ACTS

of the

LEGISLATURE

of

WEST VIRGINIA

Second Extraordinary Session, 1933

November 21, 1933 to March 24, 1934

FORTY-FIRST LEGISLATURE

NOTE BY THE CLERK OF THE HOUSE OF DELEGATES

This volume contains all the acts of the second extraordinary session of the Legislature, 1933, including municipal charters. It also contains all Senate and House Joint and Concurrent resolutions adopted, as well as all the Senate and House resolutions adopted by the respective bodies.

List of Members and Officers of the Legislature of West Virginia
Second Extraordinary Session, 1933

SENATE

OFFICERS

President—A. G. MATHEWS, Grantsville
Clerk—CHARLES LIVELY, Weston
Sergeant-at-Arms—C. D. ELLIOTT, Sutton
Doorkeeper—C. W. BELL, Zela

DISTRICT	MEMBERS	POSTOFFICE
First	Geo. C. Beneke (R)	Wheeling
	*James Paull, Jr. (D)	Wellsburg
Second	*John C. Myers (D)	Moundsville
	D. W. Null (D)	Hundred
Third	*Dan B. Fleming (D)	St. Marys
	Howard F. Neale (R)	Parkersburg
Fourth	†Kenna K. Hyre (D)	Ripley
	‡Mrs. Hazel E. Hyre (D)	Ripley
	Chas. O. Welsenburger (R)	Pt. Pleasant
Fifth	*J. T. Garrett (D)	Hurricane
	Harvey C. Taylor (D)	Huntington
Sixth	*C. Frank Millender (D)	Wayne
	M. Z. White (R)	Williamson
Seventh	*Grover C. Mitchell (D)	Union
	Albert W. Reynolds, Jr. (D)	Princeton
Eighth	Clyde B. Johnson (D)	Charleston
	*Luther R. Jones (D)	Madison
Ninth	A. B. Abbot (D)	Fayetteville
	*Perry N. Wiseman (D)	Summersville
Tenth	A. C. Herold (D)	Sutton
	*A. G. Mathews (D)	Grantsville
Eleventh	Chas. E. Hodges (D)	Morgantown
	*Earl H. Smith (D)	Fairmont
Twelfth	Ray W. Garvin (D)	Clarksburg
	*Louis A. Henderson (D)	West Union
Thirteenth	J. Slidell Brown (D)	Elkins
	*Lee J. Sandridge (D)	Philippi
Fourteenth	*A. L. Helmick (R)	Thomas
	E. Bunker Reynolds (R)	Keyser
Fifteenth	*J. E. Helsley (D)	Berkeley Springs
	Robert White (D)	Romney

†Died March 7, 1934, during session.
‡Appointed by Governor, March 12, 1934, to fill vacancy caused by death of her husband, Senator Kenna K. Hyre.
*Holdover Senators, who will serve in the 1935 session.

24—Democrats
6—Republicans

30—Total

Standing Committees of the Senate

NOTE: On March 14, 1934, the President of the Senate appointed Mrs. Hazel E. Hyre to fill all vacancies on committees caused by the death of her husband, Senator Kenna K. Hyre.

ON PRIVILEGES AND ELECTIONS

Messrs. Wiseman (*Chairman*), Hyre, Johnson, Abbot, Garvin, Sandridge, White (of Hampshire), Neale and White (of Mingo).

ON THE JUDICIARY

Messrs. White (of Hampshire), (*Chairman*), Paull, Null, Hyre, Garrett, Reynolds (of Mercer), Jones, Johnson, Wiseman, Herold, Hodges, Henderson, Sandridge, Helsley, Beneke, Reynolds (of Mineral), Neale and Helmick.

ON FINANCE

Messrs. Abbot (*Chairman*), Paull, Null, Fleming, Hyre, Taylor, Reynolds (of Mercer), Mitchell, Wiseman, Herold, Garvin, Brown, White (of Hampshire), Helsley, Hodges, White (of Mingo), Reynolds (of Mineral) and Helmick.

