 of their office to the best of their ability and that they are legal
44 members of the party for which they are respectively appoint-
45 ed. The said oath shall be filed in the office of the city clerk.
46 The city clerk shall cause to be prepared suitable books and
47 blanks for the registration of the voters and such books shall be
48 so arranged as required by law for the registration of voters
49 for general elections held in the state of West Virginia and all
50 the provisions, duties and obligations as set forth in the elec-
51 tion laws of West Virginia shall apply to the registration of
52 voters hereunder, except as herein otherwise set out and the
53 city clerk shall perform the duties required of the county clerk.
54 As soon as possible after their appointment the registrars

55 shall proceed to register the names of all the qualified voters in
56 their respective precincts and shall complete said registration
57 on or before the third Thursday in April preceding said elec-
58 tion, and, for the purpose of amending, correcting and complet-
59 ing said registration, shall sit together at some convenient place
60 within the voting precinct for two days, commencing the fourth
61 Thursday in April preceding said election from nine o'clock
62 a. m. to one o'clock p. m. and from two o'clock p. m. to nine
63 o'clock p. m., and shall give notice of the time and place of
64 their sitting for such registration and correction by posting
65 written or printed notices of the time and place of such sitting
66 for five days prior thereto at not less than three of the most
67 conspicuous places in said voting precinct, one of which shall
68 be at the place of voting in said precinct. At the time of said
69 sitting the books of registration shall be open for public inspec-
70 tion, and the said registrars, in the manner hereinbefore pro-
71 vided shall register all qualified voters who have not thereto-
72 fore been so registered by them and complete and finish their
73 registration of the voters within their said precinct and make
74 out two alphabetical lists of the registered voters within said
75 precinct entitled to vote at the ensuing election as registered
76 by them and shall sign and return the same to the city clerk
77 on or before the first Thursday in May preceding said election ;
78 each of the said registrars shall receive the same compensation
79 as may be provided by the laws of West Virginia for the per-
80 formance of similar duties in state and county elections. The
81 registration books shall be sent to the polling place along with
82 the ballots and no person who is not duly registered thereon
83 shall be allowed to vote at said election.

84 At the city primary to be held on the second Thursday in
85 May, one thousand nine hundred thirty-one, and at each reg-
86 ular city primary thereafter, the voters of each political party
87 in each ward of the said city of Wheeling shall elect one male
88 and one female member of the city executive committee. All
89 members of the said city executive committee, respectively,
90 elected for each of the wards of said city as herein provided,
91 shall reside within the ward from which chosen, and shall be
92 a known bona fide member of the party of which she or he
93 is a candidate.

94 The term of the members of the said respective executive
95 committees shall begin on the first day of June of the respec-
96 tive years in which they are elected and shall continue for
97 the term of two years thereafter.

98 In the event of any vacancy occurring in any of said city
99 executive committees, the city executive committee or the party
100 in which such vacancy occurs shall fill such vacancy until the
101 next election; and in the event of the death or resignation of
102 any candidate for any political office in the said city of Wheel-
103 ing subsequent to the said primary election and before the
104 general election of said city of Wheeling, the city executive
105 committee of the political party in which such vacancy occurs
106 shall fill said vacancy.

107 The members of the present respective city executive com-
108 mittees as now constituted shall hold their several offices and
109 discharge the duties thereof until their successors are chosen
110 and installed in accordance with the provisions hereof.

111 "Political party," as herein mentioned, shall be, within the
112 meaning of this section, any affiliation of voters representing
113 any principle or organization which, at the last preceding gen-
114 eral city election, polled for its candidate for manager-mayor,
115 at least ten per centum of the total vote cast for all candidates
116 for that office.

117 The female candidates receiving the highest number of votes
118 in their respective wards shall be duly elected as the female
119 members of said committees from their respective wards; and
120 the male candidates receiving the highest number of votes in
121 their respective wards shall be duly elected as the male mem-
122 bers of said committees from their respective wards. In the
123 event of a tie vote in the election for city executive commit-
124 tee, the city council, acting as a board of commissioners, shall
125 decide such tie by lot.

Sec. 46. The council may, by ordinance, require city license
2 for persons conducting and carrying on any business or vocation
3 in the city, for which the state may now or hereafter require
4 license, except that the council may by ordinance, require license
5 for persons, firms, or corporations conducting and carrying on
6 the business of installing plumbing and plumbing fixtures, the
7 installation of electrical wiring and electrical fixtures and the
8 business of conducting a miniature golf course, whether the state
9 requires a license for such vocations or businesses or not.

Sec. 77. Taxes, real or personal, shall become due on such
2 day or days as the council may determine, and the said council
3 may, in its discretion, provide that said taxes shall be payable
4 in installments.

CHAPTER 84

(House Bill No. 53—By Mr. Faber)

AN ACT to empower the county court of Jackson county to transfer a sum, not exceeding fifteen cents on each hundred dollars of the assessed value of all property in the county for the year one thousand nine hundred thirty-one only, from the county road fund to the general county fund.

[Passed February 6, 1931; in effect from passage. Approved by the Governor.]

SEC.
1. County court may transfer mouey |
from county road fund to general
connty fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Jackson county is hereby authorized and empowered to transfer a sum, not exceeding fifteen cents on each hundred dollars of the assessed value of all property in the county for the year one thousand nine hundred thirty-one only, from the county road fund to the general county fund.

CHAPTER 85

(House Bill No. 269—By Mr. Smith, of Marion)

AN ACT to empower the county court of Marion county to transfer a sum, not exceeding twenty thousand dollars, for the year one thousand nine hundred thirty-one only, from the county road fund to the general county fund.

[Passed February 20, 1931; in effect from passage. Approved by the Governor.]

SEC. | SEC.
1. County court to transfer not to | from county road fund to general
exceed twenty thousand dollars | connty fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Marion county is hereby authorized and empowered to transfer a sum, not exceeding twenty thousand dollars, for the year one thousand nine hundred thirty-one only, from the county road fund to the general county fund.

CHAPTER 86

(Senate Bill No. 216—By Mr. Hutchinson)

AN ACT to authorize and empower the county court of Raleigh county, to transfer from funds realized from the county road levy of Raleigh county, a sum of money each year for four years, one thousand nine hundred and thirty-one to one thousand nine hundred and thirty-four, inclusive, to the general county fund of Raleigh county, for the use of said county, in the payment of its existing indebtedness.

[Passed March 12, 1931 : in effect from passage. Approved by the Governor.]

SEC.

1. County court authorized to transfer county road funds to general county fund, to be known as

SEC.

"debt fund"; amount, years and use of transferred funds.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Raleigh county be, and 2 it is, authorized and empowered to make transfers from the 3 county road fund of money realized from collections of taxes 4 raised through and by the county road levy, to the general 5 county fund of Raleigh county, to the extent of ten cents on the 6 one hundred dollars' valuation of properties in Raleigh county, 7 and for the fiscal years beginning July first, one thousand nine 8 hundred and thirty-one, and including July first, one thousand 9 nine hundred and thirty-four. The said money so transferred, 10 however, shall not be used for any other purpose than that of 11 paying off and satisfying the indebtedness existing in Raleigh 12 county and payable from the general county fund. In case the 13 said county court shall make such transfer or transfers, the 14 same shall be kept in a special fund denominated "debt fund," 15 and no payment shall be made to any one from said fund ex- 16 cepting on existing indebtedness of Raleigh county, payable 17 from the general county fund.

CHAPTER 87

(Senate Bill No. 191—By Mr. Woodyard)

AN ACT authorizing the county court of Roane county to transfer the sum of five thousand dollars from the general county fund to the county road fund of said county.

[Passed March 13, 1931; in effect from passage. Approved by the Governor.]

SEC. 1. Transfer of funds by county court of Roane county, from general		SEC. county fund to county road fund.
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Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Roane county be and it 2 is authorized to transfer from the general county fund of that 3 county, of the levy for the year one thousand nine hundred and 4 thirty, to the county road fund of said county and use as part 5 of that fund, the sum of five thousand dollars.

CHAPTER 88

(House Bill No. 403—By Mr. Randolph)

AN ACT to authorize the city of Clarksburg, West Virginia, to transfer funds now in its recreation and playground fund to the library fund of said city and providing for the use thereof.

[Passed March 13, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC. 1. City of Clarksburg authorized to transfer money from recreation		SEC. and playground fund to library fund; use of transferred funds.
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Be it enacted by the Legislature of West Virginia:

Section 1. The city of Clarksburg, West Virginia, is here- 2 by authorized to transfer the sum of six thousand dollars now 3 in the recreation and playground fund of said city to the library 4 fund of said city and to permit the board of directors of the 5 Clarksburg public library to use such funds to remodel and 6 equip for library purposes the Waldomore property devised 7 to said city of Clarksburg by the late May Goff Lowndes.

CHAPTER 89

(House Bill No. 204—By Mr. Brown, of Hancock)

AN ACT to empower the board of education of Chester independent school district of the county of Hancock, to transfer the sum of one thousand eighty-nine dollars eighty cents, from the public recreation and playground fund to the new public building fund of the said school district.

[Passed March 3, 1931; in effect from passage. Approved by the Governor.]

SEC.

1. Transfer of funds from public recreation and playground fund to new building fund.

Be it enacted by the Legislature of West Virginia:

Section. 1. That the board of education of the Chester independent school district of the Grant district in the county of Hancock is hereby authorized and empowered to transfer the sum of one thousand eighty-nine dollars eighty cents remaining in the public recreation fund and playground fund to the new building fund of the said school district.

CHAPTER 90

(Senate Bill No. 142—By Mr. Davis, of Ritchie)

AN ACT to authorize the county court of Pleasants county, West Virginia, to lay a special levy, not exceeding ten cents on each one hundred dollars, of the assessed valuation of the taxable property in said county for general county purposes; to lay a special levy not exceeding five cents on each one hundred dollars of the assessed valuation of the taxable property in said county for general road purposes, and to lay a special levy not exceeding five cents on each one hundred dollars of the assessed valuation of the taxable property in said county for district road purposes; said special levy for general county purposes not to be levied for more than ten years from the date of passage; and said special levies for county road purposes and district road purposes, respectively, not to be levied for more than five years from date of passage of this act; the purposes for which said special levies are laid,

and providing for the expenditure of the money derived from said levies.

[Passed February 28, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Special debt levy for general county purposes by county court of Pleasants county; number of years may be laid; amount.
2. Special debt levy for county road purposes; number of years may be laid; amount.

SEC.

3. Special debt levy for district road purposes; number of years may be laid; amount.
4. How proceeds of levies expended; interest on outstanding orders; referendum.

Be it enacted by the Legislature of West Virginia:

Section 1. Beginning with the next levy period, until the present indebtedness of the county of Pleasants is fully paid off and discharged, or payment thereof provided for, not however to exceed a period of ten years, the county court of Pleasants county shall have authority to lay, at the same time and in the same manner in which other levies are laid, a special levy for general county purposes not to exceed ten cents on each one hundred dollars of the valuation of the taxable property in the county of Pleasants as shown by the assessments thereof.

Sec. 2. Beginning with the next levy period, until the present indebtedness of the county of Pleasants is fully paid off and discharged, or payment thereof provided for, not however to exceed a period of five years, the county court of Pleasants county shall have authority to lay, at the same time and in the same manner in which other levies are laid, a special levy for county road purposes not to exceed five cents on each one hundred dollars of the valuation of the taxable property in the county of Pleasants as shown by the assessment thereof.

Sec. 3. Beginning with the next levy period, until the present indebtedness of the various magisterial districts of the county of Pleasants is fully paid off and discharged, or payment thereof provided for, not however to exceed a period of five years, the county court of Pleasants county shall have authority to lay, at the same time and in the same manner in which other levies are laid in each magisterial district in said county, a special levy for district road purposes, not to exceed five cents on each one hundred dollars of the valuation of the taxable property in the county of Pleasants as shown by the assessment thereof.

Sec. 4. The funds derived from the aforesaid special levies

2 for general county purposes, county road purposes, and dis-
 3 trict road purposes, respectively, shall be applied only to the
 4 payment of the present indebtedness including interest of
 5 Pleasants county, West Virginia, and the magisterial districts
 6 thereof, and for no other purposes, and shall be in addition to
 7 all other levies now provided by general law: *Provided, how-*
 8 *ever,* That the county court is hereby authorized to issue orders
 9 against the funds derived from said special levies for the pay-
 10 ment of interest on the orders now outstanding, and comprising
 11 the present indebtedness of the county of Pleasants and dis-
 12 tricts of Pleasants county, respectively, which interest shall be
 13 paid semi-annually, but in no event shall this levy be made
 14 until the same has been authorized by a majority vote of the
 15 voters of said county at the next general election.

Sec. 5. All acts or parts of acts inconsistent with the pro-
 2 visions of this act are hereby repealed.

CHAPTER 91

(Senate Bill No. 199—By Mr. Miller)

AN ACT to authorize the county court of Logan county, West Vir-
 ginia, under certain restrictions, to lay a special levy of not
 exceeding twenty cents on each one hundred dollars of the
 assessed valuation of the taxable property in said county for
 each of the years one thousand nine hundred and thirty-one,
 one thousand nine hundred and thirty-two, one thousand nine
 hundred and thirty-three, and one thousand nine hundred and
 thirty-four, to supplement the fund for county purposes, other
 than roads and bridges, authorized by section three, article
 eight, of chapter eleven, code of West Virginia; to provide for
 the disbursement of the funds so raised by said special levies,
 and to create a committee of taxpayers to perform certain
 duties respecting the laying and disbursement of said levies.

[Passed March 11, 1931; in effect from passage. Approved by the Governor.]

SEC.