ON EDUCATION

Messrs. Hodges (*Chairman*), Paull, Fleming, Abbot, Garvin, Sandridge, White (of Hampshire), White (of Mingo) and Reynolds (of Mineral).

ON COUNTIES AND MUNICIPAL CORPORATIONS

Messrs. Garvin (*Chairman*), Myers, Garrett, Reynolds (of Mercer), Wiseman, Henderson, White (of Hampshire), White (of Mingo) and Helmick.

ON ROADS AND NAVIGATION

Messrs. Johnson (*Chairman*), Paull, Null, Hyre, Taylor, Reynolds (of Mercer), Wiseman, Herold, Hodges, Henderson, Sandridge, White (of Hampshire), Fleming, Neale, White (of Mingo), Helmick and Weissenburger.

ON BANKS AND CORPORATIONS

Messrs. Wiseman (*Chairman*), Myers, Fleming, Garrett, Jones, Herold, Brown, Beneke and Weissenburger.

ON PUBLIC BUILDINGS AND HUMANE INSTITUTIONS

Messrs. Myers (*Chairman*), Fleming, Taylor, Garrett, Mitchell, Jones, Abbot, Herold, Hodges, Smith, Brown, Helsley, Beneke and Weissenburger.

ON PENITENTIARY

Messrs. Henderson (*Chairman*), Null, Fleming, Hyre, Mitchell, Garvin, Sandridge, White (of Mingo) and Helmick.

ON RAILROADS

Messrs. Reynolds (of Mercer) (*Chairman*), Null, Garrett, Johnson, Abbot, Garvin, White (of Hampshire), Neale, White (of Mingo) and Helmick.

ON MILITIA

Messrs. Smith (*Chairman*), Myers, Taylor, Mitchell, Jones, Garvin, Brown, Beneke and Weissenburger.

ON FEDERAL RELATIONS

Messrs. Mitchell (*Chairman*), Myers, Taylor, Hodges, Smith, Garvin, Helsley, Beneke and Weissenburger.

ON INSURANCE

Messrs. Herold (*Chairman*), Null, Hyre, Reynolds (of Mercer), Johnson, Garvin, Garrett, Millender and Reynolds (of Mineral).

ON IMMIGRATION AND AGRICULTURE

Messrs. Helsley (*Chairman*), Fleming, Hyre, Jones, Wiseman, Henderson, Brown, Weissenburger and Reynolds (of Mineral).

ON MINES AND MINING

Messrs. Sandridge (*Chairman*), Null, Reynolds (of Mercer), Mitchell, Jones, Abbot, Garvin, White (of Mingo) and Helmick.

ON MEDICINE AND SANITATION

Messrs. Hyre (*Chairman*), Johnson, Wiseman, Smith, Garvin, Brown, White of (Hampshire), Millender and Helmick.

ON LABOR

Messrs. Taylor (*Chairman*), Paull, Fleming, Abbot, Herold, Hodges, Sandridge, Neale and Millender.

ON CLAIMS AND GRIEVANCES

Messrs. Paull (*Chairman*), Myers, Taylor, Garrett, Mitchell, Herold, Smith, Beneke and Millender.

ON FORFEITED, DELINQUENT AND UNAPPROPRIATED LANDS

Messrs. Mitchell (*Chairman*), Hyre, Taylor, Reynolds (of Mercer), Johnson, Abbot, Garvin, Beneke and Reynolds (of Mineral).

ON PUBLIC PRINTING

Messrs. Brown (*Chairman*), Fleming, Wiseman, Herold, Smith, Garvin, Helsley, Beneke and Weissenburger.

ON RULES

Messrs. Mr. President (Mr. Mathews) (*Chairman ex officio*); Henderson, White (of Hampshire), Johnson and White (of Mingo).