1. Special levy by county court of Logan county; amount, years, purposes.
2. How collected; to be kept in separate funds; how disbursed; special levy for nineteen hundred and thirty-one, how laid and apportioned; levy for succeeding years on recommendation of taxpayers' committee.

SEC.

3. Taxpayer's committee, number, names, oaths of office and duration; vacancies, qualifications; duties and powers of committee.
4. Certificate by committee to county court as to laying of special levy; contents; publication.
5. Special levy upon approval of com-

Sec. mlttee: limitation: apportion-
 ment by county court of proceeds
 of levy.
 6. Records of funds; liability of sher-

Sec. iff for collection and disburse-
 ment.
 7. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That, in the manner hereinafter authorized, and
 2 subject to all the restrictions and limitations contained in this
 3 act, the county court of Logan county, West Virginia, at the
 4 same time fixed by general law for the laying of levies au-
 5 thorized by law for general purposes, for each of the years one
 6 thousand nine hundred and thirty-one, one thousand nine hun-
 7 dred and thirty-two, one thousand nine hundred and thirty-
 8 three, and one thousand nine hundred and thirty-four, is hereby
 9 authorized to lay a special levy of not exceeding twenty cents
 10 on each one hundred dollars of the assessed valuation of the
 11 taxable property in said county, to supplement the fund for
 12 county purposes, other than roads and bridges, authorized by
 13 section three, article eight, of chapter eleven, code of West
 14 Virginia. And the funds derived from such special levies shall
 15 be disbursed and used in the manner and only for the purposes
 16 prescribed by the terms of this act.

Sec. 2. All moneys derived from the special levies authorized
 2 by this act shall be collected and paid into the county treasury
 3 in the same manner and at the same time as are the moneys de-
 4 rived from the general levy authorized by section three, article
 5 eight, of chapter eleven, code of West Virginia, but the moneys
 6 derived from said special levies shall be kept separate from
 7 moneys derived from the general levy, and shall be credited and
 8 apportioned to two separate funds which shall be called, re-
 9 spectively, "old debt fund" and "supplemental current fund."
 10 Accurate accounts shall be kept of all moneys properly credit-
 11 able to each of said funds, and no warrant or order shall be
 12 issued against either of said funds, nor any contract or obliga-
 13 tion incurred in respect thereto, except for the purposes ex-
 14 pressly authorized by this act.

15 Moneys required by this act to be credited to said old debt
 16 fund shall be used only for the purpose of paying unbonded
 17 indebtedness of said county, incurred for county purposes other
 18 than roads and bridges, and existing at the time this act takes
 19 effect. No order or draft shall be paid out of said old debt
 20 fund unless it shows on its face that it is payable out of said

21 fund, or unless it be an order issued and signed prior to the
22 date this act takes effect in payment of a bona fide debt for
23 county purposes other than roads and bridges.

24 The moneys creditable under this act to said supplemental
25 current fund shall be used for the same purposes as the funds
26 derived from the general levy for county purposes other than
27 roads and bridges, but no orders shall be paid out of this fund
28 except such as on their face show that they are so payable.

29 For the year one thousand nine hundred and thirty-one, but
30 not thereafter, said county court may lay said special levy with-
31 out the approval of the taxpayers' committee hereinafter cre-
32 ated; and to that end shall include said special levy in its
33 itemized statements required to be made and published under
34 the provisions of sections two and three of article eight of
35 chapter eleven, code of West Virginia, and in the orders of said
36 court showing said statements and the levies thereafter made
37 and based thereon pursuant to general law, it shall be specifi-
38 cally ordered and provided that one-half the moneys derived
39 from said special levy shall be apportioned and credited to said
40 old debt fund and the other one-half thereof shall be appor-
41 tioned and credited to said supplemental current fund, to be
42 used only for the purposes prescribed by this act.

43 As to that portion of said special levy for the year one thou-
44 sand nine hundred thirty-one authorized to be credited and
45 paid into said supplemental current fund, it shall be lawful for
46 the county court of said county, at any time after this act takes
47 effect, to anticipate said levy by issuing its orders payable on
48 the first day of December, one thousand nine hundred and
49 thirty-one, out of said fund, in an amount not exceeding thirty
50 thousand dollars in the aggregate, for any lawful county pur-
51 poses other than roads and bridges; but after the year one thou-
52 sand nine hundred and thirty-one no orders shall be drawn in
53 anticipation of said levies.

54 After the year one thousand nine hundred and thirty-one, no
55 special levy shall be laid under the provisions hereof, except
56 upon recommendation of the taxpayers' committee hereinafter
57 provided for, and then only in the manner and to the extent
58 designated by said committee acting under the limitations pre-
59 scribed by this act.

Sec. 3. There is hereby created a committee to be known as
2 "the taxpayers' committee of Logan county," which shall be

3 composed of six members, three of whom shall belong to each
4 of the two leading political parties in said county, and which
5 committee as first constituted hereunder shall consist of J. Cary
6 Alderson, H. S. Gay, Bruce McDonald, A. D. Dickey, J. J.
7 Foster and C. W. Jones who shall, before proceeding to act as
8 such committee, each take, subscribe and file with the clerk of
9 the county court of said county, an oath that he will support
10 the constitution of the United States and of this state, and that
11 he will faithfully and diligently perform the duties of such
12 committeeman to the best of his skill and judgment. Such com-
13 mittee shall continue to exist and the members thereof hold
14 office so long as this act is in force, and thereafter so long as
15 any funds derived under the provisions hereof remain unex-
16 pended. Vacancies on said committee arising from failure of
17 any member to qualify, from death, from resignation, or from
18 any other cause, shall be filled by appointment made by the
19 judge of the circuit court of Logan county. But the person
20 so appointed to fill such vacancy shall be a taxpayer of said
21 county, belonging to the same political party as the member
22 whose place he is appointed to fill, and shall be a person of
23 good moral character and of recognized business judgment and
24 successful business standing in said county.

25 Any four members of said committee shall constitute a
26 quorum for the transaction of business, and may act for and in
27 the name of said committee, but no business shall be transacted
28 by said committee except in, or pursuant to, a regular meeting
29 of which all the members thereof shall have had due notice. It
30 shall be the duty of the members of said committee to keep
31 themselves posted concerning the fiscal affairs of the said county
32 of Logan, and to especially acquaint themselves with all ac-
33 counts, records and data necessary to enable them to at all times
34 know whether the funds derivable from the special levies pro-
35 vided by this act are necessary to be raised; whether the same
36 are being disbursed and accounted for in accordance with the
37 terms of this act, and generally to familiarize themselves with
38 such facts and conditions as will enable said committee to judge
39 whether or not the laying of the special levies herein provided
40 for will promote the best interests of the taxpayers of said
41 Logan county.

Sec. 4. After the year one thousand nine hundred and thirty-
2 one, said committee shall annually, during the time this act is

3 in force, and at the time the county court of said county meets
4 pursuant to the provisions of sections two and three of article
5 eight of chapter eleven, code of West Virginia, to make and pub-
6 lish the itemized statements provided by said sections, certify in
7 writing to said court, whether the special levy authorized by
8 this act shall be raised for the then fiscal year. And if said
9 committee be of opinion that such special levy should be laid,
10 it shall certify further whether the maximum, or a smaller,
11 amount of such levy shall be laid, and shall specify in its cer-
12 tificate what proportion of the levy so laid shall be appor-
13 tioned and credited to said "old debt fund" and what propor-
14 tion shall be apportioned and credited to said "supplemental
15 current fund:" *Provided, however,* That in no case shall the
16 proportion to be applied on existing indebtedness be less than
17 one-half of the whole amount to be raised by such special levy.
18 If the committee be of opinion that no special levy should be laid
19 for any particular fiscal year covered by this act, or that it
20 should be laid only for the purpose of paying said existing
21 indebtedness, it shall so state to the court in its said certificate,
22 and in no event shall the said county court be authorized to
23 lay the special levies provided for in this act until it receives
24 from said committee the certificate herein provided for ap-
25 proving said special levy. Upon receipt of said certificate,
26 whether the same approve or disapprove the laying of the special
27 levies created by this act, such certificate shall be published
28 with and at the same time and in the same manner as is pro-
29 vided for the publication of the statements made by said county
30 court pursuant to the provisions of sections two and three,
31 article eight, chapter eleven of the code of West Virginia. Such
32 certificate shall further state whether the funds theretofore
33 derived from such special levies have been properly disbursed
34 and accounted for, and whether in the opinion of the committee
35 there has been any waste, extravagance or illegal expenditures
36 on the part of said county court from the general county fund.
37 And if such committee finds that there have been any improper
38 disbursements of said special levy, or any waste, extravagance
39 or illegal expenditures of said general funds, then it shall with-
40 hold its assent and approval of the special levies authorized
41 under this act.

Sec. 5. When the county court shall receive the approving
2 certificate of the committee hereinbefore provided for, it shall

3 lay, in accordance with said certificate, the special levy au-
4 thorized by this act, but subject to the further limitation that
5 the special levies so laid, together with the levies authorized
6 by general law for county purposes other than roads and
7 bridges, and the levies for the county road fund authorized by
8 section two, article eleven, chapter seventeen, code of West
9 Virginia, do not in the aggregate exceed the sum of fifty-five
10 cents on each one hundred dollars' assessed valuation of the
11 taxable property in said county. If said county court be au-
12 thorized to lay any special levies hereunder after the year one
13 thousand nine hundred and thirty-one, it shall include said
14 special levy in its itemized statements required to be made and
15 published under the provisions of sections two and three of
16 article eight of chapter eleven, code of West Virginia, and in
17 the orders of said court showing said statements and the levies
18 thereafter made and based thereon pursuant to general law, it
19 shall be specifically ordered and provided, in accordance with
20 the certificate of said committee, what proportion of said special
21 levy shall be apportioned and credited to said "old debt fund"
22 and what proportion thereof shall be apportioned and credited
23 to said "supplemental current fund."

Sec. 6. Accurate records and accounts shall be kept of all
2 moneys raised and disbursed under the provisions of this act,
3 so as to show the amount thereof properly referable to each of
4 the two separate funds provided for herein; and the sheriff of
5 Logan county shall be liable on his official bond for the proper
6 collection and disbursement of all funds raised under the pro-
7 visions of this act, in the same manner as he is by general law
8 made liable for the proper collection and disbursement of levies
9 authorized by general law.

Sec. 7. All acts or parts of acts within the purview hereof
2 and inconsistent herewith are hereby repealed.

CHAPTER 92

(House Bill No. 105—By Mr. Goode)

AN ACT to authorize the county court of Lincoln county to lay a special levy and appropriate other county funds for the purpose of discharging the present indebtedness on the general county fund of Lincoln county, and to fix the maximum levies for the general county, county road, and district road funds, during the time such special levy is laid.

[Passed February 4, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.	SEC.
1. Special levy for existing indebtedness: number of years and amount.	3. Maximum of other levies.
2. How applied.	4. Certain other proceeds to be applied to present indebtedness.
	5. Repeal of inconsistent acts.

Be it enacted by the Legislature of West Virginia:

Section 1. Beginning with the next levy period, until the present indebtedness of the general county fund of Lincoln county is fully paid off and discharged, or payment thereof provided for, not however, to exceed a period of three years, the county court of Lincoln county shall have authority to lay, at the same time and in the same manner in which other levies are laid, a special levy not to exceed twenty cents on each one hundred dollars of valuation of the taxable property in the county of Lincoln as shown by the assessments thereof.

Sec. 2. The funds derived from the special levy laid pursuant to section one of this act shall be applied only to the payment of the present indebtedness of the general funds of Lincoln county, and for no other purpose.

Sec. 3. During the years the said special levy shall be laid the maximum of certain other levies which the county court is now authorized by law to lay, shall be, on each one hundred dollars of the taxable property of said county as follows:
 For general county fund, thirty cents; for county road fund, ten cents; for district road fund, fifteen cents.

Sec. 4. The county court shall appropriate to the payment of the present indebtedness on the general county fund of Lincoln county, any and all moneys, other than tax money, collected from persons, firms or corporations now indebted to said county.

Sec. 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAPTER 93

(Senate Bill No. 23—By Mr. Hatfield)

AN ACT to validate the discontinuance of the senior high schools at present maintained at Berwind, Coalwood and War in Big Creek district in the county of McDowell, state of West Virginia, thereby enabling the board of education of said district to consolidate said senior high schools as Big Creek district high school, as authorized at an election held on the fourth day of November, one thousand nine hundred and thirty.

[Passed January 27, 1931; in effect from passage. Approved by the Governor.]

SEC.

1. Discontinuance of grades ten, eleven and twelve in high schools at Berwind, Coalwood and War validated.

SEC.

2. Proceedings for consolidation of said grades in said high schools validated and confirmed.

Be it enacted by the Legislature of West Virginia:

Section 1. At an election held on the fourth day of November, one thousand nine hundred and thirty, in Big Creek district, McDowell county, West Virginia, on the question of the consolidation of grades ten, eleven and twelve in each of the high schools now maintained in said district at Berwind, Coalwood and War, a total of two thousand six hundred sixty-two votes having been cast in favor of, and a total of two hundred thirty-five votes having been cast against said consolidation, the discontinuance of instruction in grades ten, eleven and twelve in the high schools at Berwind, Coalwood and War is hereby validated the same as if discontinued upon petition of taxpayers as prescribed in section eight of article six of chapter eighteen of the official code of West Virginia.

Sec. 2. All proceedings authorizing the consolidation of grades ten, eleven and twelve in each of the high schools now maintained at Berwind, Coalwood and War in Big Creek district in the county of McDowell, state of West Virginia, at an election held for that purpose on the fourth day of November, one thousand nine hundred and thirty, are hereby, in all respects, validated and confirmed.