ON PUBLIC LIBRARY

Messrs. Fleming (*Chairman*), Paull, Myers, Mitchell, Jones, Smith, Helsley, Helmick and Millender.

TO EXAMINE THE CLERK'S OFFICE

Messrs. Jones (*Chairman*), Myers and Hodges.

ON TEMPERANCE

Messrs. Jones (*Chairman*), Paull, Fleming, Hyre, Mitchell, Hodges, Helsley and Helmick.

ON FORESTRY AND CONSERVATION

Messrs. Garrett (*Chairman*), Mitchell, Jones, Herold, Hodges, Garvin, Brown, Helsley, Reynolds (of Mineral), Helmick and Neale.

ON REDISTRICTING

Messrs. Henderson (*Chairman*), Fleming, Hyre, Reynolds (of Mercer), Wiseman, Sandridge, White (of Hampshire), White (of Mingo) and Reynolds (of Mineral).

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE SENATE

Messrs. Hyre (*Chairman*), Abbot, Garvin, White (of Hampshire) and White (of Mingo).

House of Delegates

OFFICERS

Speaker—RALPH M. HINER, Franklin
Clerk—JOHN S. HALL, Williamson
Sergeant-at-Arms—W. W. MARTIN, East Rainelle
Doorkeeper—JAMES B. KINCAID, Charleston

COUNTY	MEMBERS	POSTOFFICE
Barbour	Herman J. Poling (D)	Philippi
Berkeley	W. H. Peery (D)	Martinsburg
	Thomas S. Strong (D)	Inwood
Boone	E. E. White (D)	Madison
Braxton	G. C. Belknap (D)	Gassaway
	Jas. Mc. Dunn (D)	Canfield
Brooke	B. O. Cresap (D)	Wellsburg
Cabell	John P. Beacom (D)	Huntington
	G. A. Davis (D)	Huntington
	Wilbert H. Norton (D)	Huntington
	Robt. S. Starcher (D)	Huntington
Calhoun	C. A. Jarvis (D)	Grantsville
Clay	E. R. Reed (R.)	Clay
Doddridge	B. H. Maulsby (R)	West Union
Fayette	C. N. Proctor (D)	Clifftop
	R. L. Matthews (D)	Montgomery
	Mrs. Sam'l W. Price (D)	Scarbro
	C. R. Summerfield (D)	Fayetteville
Gilmer	E. E. Cottrill (D)	Sand Fork
Grant	Arch J. Welton (R)	Petersburg
Greenbrier	Raymond E. Bright (D)	Frankfort
	H. L. Van Sickler (D)	Lewisburg
Hampshire	George Sloan Arnold (D)	Romney
Hancock	J. N. Finley (D)	Chester
Hardy	J. D. Chipley (D)	Moorefield
Harrison	E. Wayne Coffindaffer (D)	West Milford
	Byron B. Randolph (D)	Clarksburg
	Edgar E. Righter (D)	Shinnston Rt. 2
	Ernest D. Lewis (D)	Clarksburg
Jackson	Robert B. Goodwin (D)	Ripley
	John H. Noll (D)	Ravenswood
Jefferson	U. S. Martin (D)	Shepherdstown
Kanawha	Carl C. Calvert (D)	Chelyan
	Julius A. de Gruyter, Jr., (D)	Charleston
	D. H. Gates (D)	Charleston
	George D. Moore (D)	Charleston
	J. Shirley Ross (D)	Charleston
	James Kay Thomas (D)	Charleston
Lewis	Rush D. Holt (D)	Weston
Lincoln	Watson Adkins (D)	Hart
Logan	John J. Pelter (D)	De Hue
Marion	Fred L. Doringer (D)	Fairmont
	R. L. McCoy (D)	Fairmont
	W. H. Schimmel (D)	Fairmont