CHAPTER 94

*(House Bill No. 238—By Mr. Hartigan)

AN ACT to amend chapter eighty-five of the acts of the legislature of one thousand eight hundred ninety-seven, as amended by chapter ninety-eight of the acts of the legislature of one thousand nine hundred twenty-five, relating to the independent school district of Morgantown, by amending and re-enacting sections fifteen and sixteen thereof.

{Passed March 6, 1931; in effect ninety days from passage. Approved by the Governor.}

SEC.

15. Board of education to make, certify and publish statement of estimated receipts and proposed rates of levy; levy by board.

SEC.

16. Levies not to exceed levies authorized by law, except levy for elementary teachers' fund to be sufficient to maintain schools for a term of at least nine months.

Be it enacted by the Legislature of West Virginia:

That chapter eighty-five of the acts of the legislature of one thousand eight hundred ninety-seven, as amended by chapter ninety-eight of the acts of the legislature of one thousand nine hundred twenty-five, creating the independent school district of Morgantown, be amended by amending and re-enacting sections fifteen and sixteen thereof so as to read as follows:

Section 15. At its session on the second Tuesday in August 2 in each year, the board of education shall make, certify and publish a statement of estimated receipts and expenditures and proposed rates of levy for said district, as required by the law relating to levies; and at its session on the fourth Tuesday in 6 August in each year it shall, if necessary, correct such statement and proposed levies and shall thereupon levy as many 8 cents on each one hundred dollars assessed valuation of the taxable property of said district, according to the last assessment 10 thereof, as will produce the amounts necessary for school purposes, which levies shall be made, extended and collected in 12 like manner and effect as other levies.

Sec. 16. The levies authorized by the preceding section 2 shall not exceed the respective maximum rates of levies for the 3 purposes now or hereafter authorized by the law relating to 4 levies by boards of education for school purposes: *Provided,* 5 That the levy for elementary teachers' fund purposes in said

6 district shall be sufficient to maintain such schools for a term of
7 at least nine months.

8 All acts and parts of acts inconsistent herewith insofar as ap-
9 plicable to said district are hereby repealed.

*This is the same as Senate Bill No. 110, introduced by Mr. Hodges and
passed March 6, 1931.

CHAPTER 95

(Senate Bill No. 222—By Mr. Watkins, by request)

AN ACT to authorize the board of education of Grafton inde-
pendent school district of Taylor county, to purchase frac-
tional interests in a building for physical education or other
educational purposes and to lease outstanding interests
therein.

[Passed March 12, 1931; in effect ninety days from passage. Became a law without
the approval of the Governor.]

SEC.

1. Board of education authorized to
purchase and to lease fractional
interests in building for educa-

SEC.

tional purposes: future purchases
by board of other fractional in-
terest.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Grafton independent
2 school district of Taylor county is hereby authorized and em-
3 powered to acquire by purchase, or otherwise, a one-third or
4 other fractional undivided interest in and to a building in said
5 district constructed for physical education or other educa-
6 tional purposes out of the current authorized levies for any one
7 year, and to lease the other fractional undivided interest or
8 interests in such building for that and any future years. Said
9 board may elect to occupy and use such building, and to ac-
10 quire by purchase, or otherwise, in any future years, additional
11 fractional undivided interest or interests therein out of then
12 current authorized levies, and to acquire all of the remaining
13 outstanding undivided fractional interest or interests in such
14 building at any time out of current authorized levies for any
15 year when it may have sufficient funds for such purpose, and
16 to acquire and own options covering the rights to purchase the
17 outstanding interest or interests heretofore mentioned in such
18 building.

CHAPTER 96

(House Bill No. 44—By Mr. Smith, of Wirt)

AN ACT to amend and re-enact section four of chapter eighty-three of the acts of one thousand eight hundred seventy-one, entitled: "An act to provide free schools for the district of Elizabeth, in the county of Wirt," passed February twenty-one, one thousand eight hundred seventy-one.

[Passed January 30, 1931; in effect from passage. Approved by the Governor.]

Sec.

4. Election of school commissioner; how conducted and expense.

Be it enacted by the Legislature of West Virginia:

That section four of chapter eighty-three of the acts of one thousand eight hundred seventy-one be amended and re-enacted so as to read as follows:

Section 4. The qualified voters of said school district of Elizabeth, shall, on the second Monday in April of each year, elect one commissioner, and the elections shall be conducted by three voters of said district selected by the board of education thereof in conjunction with the council of the town of Elizabeth, and the expense of such election shall be borne equally by said board of education and the council of said town of Elizabeth.

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

CHAPTER 97

(House Bill No. 72—By Mr. Marcum)

AN ACT to amend and re-enact chapter one hundred and five of the acts of the legislature, regular session, one thousand nine hundred twenty-five, relating to the creation, establishment and maintenance of a county high school in the county of Wayne, West Virginia.

[Passed February 10, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Wayne county high school established.
2. Board of directors, how elected; qualifications; president, how elected.
3. Board to be nonpartisan; compensation.
4. Same; vacancies; how filled.
5. Secretary of board; salary and duties.
6. Estimates and levies by board; regular and special meetings.

SEC.

7. Levy by board to develop and maintain high school.
8. Board to employ janitor and other help; how paid.
9. Board employ principal; qualifications; election and qualifications of teachers.
10. Transfer of money from dormitory to teachers' fund.
11. Salaries; removal of principal and teachers.
12. Corporate name of board.
13. Conflicting acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The magisterial districts of Union, Lincoln, Grant 2 and Stonewall, Wayne county, shall constitute the territory 3 creating, establishing and maintaining the Wayne county high 4 school.

Sec. 2. The Wayne county high school shall be under the 2 management of a board of directors, consisting of one member 3 from each of the magisterial districts, constituting the Wayne 4 county high school district. One of the members of said board 5 of directors shall act as president, and shall be chosen as presi- 6 dent by a majority of the members for a period of two years. 7 All the members of said board of directors shall be freeholders, 8 and each shall be a bona fide citizen of the magisterial district 9 from which he is elected, and shall be elected by the qualified 10 voters of the Wayne county high school district for a term of 11 six years. The members of the board of directors now in office 12 shall serve for the remainder of the term for which they were 13 elected, or until their successors are elected and qualified.

Sec. 3. The said board of directors shall be nonpartisan, 2 that is to say that not more than two of the said board of direc- 3 tors shall belong to the same political party. The members of 4 the said board shall receive compensation of five dollars for each 5 meeting attended not to exceed twelve meetings in any one year.

Sec. 4. Vacancies by resignation, death or otherwise dur-

2 ing any office term, before the regularly expired term shall be
3 filled by appointment by the county superintendent of schools.

Sec. 5. Said board of directors shall appoint some compe-
2 tent person secretary who shall serve for a period of one year.
3 The said board of directors shall fix the salary of the secretary,
4 which salary shall in no case exceed three hundred dollars per
5 annum. The duties of the said secretary shall be the same as
6 prescribed by the general school law governing secretaries of
7 district boards of education.

Sec. 6. The board of directors shall meet on the first Tues-
2 day in August to make up the estimate of expenditures as pro-
3 vided by law, and the third Tuesday in August for the purpose
4 of laying the levies as provided by law, and shall meet the fourth
5 Saturday in each calendar month for the transaction of busi-
6 ness, and as often in special session as is required for the full
7 performance of the duties of the office. The said special meet-
8 ings shall be called in the same manner as meetings of district
9 boards of education under the general school law.

Sec. 7. The board of directors of the Wayne county high
2 school shall lay a levy to develop and maintain said high school
3 in the same manner, and under the same limitations as are pro-
4 vided for high schools established under article eight of section
5 five of chapter eleven, official code of West Virginia of nineteen
6 hundred thirty-one.

Sec. 8. It shall be the duty of the board of directors to em-
2 ploy competent and efficient janitors and such other helpers as
3 may be necessary to take proper care of the buildings and
4 grounds belonging to the said high school, approaches to the
5 high school building, improving the grounds by building neces-
6 sary walks, clearing off, cleaning up and beautifying the grounds
7 and putting grounds and buildings in a sanitary condition.
8 The board of directors shall pay the expenses for the above de-
9 scribed and necessary services and work out of the "main-
10 tenance building fund."

Sec. 9. The immediate administration and supervision of
2 the Wayne county high school shall be under a principal em-
3 ployed by the board of directors. The said principal shall be
4 a graduate from a standard college or university, and shall meet
5 the requirements of the state department of education for a
6 high school principal's certificate. The said board of directors
7 shall consult with the said principal in the employment of all

8 teachers for the said high school. All teachers so employed shall
9 be graduates of standard colleges or universities and shall meet
10 the requirements of the state board of education for high school
11 certificates, but the said board shall be the final arbiters in the
12 employment of teachers.

Sec. 10. The said board of directors shall have authority
2 with the consent of the county financial secretary, to transfer
3 all money now in the hands of the sheriff of Wayne county from
4 the dormitory fund to the teachers' fund of the said Wayne
5 county high school district.

Sec. 11. The said board of directors shall fix the salaries of
2 the principal and teachers in the said high school and in pay-
3 ment for the services of the said principal and teachers they
4 shall issue drafts on the aforesaid teachers' fund. The said board
5 of directors may for proper cause and in the manner provided
6 by law remove any or all principals and teachers or other em-
7 ployees in their employ.

Sec. 12. The board of directors is hereby made a corporate
2 body and as such may sue and be sued in their corporate name,
3 "The board of directors of the Wayne county high school."

Sec. 13. All acts and parts of acts relating to the Wayne
2 county high school district so far, and so far only, as they con-
3 flict with the provisions of this act, are hereby repealed.

CHAPTER 98

(House Bill No. 189—By Mr. Rife)

AN ACT to amend and re-enact section seven of chapter one hun-
dred and eight of the acts of the legislature of West Virginia,
for one thousand nine hundred twenty-nine, relating to the
Butler district high school in the district of Butler, in the
county of Wayne and state of West Virginia.

[Passed February 9, 1931; in effect ninety days from passage. Approved by the
Governor.]

SEC. 7.	Special district levy authorized for construction of high school; spe-		SEC. 7.	cial levy for salaries and mainte- nance.
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Be it enacted by the Legislature of West Virginia:

That section seven of chapter one hundred eight of the acts
of the legislature of West Virginia of one thousand nine hundred
twenty-nine, relating to the Butler district high school in the dis-

trict of Butler, in the county of Wayne and state of West Virginia, be amended and re-enacted so as to read as follows:

Section 7. For the purpose of erecting, building and establishing such high school, the board of directors of said district high school is hereby authorized and empowered to lay a levy for the fiscal year commencing July one, one thousand nine hundred thirty-one, and ending June thirty, one thousand nine hundred thirty-two, and for the fiscal year commencing July one, one thousand nine hundred thirty-two, and ending June thirty, one thousand nine hundred thirty-three, of not exceeding thirty cents on each one hundred dollars assessed valuation on all taxable property in said Butler district, and said levy shall be in addition to all other levies now provided by general law for new building and improvement fund purposes, and to be levied in like manner as other levies.

And the said board of directors of said district high school is also hereby empowered and authorized to lay such levies as are provided by general law for the purpose of paying the salaries of principals, teachers and other employees necessary for said high school, and for the maintenance, equipment and repairs of said high school.

CHAPTER 99

(House Bill No. 202—By Mr. Carter)

AN ACT to provide for extending the boundaries of the school district of Wheeling, by amending and re-enacting sections one, two, three, four, five and fourteen of "an act relating to the school district of Wheeling" as enacted by chapter eleven of the acts of one thousand eight hundred and seventy-two, and amended and re-enacted by chapter forty-six of the acts of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, chapter one hundred fifteen of the acts of one thousand eight hundred and seventy-five, chapter sixteen of the acts of one thousand eight hundred eighty-two, chapter one hundred thirty-nine of the acts of one thousand nine hundred and one, chapter thirty-two of the acts of one thousand nine hundred and five, chapter thirty-eight of the acts of one thousand nine hundred and twenty, one thousand nine hundred and twenty-one, and chapter one hundred

nine of the acts of one thousand nine hundred and twenty-five, designating chapter one hundred nine of the acts of one thousand nine hundred and twenty-five as section thirty-three thereof and amending the same, adding thereto section thirty-four, repealing all acts or parts of acts inconsistent with the provisions of this act and submitting the question to a vote of the people.

[Passed February 19, 1931; in effect from passage. Approved by the Governor.]

ARTICLE I.

SEC.

1. Ohio county to constitute Wheeling independent school district.
2. School commissioner, election, number, terms; precinct boundary lines; primary nomination of candidates; petition to become candidate, form of; acceptance of candidacy; requirements as to primary ballots; how ties decided; requirements as to regular election ballots; publication of results of primary and regular election by clerk of circuit court; removal from district vacates office.
3. Qualification of voters.
4. Notification of election and oath of office; how vacancies filled.
5. Organization of board; selection and bond of clerk.
14. Bond of collector; power of collector; lien for taxes.

ARTICLE II.

SEC.

1. Designation of section number of previous charter amendments.
2. What estimates by board to show; submission to state tax commissioner and publication; consideration of objections; levies by board, purposes and amounts; limitation on total levy.

ARTICLE III.

SEC.

34. Appointment of assistant superintendents and supervisors; appointment and compensation of collector.

ARTICLE IV.

Act not effective until boundaries of district extended; resolution by board for extension of boundaries; form of ballot; notice by board to boards of districts proposed to be annexed; duties of boards upon notice; when election may be held; what precinct lines to be used; conduct and report of election; proclamation and publication of result of election; qualification of voters; when election to be held; when publication in one newspaper sufficient; if boundaries extended, new district to assume debts of included districts; extension of boundaries not to affect municipal boundaries; terms of present county superintendent and members and officers of boards of education; property of included districts to be turned over to board of new district; provisions of act severable.

Be it enacted by the Legislature of West Virginia:

(I) That sections one, two, three, four, five and fourteen of chapter eleven of the acts of one thousand eight hundred and seventy-two, as amended and re-enacted by chapter forty-six of the acts of one thousand eight hundred and seventy-two and one thousand eight hundred and seventy-three, chapter one hundred fifteen of the acts of one thousand eight hundred and seventy-five, chapter sixteen of the acts of one thousand eight hundred and eighty-two, chapter one hundred thirty-nine of the acts of one thousand nine hundred and one, chapter thirty-two of the acts of one thousand nine hundred and five, and chapter thirty-eight of the acts of one thousand nine hundred and twenty and one thousand nine hundred twenty-one, be and the same are hereby repealed, and that new sections be and are hereby in lieu thereof

enacted to be known as sections one, two, three, four, five and fourteen, to read as follows:

Section 1. The area within the limits of the county of Ohio 2 as the said limits existed on the first day of January, one thou- 3 sand nine hundred and thirty-one, shall constitute an independ- 4 ent school district, to be known as the school district of Wheel- 5 ing.

Sec. 2. At the next regular biennial election for members 2 of congress to be held in the county of Ohio, on the first Tues- 3 day in November, following the extension of the school district 4 of Wheeling in the manner in this act provided, there shall be 5 elected at large within the limits of said school district of 6 Wheeling as extended seven competent persons to serve as 7 school commissioners for said district. The terms of office 8 of the school commissioners elected pursuant to this section 9 shall commence on the first day of July next succeeding their 10 election, and the terms of office of the three of such commis- 11 sioners who shall have received the highest number of votes 12 at said election, shall continue for a term of six years, and 13 until their successors are elected and qualified, and the terms 14 of office of the two of said commissioners who shall receive 15 the next highest number of votes at said election shall con- 16 tinue for a term of four years, and until their successors are 17 elected and qualified, and the terms of office of the two of 18 said commissioners receiving the next highest number of votes 19 at said election, shall continue for a term of two years, and 20 until their successors are elected and qualified; and at each 21 succeeding regular biennial election for members of congress 22 to be held in said county of Ohio, there shall be elected within 23 the limits of said school district of Wheeling as extended, in 24 the manner hereinafter provided, the number of competent 25 persons to serve as such school commissioners, required to take 26 the place of the commissioners, whose terms shall expire on 27 the thirtieth day of June, then next succeeding, and to fill any 28 vacancy for the unexpired term thereof. The term of office 29 of each such school commissioner, elected pursuant to this sec- 30 tion, after the first election following the extension of said 31 school district of Wheeling, shall commence on the first day of 32 July next succeeding his election, and continue for the term 33 of six years, and until his successor is elected and qualified. 34 The persons elected for school commissioners for said school

35 district of Wheeling, in pursuance of this section as amended,
 36 and their successors in office, shall constitute a board of edu-
 37 cation to be denominated "the board of education of the school
 38 district of Wheeling."

39 For election purposes within the area of the said school dis-
 40 trict of Wheeling the precinct boundary lines shall be those
 41 adopted by the board of commissioners of the county of Ohio.

42 Candidates for school commissioner to be voted on at any
 43 regular election to be held following the said extension of said
 44 school district of Wheeling shall be nominated at the primary
 45 election held in the county of Ohio for the nomination of
 46 candidates for member of congress to be elected at said regular
 47 election, and no other names shall be printed upon the ballots
 48 used at the election of school commissioners except those
 49 selected in the manner hereinafter prescribed. Any person
 50 desiring to become a candidate for school commissioner at a
 51 regular election shall, at least twenty days prior to the pri-
 52 mary election to be held prior to said regular election for the
 53 nomination of member of congress, file with the clerk of the
 54 circuit court of Ohio county, a petition, signed by at least fifty
 55 qualified voters of said school district. Said petition shall be
 56 verified by the affidavit of one or more credible persons as to
 57 the qualifications and residence of each of the persons signing
 58 said petition, and said petition, shall be in form or effect as
 59 follows:

60 "The undersigned, duly qualified voters of the school dis-
 61 trict of Wheeling and residing at the places set opposite our
 62 respective names hereto, do hereby request the name of (name
 63 of candidate) be placed on the ballots as a candidate for nomi-
 64 nation for school commissioner of the school district of Wheel-
 65 ing, at the primary election to be held in said district on the
 66day of....., 19..... We further state that
 67 we know such person to be a qualified voter and resident of
 68 the said school district of Wheeling, and a person of good
 69 moral character, and qualified in our judgment for the duties
 70 of such office.

71 Names of qualified voters.....
 72 Number..... Street....."

73 Any person whose name has been submitted for candidacy
 74 shall file his acceptance of such candidacy with the clerk of
 75 the circuit court of Ohio county not later than fifteen days

76 before the day of the primary election, and in the absence of
77 such acceptance the name of the candidate shall not appear
78 on the ballots. Immediately upon the expiration of time for
79 filing the petition for and acceptance of the candidates, the
80 clerk of the circuit court of Ohio county shall cause to be
81 published in all the daily newspapers of the city of Wheeling
82 once, in proper form, the names of the persons as they will
83 appear upon the primary ballots; and the said clerk shall there-
84 upon cause the primary ballots to be printed and authenticated
85 with a facsimile of his signature. The ballots shall be printed
86 upon plain white paper without party mark or designation,
87 and shall contain the names of the candidates in alphabetical
88 order. The ballots shall be separate from those used for can-
89 didates for other offices, and the primary election shall be
90 conducted and the result ascertained by the election officials
91 designated by the board of commissioners of the county of
92 Ohio for conducting the primary election for nomination of
93 candidates for members of congress. The number of candi-
94 dates, which is double the number to be elected at the next
95 ensuing regular election, receiving the highest number of
96 votes in said school district shall be the candidates and the
97 only candidates whose names shall be placed upon the ballots
98 at the next regular election for school commissioners for the
99 school district of Wheeling.

100 In any case where candidates shall have received an equal
101 number of votes, so that as between such candidates there is
102 no choice at the primary, the clerk of the circuit court of Ohio
103 county shall determine by lot the names out of those voted on
104 at the primary and tied as aforesaid, to be placed on the
105 ballots for the next regular election. At such election ballots
106 shall be prepared by the clerk of the circuit court of Ohio
107 county containing the names of the candidates nominated at
108 the primary election, such ballots being separate from those
109 containing the names of candidates for other offices, and the
110 election shall be conducted and the results ascertained by the
111 election officials designated by the board of commissioners of
112 the county of Ohio for conducting the election, and the number
113 of persons, which is the number to be elected, receiving the
114 highest number of votes within said school district shall be the
115 persons elected as school commissioners of the said school dis-
116 trict of Wheeling.

117 The clerk of the circuit court of Ohio county after ascer-
118 taining from the board of canvassers the result of a primary
119 or regular election for the nomination or election of candidates
120 for school commissioners of the school district of Wheeling,
121 shall publish the result of such primary or regular election in
122 the same manner and at the same time that he publishes the
123 result of the primary or regular election for the nomination
124 or election of candidates for other offices. The cost of and
125 expense of printing and publishing incident to the primary
126 and election for school commissioners shall be borne by the
127 board of education of the school district of Wheeling.

128 Members of the board of education of the school district of
129 Wheeling shall be residents and qualified voters of the school
130 district of Wheeling, and removal from the district shall vacate
131 the office of such commissioner.

Sec. 3. No person shall be allowed to vote for school com-
2 missioner who is not an actual resident of and qualified to vote
3 for county officers of the county of Ohio.

Sec. 4. It shall be the duty of the clerk of the board of edu-
2 cation of the school district of Wheeling, at least ten days be-
3 fore the first day of July succeeding any regular election under
4 this act, to notify the commissioners-elect throughout the school
5 district of their election. And before assuming the duties of his
6 office, each of said commissioners shall qualify by taking and
7 subscribing to the following oath of office, viz: "I do solemnly
8 swear (or affirm) that I will faithfully discharge the duties of
9 school commissioner of the school district of Wheeling, during
10 the time of my office, to the best of my ability and according to
11 law, so help me God;" and such other oath or affirmation as
12 may be required by law. Such oath of office may be administered
13 by the clerk of the board of education at any time on or before
14 the first day of July next after the election, and the same, or a
15 copy thereof, shall be kept by him in the files of his office.

16 Any vacancy which may occur in the office of school commis-
17 sioner, by death, resignation, refusal to serve, or otherwise, shall
18 be filled by the board of education of the school district of
19 Wheeling, at any regular meeting as soon as practicable there-
20 after, by the appointment of a suitable person, resident of the
21 district, who shall hold the office until the first regular election
22 which shall be held after such appointment. In case the board
23 is unable to fill such vacancy by reason of a tie between nomi-

24 nees receiving the highest number of votes, the clerk of the cir-
25 cuit court of Ohio county shall determine by lot from such of
26 said nominees as shall have received the highest number of
27 votes, which one of said nominees shall be elected to fill the
28 vacancy.

Sec. 5. On the first Thursday in July after the first election
2 under this act, and biennially thereafter, at seven-thirty o'clock
3 P. M., at the office of the board of education of the school district
4 of Wheeling, there shall be held a meeting of the board, at
5 which meeting the board shall be organized, if a majority of the
6 members be present, and if a majority of the members be not
7 present, then as soon as practicable thereafter, by the election
8 of one of their number as president, and also a suitable person
9 for clerk, who shall not be a member of the board. The presi-
10 dent shall be entitled to vote upon all questions submitted to
11 the decision of the board. Before entering upon the duties of
12 his office, the clerk shall, with at least two good securities, not
13 members of the board, or a corporate surety authorized to do
14 business in the state of West Virginia, to be approved by the
15 board, enter into a bond, payable to the board of education of
16 the school district of Wheeling, conditioned for the faithful dis-
17 charge of the duties of his office, in such penal sum as the board
18 may direct; and for good cause a new bond and other bonds-
19 men, may from time to time be required by the board; and such
20 bond or bonds shall be filed with the president of the board for
21 safe keeping. Should corporate surety be given on said bond,
22 the premium or premiums for same shall be paid by the board.

Sec. 14. The collecting officer named in the preceding sec-
2 tions, shall, for the purpose of this act, be known as the "col-
3 lector of the school district of Wheeling," and before collecting
4 or receiving any of the moneys of said district, shall give bond,
5 with sureties, not members of the board, approved by the board
6 of education, in such amount as shall be named by said board,
7 which bond shall be filed with the clerk of the board, whose
8 duty it shall be, upon the forfeiture of said bond, to prosecute
9 and collect from said collector and his sureties, the amount
10 named in the bond for the use of said district, and new bond
11 and sureties may be required by the board in proper cases. In
12 case any person shall neglect or refuse to pay in whole or in
13 part any tax lawfully levied upon him or her by the board of
14 education, it shall be lawful for the officer appointed to collect

15 such tax, to take reasonable distress of any personal property
16 in said district, belonging to the said delinquent, or in which
17 he or she shall have any right or interest, and to sell the said
18 property, right or interest, at public sale in said district (hav-
19 ing given ten days' notice of the time and place of sale by
20 advertisement posted at some public place in the district), and
21 out of the proceeds of such sale, after defraying all proper ex-
22 penses, to pay to the said board of education the amount which
23 shall be due on account of said tax, returning the balance, if
24 any, to the owner of the property, right or interest so sold. In
25 case any such tax levied upon real estate shall not be paid in
26 full within thirty days from the first day of December, after
27 said levy, it shall be lawful for the officer appointed to collect
28 such tax, to take reasonable distress of any personal property
29 belonging to the owner of said real estate, or in which such
30 owner shall have any right or interest, or of any personal prop-
31 erty on the premises taxed belonging to any person in the posses-
32 sion or occupancy thereof, or in which such person shall have
33 any right or interest, and to sell such property, right or interest
34 and apply the proceeds thereof in the manner prescribed in
35 this section. And such officer shall have power to distrain any
36 personal estate which may be on the premises taxed, and the
37 same to sell and apply as aforesaid, notwithstanding such per-
38 sonal estate may be included in any deed, deed of trust, mort-
39 gage, bill of sale, or other writing. All such taxes levied upon
40 real estate, shall remain a lien thereon, bearing interest at the
41 rate of ten per cent per annum from the date when due until
42 the same be fully paid, and the personal property of every per-
43 son to whom the said real estate shall come by descent, or
44 purchase, and of the person or persons in possession or occu-
45 pancy thereof, shall be subject to distress and sale in the same
46 manner and to the same effect as if he, she or they were origin-
47 ally chargeable with the said taxes. In all cases in which any
48 such tax levied upon real estate shall be paid in whole or in
49 part by the tenant, or out of his or her property, he or she shall
50 be entitled to deduct the same out of the accruing rent, or to
51 recover the amount so paid from the owner of said real estate,
52 unless it shall have been otherwise specially agreed. All taxes
53 levied as aforesaid shall be due and payable on the first day of
54 October of the year in which the levy is made.