COUNTY	MEMBERS	POSTOFFICE
Marshall	Charles A. Newman (D)	Moundaville
	G. W. Kelley (D)	Glen Easton
Mason	George A. Rairden (R)	Leon
	Charles C. Tallman (D)	Beech Hill
Mercer	O. H. Ballard (D)	Princeton
	A. J. Lubliner (D)	Bluefield
	F. M. Peters (D)	Bluefield
Mineral	George G. Dixon (D)	Piedmont
Mingo	William B. Hogg (R)	Williamson
Monongalia	P. D. Arbogast (D)	Morgantown
	Junius M. Strouss (D)	Morgantown
Monroe	William M. LaFon (D)	Union
Morgan	H. D. Beeler (R)	Berkeley Spgs.
McDowell	Albert A. Barley (R)	Welch
	Stewart A. Calhoun (R)	Keystone
	Mrs. Perle T. Harman (R)	Yukon
	M. H. Tabor (R)	Crumpler
Nicholas	J. A. Neal (D)	Fenwick
Ohio	Jack N. Haberstick (D)	Wheeling
	John Louden Marsh (D)	Wheeling
	Joseph R. Curl (D)	Wheeling
	F. J. Morrow (D)	Wheeling
Pendleton	R. M. Hiner (D)	Franklin
Pleasants	T. J. Hickel (D)	Belmont
Pocahontas	Frank R. Hill (D)	Marlinton
Preston	Merrell D. Carrico (R)	Terra Alta
	E. E. Watson (R)	Albright
Putnam	J. A. Harmon (D)	Nitro
Raleigh	T. E. Bibb (D)	Beckley
	W. Londa Lilly (D)	Beckley
Randolph	Joseph M. Woodford (D)	Elkins
	J. Buhl Shahan (D)	Elkins
Ritchie	J. R. Marsh (R)	Mole Hill
Roane	F. C. Foster (D)	Spencer
	H. D. Wells (D)	Spencer
Summers	R. C. Haynes (D)	Hinton
Taylor	Mrs. F. S. Suddarth (D)	Grafton
Tucker	C. W. Minear (D)	Parsons
Tyler	Arthur T. Nichols (R)	Meeker
Upshur	Lycurgus Hyre (R)	Buckhannon
Wayne	Rufus Lester (D)	Fort Gay
	Milton J. Ferguson (D)	Wayne
Webster	John R. Dyer (D)	Webster Springs
Wetzel	R. C. Leap (D)	New Martinsv'le.
	L. E. Lantz (D)	Jacksonburg
Wirt	J. L. Smith (D)	Elizabeth
Wood	Ben H. Butcher (D)	Parkersburg
	Walter E. Stout (D)	Parkersburg
	J. M. Melrose (D)	Mineral Wells
Wyoming	Otie Carden (D)	Mullens

79—Democrats
15—Republicans

94—Total

Standing Committees of the House of Delegates

ELECTIONS AND PRIVILEGES

Messrs. Lubliner (*Chairman*), Arnold, Carden, Cottrill, Doringer, Dunn, Finley, Foster, Hill, Kelley, Moore, Neal, Ross, Maulsby, Nichols, Reed and Welton.

JUDICIARY

Messrs. Norton (*Chairman*), Arnold, Belknap, Butcher, Curl, Dyer, Ferguson, Haberstick, Hill, LaFon, Lilly, Lubliner, Moore, Newman, Poling, Randolph, Schimmel, Smith, Starcher, Summerfield, Thomas, Van Sickler, Barley, Calhoun, Hogg, Hyre and Welton.

FEDERAL RELATIONS

Messrs. Butcher (*Chairman*), Cresap, Curl, Davis, Ferguson, Foster, Haynes, Jarvis, LaFon, Lilly, McCoy, Newman, Noll, Peery, Strouss, Mrs. Suddarth, Mr. White, Mrs. Harman, Messrs. Rairden and Reed.