And be it further enacted:

(II) That chapter one hundred and nine, of the acts of one thousand nine hundred and twenty-five, be designated and hereafter known as section thirty-three, to and as a part of said chapter eleven of the acts of one thousand eight hundred and seventy-two, and that the eight sections of said chapter one hundred and nine of the acts of one thousand nine hundred and twenty-five, be designated and hereafter known as subsections one to eight, inclusive, of said section thirty-three, and that subsection two thereof be amended to read as follows:

Sec. 2. At its session held on the second Tuesday in August 2 as aforesaid, the said board shall ascertain the condition of the 3 fiscal affairs of its said district and make up an itemized state- 4 ment thereof distinguishing between the elementary and high 5 schools and the various funds hereinafter provided for each, 6 which statement shall set forth in detail:

7 *First:* The separate amounts due the various funds of said 8 district, and the amounts that will become due and collectible 9 during the current fiscal year except from the levy of taxes 10 to be made for the year;

11 *Second:* The debts and demands owed by the said district 12 and the debts and demands that will become due and payable 13 during the current fiscal year, including interest on any in- 14 debtedness, funded, bonded or otherwise;

15 *Third:* All other expenditures under the several heads of 16 expenditures, to be made and payable out of the levy of the 17 said district for the current fiscal year, with proper allowances 18 for delinquent taxes, exonerations and contingencies. Said 19 statement shall also set forth the separate amount necessary 20 to be raised for each fund by the levy of taxes for the current 21 fiscal year, the proposed rate of such levy on each one hundred 22 dollars assessed valuation of the taxable property in the said 23 district for each of such funds, and the separate and aggregate 24 amounts of the assessed valuation of real estate, personal prop- 25 erty, and public utility property assessed by the board of public 26 works. A copy of such statement duly certified by the clerk of 27 the said board shall immediately be forwarded to the state tax 28 commissioner, and said statement shall, before the next meeting 29 of said board, be published once in two newspapers of opposite 30 politics in said school district, if there be two such newspapers 31 therein. If there be but one newspaper published in said dis- 32 trict, the publication shall be made therein. The session shall

33 then stand adjourned until the fourth Tuesday in August, at
34 which time it shall reconvene. And the said board of educa-
35 tion shall then hear and consider any objections made orally
36 or in writing by the prosecuting attorney of Ohio county, by
37 the state tax commissioner or his representatives, or by any
38 taxpayer of the said school district, to the said estimate and
39 proposed levy, or any item thereof. It shall be the duty of the
40 said board of education to enter an order showing the objec-
41 tions so made, setting forth the reasons and grounds for such
42 objections. But the failure of any officer or taxpayer to offer
43 objections as herein provided shall not preclude him from pur-
44 suing any legal remedy necessary to correct any levy made by
45 said board of education. After said objections have been made
46 and heard, the said board of education shall thereupon re-
47 consider the proposed original estimate and proposed rate of
48 levy, and if the objections thereto or any part thereof appear
49 to be well taken, the said board of education shall correct the
50 same accordingly, and it shall thereupon be approved, and when
51 approved shall, with the order approving it, be entered by the
52 clerk of said board of education in the proper record book.
53 After having entered the statement as finally approved in its
54 book of record or proceedings, the said board shall thereupon
55 levy as many cents on each one hundred dollars assessed valu-
56 ation of the taxable property in said school district, according
57 to the last assessment thereof, as will produce the amounts
58 shown by the statement to be necessary, as follows:

59 (a) For maintenance fund purposes, including kinder-
60 gartens and medical inspection, for defraying the maintenance
61 expenses for a fiscal year;

62 (b) For teachers' fund purposes, including kindergartens
63 and medical inspection, for the purpose of maintaining the
64 schools of the said district for a term of not less than nine
65 months, or for a longer term where the same has been extended
66 by the said board of education.

67 For high school purposes, including junior high schools, vo-
68 cational schools and physical educational schools, the said board
69 of education shall levy a rate sufficiently high to defray the
70 expenses for such high school purposes for the current fiscal
71 year, and shall divide the levy so made into a levy for main-
72 tenance fund purposes and a levy for teachers' fund purposes.

73 For new building and improvement fund purposes, for the

74 purchase of land and for the purpose of erecting and equipping
75 buildings for elementary and high school purposes, for the pur-
76 chase of furniture and apparatus, for rent and permanent im-
77 provement of old buildings.

78 For maintenance of the public library under the control and
79 management of said board of education, including salaries for
80 librarian and assistants and all other expenses of managing and
81 operating said library, a levy of not to exceed five cents.

82 *Provided, however,* That the total levy, laid by the board
83 of education of the school district of Wheeling as extended, for
84 any one year for all purposes, exclusive of levies for library
85 purposes and for bonded indebtedness, shall not exceed one
86 dollar and twenty cents on the hundred dollars' valuation of
87 taxable property.

And be it further enacted:

(III) That the following section be added to said chapter eleven of the acts of one thousand eight hundred and seventy-two, as a part thereof, namely:

Sec. 34. For the government of the schools within the
2 school district of Wheeling, as extended, pursuant to the pro-
3 visions of this act, the board of education of the school district
4 of Wheeling may appoint, at such salary as said board shall
5 deem proper, not to exceed two assistant superintendents, and
6 such supervisors of educational subjects as it may deem neces-
7 sary, who shall be subject to the orders and direction of said
8 board and of the superintendent of the said school district.

9 For purpose of collecting taxes and levies due the school
10 district of Wheeling, as extended, the board of education of
11 said district shall, not later than the fourth Thursday of
12 August in each year, designate as collector of the school dis-
13 trict of Wheeling, either the officer by whom the city of Wheel-
14 ing levies are collected or the officer by whom the county of
15 Ohio levies are collected, as it may deem more expedient and
16 economical. Any and all compensation or commission charged
17 by such officer for making said collection shall be the prop-
18 erty of and be credited by said officer to the city of Wheeling
19 or the county of Ohio, as the case may be.

And be it further enacted:

(IV) That all acts relating to the independent school district of Wheeling so far, and so far only, as they conflict with the provisions of this act, are hereby repealed.

Provided, however, That this act shall not be effective unless and until the boundaries of the school district of Wheeling shall be extended by a vote of the electorate of Ohio county in the manner hereinafter provided:

Such extension of boundaries shall be proposed by resolution of the board of education of the school district of Wheeling, which resolution shall:

(a) Fix the time for holding an election at which the proposed change of boundaries shall be submitted to the qualified voters of the school district of Wheeling and of the territory proposed to be annexed for approval or rejection;

(b) Direct that notice of such election be published in each of the daily newspapers in the city of Wheeling once a week for four successive weeks, the last publication to be not more than ten days before the day of election.

The following form of ballot shall be used at such election:

<p>21 <input type="checkbox"/> Yes</p> <p>22</p> <p>23</p> <p>24</p> <p>25 <input type="checkbox"/> No</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p>	<p>Shall the school district of Wheeling be extended to include all of the territory of Ohio county, and the bonded indebtedness of all present school districts within Ohio county be assumed by and become the obligations of the school district of Wheeling as extended, and the board of education of the school district of Wheeling as extended levy and collect a direct annual tax on all property within the said district as extended sufficient to provide for the payment of sinking fund, principal and interest obligations of and on said indebtedness as they arise under the original terms thereof?</p>
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The board of education of the school district of Wheeling shall, through its clerk, notify the president of the board of education of each district within the territory which is proposed to be annexed, of the proposed extension of boundaries, at least six weeks before the time for the election herein provided for; whereupon it shall be the duty of the board of education of each of said districts, except as hereinafter otherwise provided, to provide for such election by designating precincts, boundaries thereof, and voting places, and by appointing judges and clerks for each precinct within the ter-

40 ritory proposed to be annexed, and certify the precincts,
41 boundaries thereof, voting places and the names of such ap-
42 pointees to the board of education of the school district of
43 Wheeling within three weeks of the service of notice upon
44 said president. If such certification is not filed, the board of
45 education of the school district of Wheeling shall, except as
46 hereinafter otherwise provided, designate such precincts,
47 boundaries thereof and voting places, and shall appoint such
48 judges and clerks of election. So far as they are applicable
49 and except as specific provision is made herein or in the char-
50 ter of the school district of Wheeling, such election shall be
51 governed by the general election laws of the state of West
52 Virginia. Said election may be a special election or may be
53 held at the same time that any primary or regular election
54 is held by the city of Wheeling or the county of Ohio. If
55 held at the same time as a county election the same precinct
56 lines shall be used and the election shall be conducted and the
57 results ascertained by the same election officials, as designated
58 by the board of commissioners of the county of Ohio for con-
59 ducting the election. If held at the same time as a city of
60 Wheeling election the same precinct lines shall be used and
61 the election within the limits of the city of Wheeling shall be
62 conducted and the result ascertained by the same election
63 officials, as designated by the council of the city of Wheeling
64 for conducting said election, and in each precinct outside the
65 city of Wheeling a single election board may be used to con-
66 duct the election, and said election boards outside the city of
67 Wheeling shall report to the same officials to whom the boards
68 within the city of Wheeling are required by the charter of the
69 city of Wheeling to report. The officials required by law to
70 canvass and certify the results of the city or county election
71 as the case may be, shall likewise canvass and certify to the
72 board of education of the school district of Wheeling the re-
73 sult of the election hereby authorized.

74 When the result of such election is ascertained and certi-
75 fied, the president of the board of education of the school dis-
76 trict of Wheeling shall issue his proclamation of such result
77 and cause the same to be published in each daily newspaper
78 published in the city of Wheeling within five days of such
79 certification, and if three-fifths of the votes cast at such elec-
80 tion shall be in favor of such extension, then all the territory

81 within the county of Ohio shall be and become a part of the
82 school district of Wheeling, on the first day of July following
83 the next succeeding general election for member of congress,
84 and beginning on that date, the school district of Wheeling
85 shall include all the territory within the county of Ohio, and
86 the corporate existence of any other school district included
87 within the county of Ohio shall thereupon cease and determine;
88 and if three-fifths of the votes cast at such election shall not
89 be in favor of such extension, then the boundaries of the
90 school district of Wheeling shall remain as they now are, and
91 the territory within the county of Ohio and outside the present
92 school district of Wheeling shall be in no way affected by such
93 election. If the extension be rejected by failure to obtain a
94 three-fifths majority vote this shall not prevent the calling
95 of a subsequent election or elections to submit to vote the same
96 matter in any manner herein provided. All expenses of hold-
97 ing such elections, the payment whereof is not now provided
98 by law, shall be paid by the school district of Wheeling, and
99 the board of education may appropriate therefor from such
100 fund as it may see fit.

101 At any such election, all persons may vote who would be
102 then legally qualified to vote at a general city or county elec-
103 tion and are properly registered on books of the city of Wheel-
104 ing or the county of Ohio.

105 The board of education of the school district of Wheeling
106 shall call an election hereunder, submitting to the voters of
107 Ohio county, the proposed change of boundaries, in the man-
108 ner herein provided, at the first regular general city election
109 held by the city of Wheeling after the passage of this act.

110 The failure, neglect or refusal of the publisher of any news-
111 paper in Wheeling to publish either the notice or proclamation
112 herein provided for, shall not affect the validity of the pro-
113 ceedings to extend the boundaries of the school district of
114 Wheeling, if such publication shall appear in one of such
115 papers.

116 In the event of the extension of the school district of
117 Wheeling in the manner herein provided, then, from and after
118 the time such extension becomes effective, all the debts and
119 obligations, including bonded indebtedness, of any district
120 included within Ohio county shall become and be the debts
121 and obligations of the school district of Wheeling as extended,

122 and shall be enforceable against said school district of Wheeling
123 and all property therein to the same extent as they might have
124 been enforced against the district creating them, and taxes
125 thereafter levied to provide for such indebtedness, principal
126 and interest, shall be levied, by the board of education of the
127 school district of Wheeling as extended, on the entire taxable
128 property within the said district, and at a rate sufficient to
129 provide for the payment annually of the sinking fund, prin-
130 cipal and interest obligations thereof and thereon as they arise
131 under the original terms thereof.

132 The extension of the boundaries of the school district of
133 Wheeling shall not affect the boundaries or the organization
134 of any municipality theretofore existing.

135 The terms of office of the county superintendent of schools
136 of Ohio county, the members and officers of the board of edu-
137 cation of the school district of Wheeling, and of the boards of
138 education of each school district within the area annexed to
139 the school district of Wheeling by virtue of this act, as they
140 exist at the time at which the extension of the school district
141 of Wheeling becomes effective in the manner provided in this
142 act, shall expire on the thirtieth day of June next succeeding
143 the election of the first board of education of the school dis-
144 trict of Wheeling as extended; and the terms of all district
145 superintendents and supervisors and other officers and em-
146 ployees appointed or employed by any of the aforementioned
147 boards or officers, shall terminate at the same time.

148 All property in the hands, or under the control, of the
149 boards and officers whose terms shall expire as aforesaid, shall
150 be turned over to the incoming board of the independent
151 school district of Wheeling as extended, and the title to all
152 real and personal property owned by any and all of the school
153 districts annexed to the independent school district of Wheel-
154 ing, pursuant to this act, shall become the property of the
155 independent school district of Wheeling on the said first day
156 of July following the election aforesaid. And the board of
157 education of the school district of Wheeling as extended shall
158 thereupon and thereafter exercise full and complete control
159 thereover, and all of said property and every educational
160 facility hereafter located within the school district of Wheel-
161 ing as extended shall be available for school uses throughout

162 said district under such regulations as shall be prescribed by
163 the board of education of said district.

164 Should any provision, section or part of section of this act
165 be held unconstitutional, such fact shall not be held to in-
166 validate the other provisions and sections hereof.

CHAPTER 100

(Senate Bill No. 34—By Mr. Beneke)

AN ACT to amend and re-enact section ninety-eight, of chapter seventy-three, of the acts of the legislature of one thousand nine hundred and twenty-three, charter of the city of Wheeling, relating to civil service commission and trial board.

[Passed January 26, 1931; in effect from passage. Approved by the Governor.]

SEC.

98. Civil service commission for police and fire department, number and terms; vacancies filled by council; examinations by commission; future examinations of appointees; commission as trial board; how appointees removed

SEC.

or discharged; appeal to circuit court; power of circuit court as to hearing on charges; penalty for violation of section; petitions for rehearing; decision of circuit court on appeal, final.

Be it enacted by the Legislature of West Virginia:

That section ninety-eight, of chapter seventy-three of the acts of the legislature of one thousand nine hundred and twenty-three, charter of the city of Wheeling, relating to civil service commission and trial board, be amended and re-enacted as follows:

Section 98. The city council shall elect a civil service commission for the purpose of examining applicants for positions and promotions in the police and fire departments. The civil service commission shall consist of three citizens, not all of whom shall be of one political party. At the first election of members of the civil service commission after the passage of this act one member shall be elected for a term of six years, one member for a term of four years, and one member for a term of two years. Thereafter the term of office of each member shall be six years. Any vacancies occurring in the commission shall be filled by the council. For the purpose of conducting tests in the departments specified, the civil service commission shall conduct practical examinations annually or oftener, fixing grades and classifications as they may determine, and a list of those successfully passing the examinations prescribed shall be furnished the city manager, such list to be

17 known as the eligible list and selections must be made from
18 among the three applicants rated highest for the appointments
19 necessary to be made. Said list and all examination papers
20 shall be kept on file in the office of the city clerk and available
21 to the public at all times: *Provided*, That any appointees in the
22 departments under civil service shall be subjected to examina-
23 tions from time to time in the interest of efficiency, and that the
24 passing of the required examinations prior to entering the
25 city's employ shall not constitute a life tenure in office. No
26 member of the civil service during his incumbency shall be
27 the holder of any state, county or municipal office.

28 (a) The civil service commission is hereby constituted a
28a trial board to hear and determine any charges that may be
28b filed with it against any policeman or fireman of said city.

28c No officer or employe in the city of Wheeling who shall
29 have been appointed under said rules and after said examina-
30 tion, shall be removed or discharged except for cause, upon
31 written charges and after an opportunity to be heard in his
32 own defense. Such charges shall be investigated by or before
33 said civil service commission, or by or before some officer or
34 board appointed by said commission to conduct such investiga-
35 tion. The finding and decision of such commission or investi-
36 gating officer or board, when approved by said commission,
37 shall be forthwith enforced by the head of the department to
38 which the officer or employe tried belongs. Nothing in this act
39 shall limit the power of any officer to suspend a subordinate
40 for a reasonable period, not exceeding thirty days. In the
41 course of an investigation of charges, each member of the
42 commission, and of any board so appointed by it, and any
43 officer so appointed, shall have power to secure by its subpoena
44 both the attendance and testimony of witnesses, and the pro-
45 duction of books and papers relevant to such investigation.

46 (b) Charges shall be filed with the commission and shall
47 state specifically the facts alleged to constitute the cause for
48 discharge. Investigations of charges may be broad in their
49 character and evidence may be heard upon any facts or cir-
50 cumstances pertinent or applicable to such charges.

51 (c) The commission shall cause copies of written charges
52 filed with it against any officer or employe in the classified
53 service, to be served personally upon the officer or employe
54 against whom such charges are filed, or shall have the same

55 mailed to his address as shown by the records of the commis-
56 sion, notifying him of the time and place of the investigation,
57 which shall be held not less than five days after the serving or
58 mailing of said notice.

59 (d) The commission may, in its discretion, grant continu-
60 ances of investigations of charges at the request of the officers
61 or employe so charged, but in case any continuance causes the
62 postponement of a hearing beyond the thirty day suspension
63 period specified in the civil service act, a waiver of salary
64 during such continuance beyond the thirty day period shall
65 be required. The commission may continue the hearing of
66 charges of its own accord, but not beyond the thirty day sus-
67 pension period.

68 (e) The finding and decision of the commission, or any
69 officer or board appointed by it, following an investigation of
70 charges, shall be entered in the minutes of the commission's
71 proceedings and a copy of same certified to the department
72 head or employing officer for enforcement. If the finding or
73 decision is that an officer or employe is guilty of charges in-
74 vestigated, and removal or discharge is ordered, such order of
75 removal or discharge shall become effective forthwith, in the
76 event no appeal is taken to the circuit court of the county
77 wherein the hearing was held. If the party is found innocent
78 he shall be paid for the time of suspension, and reinstated to
79 former position.

80 (f) Any person who shall be served with a subpoena to
81 appear and testify or to produce books or papers, issued by
82 the commission or by any commissioner or by any board or
83 person acting under the orders of the commission in the course
84 of an investigation conducted either under the provisions of
85 section I of this act, and who shall refuse or neglect to ap-
86 pear or to testify or to produce books and papers relevant to
87 said investigations, as commanded in such subpoena, shall be
88 guilty of a misdemeanor, and shall, on conviction, be pun-
89 ished as provided in section seven of this act. The circuit
90 court of Ohio county, or the judge thereof in vacation, upon
91 application of any such commissioner, or officer or board, may
92 in his discretion compel the attendance of witnesses, the pro-
93 duction of books and papers, and giving of testimony before
94 the commission, or before any such commissioner, investigating
95 board or officer, by attachment, contempt or otherwise, in

96 the same manner as the production of evidence may be com-
97 pelled before said court. Every person, who, having taken
98 an oath or made affirmation before the commission, officer, or
99 board appointed by the commission, authorized to administer
100 oaths, shall swear or affirm falsely shall be guilty of perjury.

101 (g) Any person who shall violate any of the provisions of
102 this section, or any rule promulgated in accordance with the
103 provisions thereof, shall be guilty of a misdemeanor, and
104 shall, upon conviction be punished by a fine of not less than
105 twenty-five dollars nor more than one hundred dollars, or by
106 imprisonment in the county jail for a term not exceeding six
107 months, or both by fine and imprisonment.

108 (h) Petitions for rehearing of persons removed or dis-
109 charged from the classified service after investigation as pro-
110 vided in section I of the civil service act, may be filed with the
111 commission within thirty days after its finding and decision
112 has been recorded. Petitions shall state fully the grounds
113 upon which applications for rehearings are based. In case
114 said petitions are allowed, rehearings of original charges with
115 any new evidence bearing thereon shall be conducted and
116 findings and decisions as a result of such rehearings entered,
117 but in case said petitions are not allowed, the original order
118 shall remain in effect.

119 (i) Appeals from the findings and decisions of the com-
120 missioners, its investigating officers, or boards may be taken
121 to the circuit court within ten days after the entry of the
122 order, in like manner as appeals in all other cases, but the
123 decision of the circuit court on such appeal shall be final.

CHAPTER 101

(House Bill No. 67—By Mr. Norton)

AN ACT to amend and re-enact section twenty-four of chapter one hundred sixty-seven of the acts of the legislature of one thousand nine hundred twenty-one, relating to the common pleas court of Cabell county.

[Passed March 3, 1931; In effect from passage. Became a law without the approval of the Governor.]

SEC.
24. Jurisdiction of court; salary of |
Judge, how paid.

Be it enacted by the Legislature of West Virginia:

That section twenty-four of chapter one hundred sixty-seven of

the acts of the legislature of one thousand nine hundred twenty-one, relating to the common pleas court of Cabell county, be amended and re-enacted so as to read as follows:

Section 24. The said court shall also have jurisdiction, com-
2 mon and concurrent with the circuit court of said Cabell county,
3 to try and determine all civil cases appealed from justices of the
4 peace, general equity jurisdiction to try, hear and determine,
5 grant temporary injunctions, abate and perpetually enjoin all
6 such nuisances as are defined in section eleven, article two, chap-
7 ter sixty, official code of nineteen hundred thirty-one, and as
8 such power and authority so to do is specifically granted by
9 section twelve of said article and chapter, and to grant, try, hear
10 and determine causes arising in said Cabell county upon petitions
11 for and writs of prohibition, mandamus, quo warranto and habeas
12 corpus as said writs are authorized by general law and by articles
13 one, two and four of chapter fifty-three official code of West Vir-
14 ginia of nineteen hundred thirty-one, and all the powers and
15 duties conferred by law on the circuit court of Cabell county,
16 or of the judge thereof in vacation, insofar as the same relate to
17 civil actions before such justices of the peace and appeals there-
18 from, proceedings brought pursuant to the provisions of sec-
19 tions eleven and twelve, article two, chapter sixty, as aforesaid,
20 and in prohibition, mandamus, quo warranto and habeas corpus,
21 are hereby vested in said common pleas court or its judge in
22 vacation.

23 The judge of the common pleas court shall receive for his
24 services six thousand dollars annually, payable in monthly in-
25 stallments, beginning on the first day of January, one thousand
26 nine hundred thirty-one, which amount shall be provided
27 for and paid by the county court out of the treasury of said
28 Cabell county.

29 All acts or parts of acts inconsistent with this act are hereby
30 repealed.

CHAPTER 102

(House Bill No. 250—By Mr. Rife)

AN ACT authorizing the county court of Wayne county, to pay to the judge of the twenty-fourth judicial circuit, additional compensation and repeal all acts in conflict therewith.

[Passed March 6, 1931; in effect from passage. Approved by the Governor.]

SEC.

1. Additional compensation judge |
twenty-fourth judicial circuit.

Be it enacted by the Legislature of West Virginia:

Section 1. That in addition to all other compensations now provided by law, the judge of the twenty-fourth judicial circuit of this state shall be paid by the county court of Wayne county the sum of two thousand five hundred dollars per annum, which allowance shall be paid by said county court to the said judge out of the general funds of Wayne county in monthly installments as salaries are paid, and which allowance shall commence with the first day of January, one thousand nine hundred thirty-one.

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

CHAPTER 103

(House Bill No. 268—By Mr. Scott, of Randolph)

AN ACT to authorize the county court of Randolph county, for a period of three years, to increase the county levy for general county purposes from thirty cents to thirty-five cents upon the one hundred dollars, and to reduce the county levy for road purposes from twenty-five cents to twenty cents upon the one hundred dollars.

[Passed March 6, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. County court authorized to increase |
general county levy and decrease |
county road levy.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Randolph county be, and it is hereby authorized and empowered, for the period of three years, as an emergency, to levy and collect for general county

4 purposes, the sum of thirty-five cents upon the one hundred
 5 dollars' valuation of the property therein instead of thirty cents
 6 as now provided by law, and at the same time reduce the rate
 7 of levy for road purposes from twenty-five cents to twenty cents
 8 upon the one hundred dollars' valuation.

CHAPTER 104

(House Bill No. 406—By Mr. Hyre)

AN ACT to authorize the county court of Upshur county, for a period of three years, to increase the county levy for general county purposes from thirty cents to forty cents upon the hundred dollars property valuation, and to reduce the county levy for road purposes from twenty-five cents to fifteen cents per hundred dollars.

[Passed March 14, 1931: in effect from passage. Approved by the Governor.]

SEC.

1. County court authorized to increase county levy and reduce county road levy.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Upshur county be, and it is hereby, authorized and empowered, for the period of three years, as an emergency, to levy and collect for general county purposes the sum of forty cents per one hundred dollars valuation of the property therein instead of thirty cents as now provided by law, and at the same time to reduce the rate of levy for road purposes from twenty-five cents to fifteen cents per one hundred dollars valuation; and this act shall be so construed as to require the said county court to reduce the said county road levy to the same extent that it increases the levy for general county purposes under the provision of this act.

CHAPTER 105

(House Bill No. 321—By Mr. Cusack)

AN ACT authorizing and empowering the county court of Wetzel county to lay a special levy for the purpose of purchasing rights-of-way along designated state routes within said county of Wetzel.

[Passed March 4, 1931; in effect ninety days from passage. Approved by the Governor.]

SEC.

- | | |
|--|--|
| 1. Additional levy for purchasing rights-of-way along designated state routes. | |
|--|--|

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Wetzel county is hereby
2 authorized and empowered and directed to lay a levy, in addi-
3 tion to all other levies, on all the taxable property in said Wetzel
4 county, for a period of five years beginning with the year one
5 thousand nine hundred thirty-one, of ten cents on each one
6 hundred dollars of the assessed valuation of said Wetzel county,
7 for the purpose of purchasing rights-of-way along designated
8 state routes within said county of Wetzel, and for no other pur-
9 pose.

CHAPTER 106

(House Bill No. 327—By Mr. Norton)

AN ACT to amend and re-enact chapter one hundred forty-seven, of the acts of the legislature of one thousand nine hundred twenty-five, by adding thereto section three, empowering the prosecuting attorney of Cabell county to appoint a second assistant prosecuting attorney in lieu of and in conjunction with the office of county detective in said Cabell county.

[Passed March 13, 1931; in effect from passage. Approved by the Governor.]

SEC.

- | | | |
|---|--|--|
| 1. Office county detective created; qualifications; by whom appointed or removed; compensation. | | SEC.
2. Power and duties; oath of office; bond; appointment of second assistant prosecuting attorney or county detective. |
|---|--|--|

Be it enacted by the Legislature of West Virginia:

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

Section 1. There is hereby created in Cabell county, the office of county detective, to operate under the supervision of and in connection with the office of prosecuting attorney, and said county detective shall be of good moral character, qualified by education and experience to investigate crimes and misdemeanors, and shall be appointed by the prosecuting attorney, with the approval of the county court, to hold office during the time for which the prosecuting attorney is elected or appointed, or shall be removed by the prosecuting attorney and county court, and he shall receive for his services two thousand dollars per annum to be paid out of the county treasury of the county of Cabell in the same manner and at the same time as the salaries of other county officers are paid, and shall be allowed such necessary expenses as are incurred by him in performing his duties out of the county, but he shall file with the county court a sworn statement of the expenses incurred by him.

Sec. 2. Said county detective shall have the same general powers as the sheriff to serve processes and make arrests, and he shall faithfully investigate all cases assigned to him by the prosecuting attorney and make report thereof in writing for the use of the prosecuting attorney, but before entering upon his duties as such county detective he shall take the several oaths prescribed by law for county officers, and shall give bond with approved sureties in the penalty of three thousand five hundred dollars, conditioned according to law for the faithful performance of his duties as such county detective, and he shall in all respects be subject to the provisions and penalties of section nineteen, of chapter one hundred forty-seven of Barnes' code of one thousand nine hundred twenty-three.