TAXATION AND FINANCE

Messrs. Lubliner (*Chairman*), Beacom, Carden, Dixon, Gates, Jarvis, Lantz, Marsh (of Ohio), Matthews, McCoy, Peery, Pelter, Peters, Righter, Ross, Stout, Strouss, Tallman, White, Beeler, Rairden, Tabor and Welton.

MILITARY AFFAIRS

Messrs. Doringer (*Chairman*), Adkins, Bright, Coffindaffer, Hickel, Kelley, Leap, Lester, Lewis, Marsh (of Ohio), Noll, Summerfield, Wells, Carrico, Nichols, Reed and Watson.

PROHIBITION AND TEMPERANCE

Messrs. Hickel (*Chairman*), Arbogast, Arnold, Chipley, Dixon, Dunn, Gates, Haynes, McCoy, Melrose, Mrs. Price, Mrs. Suddarth, Mrs. Harman, Messrs. Hyre and Marsh (of Ritchie).

EDUCATION

Messrs. Holt (*Chairman*), Adkins, Arnold, Bibb, Coffindaffer, Cresap, Finley, Foster, Goodwin, Haynes, Hill, Lester, Pelter, Mrs. Price, Messrs. Ross, Shahan, Strouss, Mrs. Suddarth, Mrs. Harman, Messrs. Calhoun, Marsh (of Ritchie) and Rairden.

COUNTIES, DISTRICTS AND MUNICIPAL CORPORATIONS

Messrs. White (*Chairman*), Adkins, Ballard, Beacom, Carden, Calvert, Haynes, Hill, Jarvis, LaFon, Marsh (of Ohio), McCoy, Newman, Peters, Proctor, Ross, Schimmel, Strouss, Tallman, Barley, Hogg and Hyre.

BANKS AND CORPORATIONS

Messrs. Thomas (*Chairman*), Belknap, Bibb, Cottrill, Doringer, Dyer, Dunn, Jarvis, Lantz, Marsh (of Ohio), McCoy, Moore, Peters, Randolph, Starcher, Summerfield, White, Woodford, Carrico, Mrs. Harman, Messrs. Hogg and Watson.

ROADS

Messrs. Poling (*Chairman*), Arnold, Bibb, Bright, Cottrill, Cresap, Davis, Dunn, Finley, Harmon, Haynes, Hickel, Kelley, Lantz, Lewis, Martin, Minear, Noll, Schimmel, Strong, Carrico, Maulsby, Reed and Watson.

FORFEITED AND UNAPPROPRIATED LANDS

Messrs. Dyer (*Chairman*), Adkins, Arnold, Ballard, Belknap, Curl, Foster, Gates, Hill, Holt, Lester, Marsh (of Ohio), Martin, Pelter, Ross, Stout, Calhoun and Reed.

CLAIMS AND GRIEVANCES

Messrs. Ross (*Chairman*), Arnold, Curl, Doringer, Dyer, Ferguson, Finley, Holt, Kelley, LaFon, Leap, Matthews, Noll, Pelter, Poling, Righter, Schimmel, Strong, Wells, Barley, Beeler and Marsh (of Ritchie).

HUMANE INSTITUTIONS AND PUBLIC BUILDINGS

Mrs. Price (*Chairman*), Messrs. Arbogast, Arnold, Beacom, Bibb, Coffindaffer, de Gruyter, Doringer, Goodwin, Hill, Holt, LaFon, Marsh (of Ohio), Newman, Noll, Mrs. Suddarth, Messrs. Wells, Calhoun, Carrico, Mrs. Harman and Mr. Hyre.

FORESTRY AND CONSERVATION

Messrs. Ballard (*Chairman*), Arnold, Belknap, Bright, Carden, Chipley, Dixon, de Gruyter, Hickel, Hill, Leap, Marsh (of Ohio), Minear, Neal, Righter, Strong, Woodford, Rairden, Watson and Welton.