Sec. 3. *Provided, however,* That the prosecuting attorney of said Cabell county, may at his election, appoint a second assistant prosecuting attorney, of said Cabell county, at the salary above provided for, who shall perform the duties and have all the rights, powers and privileges of such county detective, as provided for in sections one and two of this chapter, and in addition thereto, shall be empowered to perform the duties of assistant prosecuting attorney, as provided for in section seven of chapter one hundred twenty, of the acts of one thousand nine hundred twenty-one, and shall be known and designated as an assistant prosecuting attorney, of said Cabell county. But nothing in this act shall be construed so as to permit the appoint-

13 ment of more than one person as such county detective and sec-
14 ond assistant prosecuting attorney of said Cabell county.

CHAPTER 107

(House Bill No. 416—By Mr. Lubliner)

AN ACT to amend and re-enact section five, article seven, chapter seven, of the code of West Virginia, relating to the salaries of prosecuting attorneys.

[Passed March 14, 1931; in effect ninety days from passage. Approved by the Governor.]

Sec.

5. Compensation prosecuting attorneys. |

Be it enacted by the Legislature of West Virginia:

That section five, article seven, chapter seven, of the code of West Virginia, be amended and re-enacted, so as to read as follows:

Section 5. The annual compensation of the prosecuting attorney in each county, including the compensation provided by law for his services as attorney for boards of education and other administrative boards and officers in the county, shall be as follows: Barbour county, two thousand dollars; Berkeley county, one thousand two hundred dollars; Boone county, two thousand four hundred dollars; Braxton county, one thousand eight hundred dollars; Brooke county, one thousand eight hundred dollars; Cabell county, four thousand eight hundred dollars; Calhoun county, eight hundred dollars; Clay county, one thousand five hundred dollars; Doddridge county, one thousand dollars; Fayette county, three thousand dollars; Gilmer county, one thousand five hundred dollars; Grant county, six hundred dollars; Greenbrier county, one thousand eight hundred dollars; Hampshire county, one thousand dollars; Hancock county, one thousand eight hundred dollars; Hardy county, not less than six hundred nor more than twelve hundred dollars, at the option of the county court; Harrison county, three thousand five hundred dollars; Jackson county, one thousand dollars; Jefferson county, one thousand two hundred dollars; Kanawha county, six thousand dollars; Lewis county, one thousand two hundred dollars; Lincoln county, one thousand five hundred dollars; Logan county, one thousand eight hundred dollars; Marion county, four thousand four hundred dollars; Marshall

25 county, one thousand eight hundred dollars; Mason county, two
26 thousand dollars; McDowell county, four thousand eight hun-
27 dred dollars; Mercer county, two thousand five hundred dollars,
28 but beginning with the first day of January, one thousand nine
29 hundred thirty-three it shall be not less than two thousand four
30 hundred dollars nor more than four thousand five hundred dol-
31 lars; Mineral county, two thousand dollars; Mingo county, four
32 thousand eight hundred dollars; Monongalia county, four thou-
33 sand dollars; Monroe county, six hundred dollars; Morgan
34 county, eight hundred dollars; Nicholas county, two thousand
35 dollars; Ohio county, not to exceed four thousand seven hun-
36 dred dollars; Pendleton county, six hundred dollars; Pleasants
37 county, six hundred dollars, but beginning with the first day
38 of January, one thousand nine hundred thirty-three, it shall
39 be one thousand two hundred dollars; Pocahontas county, one
40 thousand two hundred dollars; Preston county, two thousand
41 five hundred dollars; Putnam county, one thousand dollars, but
42 beginning with the first day of January, one thousand nine hun-
43 dred thirty-three, it shall be one thousand five hundred dollars;
44 Raleigh county, two thousand five hundred dollars, but begin-
45 ning with the first day of January, one thousand nine hundred
46 thirty-three, it shall be not less than two thousand four hundred
47 dollars nor more than four thousand dollars; Randolph county,
48 one thousand eight hundred dollars; Ritchie county, one thou-
49 sand two hundred dollars; Roane county, one thousand two
50 hundred dollars; Summers county, one thousand four hundred
51 dollars; Taylor county, one thousand eight hundred dollars;
52 Tucker county, one thousand two hundred dollars; Tyler
53 county, one thousand two hundred dollars; Upshur county, one
54 thousand five hundred dollars; Wayne county, one thousand
55 five hundred dollars; Webster county, one thousand two hun-
56 dred dollars; Wetzel county, two thousand dollars; Wirt
57 county, six hundred dollars; Wood county, three thousand dol-
58 lars; Wyoming county, not less than three thousand dollars nor
59 more than four thousand dollars.

RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 1

(BY MR. HELMICK)

[Adopted January 14, 1931.]

Raising a Joint Committee to wait upon the Governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee be appointed, three by the President of the Senate and three by the Speaker of the House of Delegates, to wait upon the Governor and inform him that the Legislature is organized with a quorum present and is ready to receive any communication he may be pleased to present.

SENATE CONCURRENT RESOLUTION NO. 2

(BY MR. SMITH)

[Adopted January 14, 1931.]

Providing for a recess of the two houses of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Senate and House of Delegates, when they adjourn today adjourn until Monday, January 18th at 2 o'clock P. M.

SENATE CONCURRENT RESOLUTION NO. 3

(BY MR. JOHNSON)

[Adopted January 21, 1931.]

Providing for a State Commission for the celebration of the Two Hundredth Anniversary of the birth of George Washington.

WHEREAS, The Congress has established the United States Commission for the celebration of the Two Hundredth Anniversary of the birth of George Washington, composed of the President and Vice-President of the United States, the Speaker of the House of Representatives, four senators, four representatives and eight other commissioners; and

WHEREAS, Said National Commission desires the hearty cooperation of the several states; and

WHEREAS, This state was a part of the colonial province in which Washington was born and the state of which he was so distinguished a citizen, within the bounds of which he frequently traveled and in which he owned numerous tracts of land; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That there hereby is established a commission to be known as the West Virginia Commission for the celebration of the Two Hundredth Anniversary of the birth of George Washington, and to be composed of nineteen commissioners, as follows:

The Governor of West Virginia; the President of the Senate and the Speaker of the House of Delegates, ex officio; eight persons to be appointed by the Governor; four Senators by the President of the Senate and four Delegates by the Speaker of the House of Delegates. The commission shall serve without compensation, and shall select a chairman and vice-chairman from among their number, and a secretary from their own number or from the outside.

It shall be the duty of the State Commission to cooperate with the National Commission in the purposes and plans of said celebration, and to give due and proper consideration of plans and suggestions which may be submitted to them; to advise with and encourage local and general celebrations by schools, churches, patriotic societies, historical associations, business organizations, women's and civic clubs, local dramatic societies, and by newspapers and other publications within the state, and to do any and all things proper and practical to make such celebrations a pronounced success in the state of West Virginia.

SENATE CONCURRENT RESOLUTION NO. 4

(BY MR. BENEKE)

[Adopted January 23, 1931.]

Authorizing the Governor to proclaim October 11th of each year "General Pulaski's Memorial Day" for the observance and commemoration of the death of Brigadier General Casimir Pulaski.

WHEREAS, The 11th day of October, 1779, is the date in American history of the heroic death of Brigadier General Casimir Pulaski, who died from wounds received on October 9, 1779, at the siege of Savannah, Georgia; and

WHEREAS, The states of Indiana, Wisconsin, Michigan, Ohio, South Carolina, Pennsylvania, New York, Minnesota, Maryland, New Jersey, Illinois, Rhode Island, New Hampshire, Nebraska, Georgia, and other states of the Union through legislative enactment designated October 11, 1929, to be "General Pulaski's Memorial Day"; and

WHEREAS, It is fitting that the recurring anniversary of this day be commemorated with suitable patriotic and public exercises in observing and commemorating the death of this great American hero of the Revolutionary War; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Governor of the state of West Virginia is authorized to issue a proclamation calling upon officials of the government to display the flag of the United States on all governmental buildings on October 11th of each year and inviting the people of the state of West Virginia to observe the day in schools and churches, or other suitable places, with appropriate ceremonies in commemoration of the death of General Casimir Pulaski.

SENATE CONCURRENT RESOLUTION NO. 5

(BY MR. WATKINS)

[Adopted February 6, 1931.]

Commending the organization of the American Legislators' Association and the Interstate Legislative Reference Bureau.

WHEREAS, All experienced persons know that in each state, legislative problems continually increase, both in number and in complexity; and

WHEREAS, It is obvious that in order to solve such problems most effectively, each legislature must give systematic, scientific and business-like consideration to the actual facts which have a bearing upon each question—to the extent that such facts have been determined by reliable research; and

WHEREAS, Each legislature must give similar consideration to the methods and experience of other jurisdictions in dealing with problems similar to its own; and

WHEREAS, No such problems can be dealt with adequately until facilities are established to assist every inquiring legislator to secure the most accurate information and the most expert advice which are available; and

WHEREAS, Experience indicates the necessity for an interstate legislative reference bureau to serve as a clearing house of information between all of the legislative reference services which are now being conducted by numerous states, and also to serve as a clearing house of information between the legislatures and all other agencies which are engaged in the study and analysis of legislative problems, such as governmental departments, political science departments of universities, competent reputable associations, and all other sources of information; and

WHEREAS, Experience also indicates that in certain states which do not maintain substantial legislative reference services, there is an imperative need for such an interstate legislative reference bureau, which will assist the legislature of those states to secure whatever information they desire in analyzing the legislative problems which they must determine, and to make more readily accessible for them, without cost, the valuable material which is at all times available from the legislative reference libraries and bureaus

of various other states, and from many other reliable sources; and

WHEREAS, Every individual legislator in the United States shares the responsibility for improving the present inadequate and unsatisfactory condition of the legislative processes, but neither any individual legislator, nor any group of legislators from one state, can bring about such improvement without the cooperation of legislators of other states; and

WHEREAS, Such an interstate legislative reference bureau cannot be maintained by any one state alone, without the cooperation of the legislatures of other states; and

WHEREAS, In order to set the machinery in motion to secure the necessary cooperation of the forty-eight legislatures, members of each legislature are working together in the development of the project of the American Legislators' Association; and

WHEREAS, The said American Legislators' Association has now established in the vicinity of the University of Chicago, the Interstate Legislative Reference Bureau, which by explicit pledge is without color of politics, partisanship or propaganda, is conducted without profit, and is engaged upon three principal purposes:

First: To procure promptly for all inquiring state legislators, and their agents, whatever information or advice they desire in connection with any legislative problem, primarily by assisting them to secure, without cost, the benefit of all researches conducted by governmental departments, universities, associations, legislative reference bureaus, and other agencies throughout the United States;

Second: To conduct a systematic study of the legislative processes of each of the states, in order to ascertain the practices which contribute most to efficient and economical organization and procedure; and to render all possible assistance to each legislature—and to each legislative reference bureau—which is endeavoring to improve its organization;

Third: To publish for the benefit of all state legislators the monthly magazine, *State Government*, as well as special bulletins, and thus to disseminate information which will be helpful to all conscientious students of legislation; and

WHEREAS, The American Legislators' Association is promoting acquaintance and mutual understanding among all individuals

and organizations officially concerned with the impartial and scientific functioning of the legislatures of the various states, by the organization of Standing Committees and Advisory Boards, and otherwise; and

WHEREAS, The character and project of the American Legislators' Association have the endorsement, and its organization has the active cooperation, not only of its membership, which consists entirely of members and ex-members of state legislatures, but also of members of other responsible citizens, many of whom, having specialized knowledge, are serving on the Association's Advisory Boards; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the organization of the American Legislators' Association and of the Interstate Legislative Reference Bureau are hereby commended as legitimate and constructive efforts to assist the legislatures of the various states in the efficient performance of their work.

SENATE CONCURRENT RESOLUTION NO. 6

(BY MR. BENEKE)

[Adopted February 4, 1931.]

Raising a joint committee to investigate the penitentiary.

WHEREAS, It is evident that a serious condition exists at the state penitentiary at Moundsville as the result of overcrowding of the institution; and

WHEREAS, A situation of grave, serious concern confronts the state of West Virginia in the problems arising from the overcrowded condition in the state penitentiary and also the matter of relieving same; and

WHEREAS, These matters are of such grave importance that the legislature should have first-hand information in dealing with the same; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee of nine members, five to be appointed by

the Speaker of the House and four to be appointed by the President of the Senate, be created with full authority to make an investigation of present conditions at the state penitentiary on all phases of the question of administration and the employment of labor and any other matters dealing therewith, and that this committee shall proceed to make a full investigation and report to the legislature at the earliest possible time with its recommendations for the guidance of the legislature in dealing with these problems.

Said committee shall have power to employ such clerical assistance as it shall deem necessary, in the proper and efficient discharge of its duties, and is hereby vested with power and authority to administer oaths compel the attendance and testimony of witnesses, and the production of such books, papers and accounts as the committee may deem necessary to make a thorough examination into the condition of said institution.

Resolved further, That the sergeant-at-arms of the House and the Clerk of the Senate be directed to draw their warrants upon the auditor for sufficient funds to pay the expenses of the respective members of the two Houses and that the sergeant-at-arms of the House and Clerk of the Senate be directed to accompany said committee, pay their expenses and see that their wants are properly supplied.

SENATE CONCURRENT RESOLUTION NO. 9

(By MR. MILLER)

[Adopted March 14, 1931.]

Concerning a state memorial for Booker T. Washington.

WHEREAS, Booker T. Washington, reared in Malden, Kanawha county, West Virginia, a child of slavery was without even a name, having taken to himself the name of the father of this great country, born in obscurity, handicapped by dire poverty, through great difficulties and at a great sacrifice and amidst unsurmountable obstacles secured an education when educational opportunities were meager for the white race and practically none at all for the race to which he belonged. In order to uplift and enlighten his people that he might help break the chains of ignorance and superstition, planting in their places industry and thrift; and

WHEREAS, He established one of the first and greatest institutions for industrial education in the world, having been justly called the father of industrial education, having popularized manual training to the extent that it has been put in the public school systems of the United States and adopted by leading universities and through this the great contribution he made in bringing about better relationship between the races in America, he arose to be acclaimed by two continents as one of the greatest men America has produced; and

WHEREAS, As a son of West Virginia, he never forgot the land of his childhood, having returned at intervals, taught here, and toured the state in the interest of locating the Capitol in Charleston. He referred to Malden repeatedly in his autobiography as the place where he received his inspiration, and having by his life and works brought honor to this great state of West Virginia; and

WHEREAS, There has been a consistent demand for many years on the part of his admirers throughout the state and nation that a monument be erected to him in Malden, his old home town, the Negro Club Women, through the West Virginia Federation of Colored Women's Clubs, have accepted this challenge and have formed a corporation to establish and maintain a fitting memorial in Malden, and having been consistently working on it for the past three years, and through the president, Mrs. A. L. Spaulding, have secured the endorsements and recommendation of leading statesmen, financiers and philanthropists, including ex-President Coolidge, President Hoover and Hon. John W. Davis, former ambassador to the Court of St. James; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the board of public works be, and they are, hereby requested to include in a supplemental budget an appropriation in the sum of \$10,000.00 for a suitable monument or memorial for the illustrious Booker T. Washington to be erected at or near Malden, West Virginia, \$5,000.00 to be appropriated for each year for which said appropriations are made, which money when appropriated shall be paid to Booker T. Washington Memorial Association to be used by said association for said purpose.

SENATE CONCURRENT RESOLUTION NO. 13

(BY MR. HEROLD)

[Adopted March 13, 1931.]

Creating the Yorktown sesqui-centennial commission of the state of West Virginia.

WHEREAS, The surrender of the British forces to General Washington at Yorktown, Virginia, on October nineteenth, on thousand seven hundred and eighty-one, marked the end of the colonial period and the beginning of the American Republic; and

WHEREAS, The one hundred and fiftieth anniversary of this event will occur October nineteenth, one thousand nine hundred and thirty-one; and

WHEREAS, The Congress of the United States has created a commission charged with the duty of arranging a fitting and suitable celebration of the independence of the American colonies achieved with the victory of Yorktown, and has solicited the cooperation and support of the several states of the Union in aid of such celebration; and

WHEREAS, The state of West Virginia was represented in the American colonial army at Yorktown, and was a part of the Virginia territory, and as such a part of the original colonies gaining their independence from the mother country with the victory at Yorktown, and are now desirous of participating in such celebration in a manner not only appropriate in commemoration of the event but fitting with the dignity of the state of West Virginia; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That a commission be, and the same is, hereby created to be known as the "Yorktown Sesqui-Centennial Commission of the State of West Virginia", to be composed of twelve members to be selected as follows:

The Governor of West Virginia, the President of the Senate and the Speaker of the House of Delegates, by virtue of their offices, together with three members of the Senate, to be chosen by the President thereof, three members of the House of Delegates, to be

chosen by the Speaker thereof, and three citizens of the state of West Virginia, to be chosen by the Governor of the state.

That the said commission be, and the same hereby is, authorized and directed to organize by electing one of its members chairman and another secretary and to employ such clerical and other help or assistance as it may deem necessary, and that such commission be further authorized and directed to arrange for the fitting and appropriate participation of the state of West Virginia in the celebration of the one hundred and fiftieth anniversary of the surrender of Cornwallis at Yorktown, and in this connection to cooperate with the commission appointed by the United States Congress and with any other commission, patriotic society or organization, state or national, created for a similar purpose;

Be it further resolved, That there be and is hereby appropriated out of any funds not otherwise appropriated the sum of ten thousand dollars, or so much thereof as may be necessary, to cover the expenses of said commission in connection with the said celebration; and

Be it further resolved, That no part of the fund hereby appropriated shall be paid to any member of the said commission as compensation for his services.

HOUSE JOINT RESOLUTION NO. 24

(BY MR. TAYLOR)

[Adopted March 11, 1931.]

Permitting the state road commission to carry on certain work to aid the needy of the state.

WHEREAS, By the visitation of a great drought, and other acts of Providence over which they have no control, a large number of the people of the state are in dire need and are unable to secure means, by work or otherwise, to support themselves and those dependent upon them; and

WHEREAS, It is provided by section fifteen of article four of chapter seventeen of the code, that before the state road commission may expend funds for the improvement of state roads in excess of three thousand dollars, other than by letting a contract therefor, it must first advertise for proposals for the performance

of such work and do the things necessary to lawfully contract same, and because much time is required to carry out procedure of this character; and

WHEREAS, It is highly essential that work and the right to engage therein be made available to as many of the citizens of the state dependent on labor for their support immediately; therefore, be it

Resolved by the Legislature of West Virginia:

That the state road commission in cooperation in meeting drought and employment situation, or at the order and direction of the governor, may, from the date of adoption of this resolution until July first, nineteen hundred thirty-two, without having first advertised for, received and rejected proposals for the construction, reconstruction, improvement or repair of any state road, or section thereof, carry on and perform such work by labor employed by it, and make payment for such labor in the amount necessary for the completion of the project or undertaking without being deemed to have violated the provisions of said section fifteen of article four of chapter seventeen of the code: *Provided*, That in the carrying on of such work, preference in the employment of labor therefor shall be given to citizens of the state in needy, necessitous or destitute circumstances, and men with families; but there shall be no discrimination because of race, color, or political affiliations: *Provided, further*, That in the performance of such work and the making of expenditures therefor, the apportionment or allocation of funds to counties as heretofore or hereafter provided by legislative enactment shall be observed, and no county's proportion of the road funds shall be changed or diminished thereby.

HOUSE CONCURRENT RESOLUTION NO. 2

(BY MR. BAKER)

[Adopted January 14, 1931.]

Raising a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Senate and House meet in joint assembly at 2:30 P. M., today in the chamber of the House of Delegates, to receive any communication His Excellency the Governor, may care to present.

HOUSE CONCURRENT RESOLUTION NO. 3

(BY MR. MATTHEWS)

[Adopted January 20, 1931.]

Authorizing the Auditor to draw his warrants for the mileage of members and for the per diem of officers and attaches of the House and Senate.

Resolved by the House of Delegates, the Senate concurring therein:

That the Auditor is authorized to draw his warrants upon the Treasurer, in advance of the appropriation for the purpose, for the mileage of the members of the House and Senate, and for the per diem of the officers and attaches of the House and Senate.

HOUSE CONCURRENT RESOLUTION NO. 4

(BY MR. DUNN)

[Adopted January 21, 1931.]

Raising a Joint Committee on Rules.

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of three members of the House of Delegates, to be appointed by the Speaker, and a like number from the Senate, to be appointed by the President, constitute a joint committee on joint rules of the House and Senate.

HOUSE CONCURRENT RESOLUTION NO. 5

(BY MR. TALBOTT)

[Adopted January 22, 1931.]

Authorizing the Auditor to draw his warrants for legislative printing.

Resolved by the House of Delegates, the Senate concurring therein:

That the Auditor is authorized to draw his warrants upon the Treasurer, in advance of the appropriation for the purpose, for the legislative printing for this session as the accounts for same may become payable.

HOUSE CONCURRENT RESOLUTION NO. 6

(BY MR. MATTHEWS)

[Adopted January 22, 1931.]

Providing for the appointment of a joint supervisor of printing for the two houses.

Resolved by the House of Delegates, the Senate concurring therein:

That the Clerks of the House of Delegates and of the Senate appoint a supervisor of printing who shall have general oversight and direction of the printing of the two houses, under the direction and supervision of the Clerks, one-half of his compensation to be paid by the Senate and one-half by the House of Delegates, at a per diem of fifteen dollars per day.

HOUSE CONCURRENT RESOLUTION NO. 7

(BY MR. NORTON)

[Adopted February 17, 1931.]

Providing for the appointment of a joint committee for the legislature to study conditions relating to blind persons in West Virginia and to make recommendations thereon.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of the legislature consisting of two members of the Senate to be appointed by the President, and three members of the House of Delegates, to be appointed by the Speaker of the House, be appointed and authorized to make a study of the laws and of educational, economic and social conditions relating

to blind persons in the state of West Virginia, and to report to this session of the legislature with recommendations as to legislation and policies necessary to make the treatment, care, protection and welfare of blind persons in this state comparable with the most approved methods and practices.

Said committee shall have power to call before it such experts in work for the blind as it shall deem necessary in the proper and efficient discharge of its duties, and is hereby vested with power and authority to summons and compel the attendance and testimony of witnesses necessary in its study of the conditions relating to blind persons in this state.

HOUSE CONCURRENT RESOLUTION NO. 9

(BY MR. HAINES)

[Adopted January 29, 1931.]

Authorizing the Budget Commission to investigate the facts as to the location of the original home of Richard Morgan.

WHEREAS, It is claimed that Shepherdstown is the oldest town in West Virginia, having been settled in 1723, when the land was part of northern Virginia, and some historians claim that it was the first settlement in the Shenandoah Valley; and

WHEREAS, In Shepherdstown, on High street, between Princess and Mill streets, stands a little brown house of four rooms, the first home of Richard Morgan "Ap Morgan, the pioneer settler of Mecklenburg, afterwards called Shepherdstown, it being supposed to have been built in 1727," and it being claimed by tradition that it was the first house built in West Virginia, therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the State Historian and Archivist is hereby directed to investigate the alleged facts in regard to this old house in Shepherdstown, in Jefferson county, and report his findings to the West Virginia Budget Commission, who shall report the findings of the said State Historian and Archivist to the next regular session of this legislature, together with any recommendations in regard thereto that they may see fit to make.

HOUSE CONCURRENT RESOLUTION NO. 10

(BY MR. CUMMINS)

[Adopted January 30, 1931.]

Concerning the death of Hon. John W. Smith, Commissioner of Agriculture.

WHEREAS, Hon. John W. Smith, of Lewis county, State Commissioner of Agriculture, died on this the thirtieth day of January, nineteen hundred thirty-one, following a sudden attack of illness; and

WHEREAS, Commissioner Smith was a trusted public servant, twice elected as commissioner of agriculture by the people of West Virginia, and served the people of Lewis county in the legislature of nineteen hundred twenty-three with distinction and fidelity; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the legislature deplores the sudden removal of this faithful and just man from public activities; that this message of condolence be forwarded to Mrs. Smith; that the Speaker of the House of Delegates appoint five members of the House and the President of the Senate appoint five members of the Senate to officially represent the legislature at the funeral services to be held in Weston on Sunday, February one, one thousand nine hundred thirty-one, and the adjournment of the legislature be taken until Monday, February two, out of respect to his memory; and that the Sergeants-at-Arms of the two Houses be directed to make the necessary arrangements for the conveyance of the committee to and from Weston, the necessary expenses incurred to be payable equally from the contingent funds of the two Houses, including a floral emblem.

HOUSE CONCURRENT RESOLUTION NO. 12

(BY MR. MATTHEWS)

[Adopted February 16, 1931.]

Memorializing Congress for the enactment of legislation to aid in the treatment of crippled children.

WHEREAS, One of the greatest humanitarian and economic problems confronting our nation today is that of our four hundred thousand crippled and deformed children; and

WHEREAS, The treatment, hospitalization, education, vocational guidance and placement and physical rehabilitation of all the cripples in each state represents an amount far in excess of available funds, or that the legislatures of the various states can provide; and

WHEREAS, It has been ascertained that approximately seventy-five per cent of all cripples can be either permanently cured or benefited to the extent of becoming self-supporting if treated while young; and

WHEREAS, Senate Bill 5961 and H. R. 16837, recently introduced in the United States Senate and House of Representatives by Senator H. D. Hatfield and Representative Hugh Ike Shott of West Virginia, respectively, provide federal aid for the states in the treatment, care and education of crippled children; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we approve the movement to secure enactment of legislation by the Congress of the United States, providing funds to aid the states in the solution of their crippled child problems and that we earnestly request our members of the Senate and House of Representatives to use all honorable means to secure the prompt enactment of such legislation at this session, and that a copy of this resolution be forwarded to the West Virginia members of the Senate and House of Representatives, the President of the Senate and the Speaker of the House of Representatives.

HOUSE CONCURRENT RESOLUTION NO. 16

(BY MR. LUBLINER)

[Adopted March 14, 1931.]

Providing for the introduction of a bill, relating to salaries of prosecuting attorneys.

Resolved by the House of Delegates, the Senate concurring therein:

That permission is given to introduce a bill with the following title:

A BILL to amend and re-enact section five, of article seven, of chapter seven, of the code of West Virginia, relating to the salaries of prosecuting attorneys.

HOUSE CONCURRENT RESOLUTION NO. 19

(BY MR. CUMMINS)

[Adopted April 14, 1931.]

Providing for the printing and distribution of advance copies of the acts of the regular session of one thousand nine hundred thirty-one.

Resolved by the House of Delegates, the Senate 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 head noted, and with a full table of contents, and in paper binding, for the 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 advanced 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, and the remainder, if any they shall deliver to the superintendent of public printing for distribution. 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 is hereby directed to be paid by the Auditor

upon proper warrants, 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, the secretaries to the clerks, the joint supervisor of printing, the supervisors of printing of the two houses and four assistant clerks from each house, all such persons to be designated by the Clerk, is extended for sixty days, the compensation 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.

HOUSE CONCURRENT RESOLUTION NO. 20

(BY MR. WILKINSON)

[Adopted April 15, 1931.]

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, under the constitution, to adjourn *sine die*, and ask him if he has any further communication to make.

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