ARTS, SCIENCE AND GENERAL IMPROVEMENT

Messrs. Cottrill (*Chairman*), Adkins, Belknap, Carden, Curl, Foster, Haberstick, Harmon, Lester, Neal, Mrs. Price, Messrs. Ross, Shahan, Starcher, Stout, Strong, Mrs. Suddarth, Messrs. Thomas, Barley, Reed and Welton.

PENITENTIARY

Messrs. Haberstick (*Chairman*), Bright, Chipley Cottrill, de Gruyter, Haynes, Hill, Jarvis, Kelley, Lewis, Lilly, Martin, McCoy, Minear, Morrow, Smith, White, Woodford, Hyre, Nichols and Watson.

MINES AND MINING

Messrs. Bibb (*Chairman*), Beacom, Calvert, Carden, Curl, Holt, Lewis, McCoy, Moore, Pelter, Peters, Poling, Proctor, Strouss, Van Sickler, White, Woodford, Carrico, Mrs. Harman, Messrs. Hogg and Welton.

AGRICULTURE

Messrs. Chipley (*Chairman*), Arnold, Bright, Coffindaffer, Cottrill, Dunn, Goodwin, Hickel, Kelley, Lester, Martin, Melrose, Minear, Neal, Righter, Smith, Strong, Tallman, Woodford, Beeler, Maulsby and Nichols.

STATE BOUNDARIES

Messrs. Righter (*Chairman*), Ballard, Cresap, Harmon, Haynes, Martin, Melrose, Morrow, Shahan, Strong, Wells, Nichols and Watson.

RAILROADS

Messrs. Hill (*Chairman*), Bibb, Butcher, Dixon, Dyer, Ferguson, Kelley, LaFon, Lantz, Marsh (of Ohio), Peters, Proctor, Ross, Schimmel, Van Sickler, Woodford, Calhoun, Hogg and Welton.

LABOR

Messrs. Ballard (*Chairman*), Arbogast, Beacom, Calvert, Davis, Harmon, Lester, Melrose, Minear, Moore, Morrow, Mrs. Price, Messrs. Randolph, Shahan, Mrs. Suddarth, Messrs. Van Sickler, Calhoun, Mrs. Harman, Messrs. Hogg and Rairden.

MEDICINE AND SANITATION

Messrs. Tallman (*Chairman*), Arbogast, Belknap, Bright, Chipley, Cottrill, Dunn, Haynes, LaFon, Lewis, Lubliner, Marsh (of

Ohio), Mrs. Price, Mrs. Suddarth, Messrs. Thomas, Wells, Barley, Beeler, Tabor and Watson.

GAME AND FISH

Messrs. Marsh (of Ohio), (*Chairman*), Bright, Calvert, Chipley, Cottrill, de Gruyter, Dyer, Finley, Hill, Lantz, Leap, Minear, Newman, Peery, Righter, Woodford, Beeler, Maulsby, Watson and Welton.

INSURANCE

Messrs. Moore (*Chairman*), Ballard, de Gruyter, Ferguson, Jarvis, Lantz, Lilly, Marsh (of Ohio), McCoy, Martin, Newman, Pelter, Peery, Randolph, Smith, Van Sickler, Carrico, Nichols and Welton.

REDISTRICTING

Messrs. Randolph (*Chairman*), Chipley, Cresap, Dixon, Dyer, Foster, Goodwin, Hill, LaFon, Leap, Lilly, McCoy, Newman, Noll, Peters, Pelter, Smith, Woodford, Beeler, Hogg and Marsh (of Ritchie).

EXECUTIVE OFFICES AND LIBRARY

Messrs. Davis (*Chairman*), Adkins, Belknap, Carden, Cresap, Finley, Foster, Goodwin, Haynes, Hickel, Jarvis, Kelley, Lester, Melrose, Noll, Schimmel, Strong, Van Sickler, Barley, Maulsby and Reed.

PRINTING AND CONTINGENT EXPENSES

Messrs. Dunn (*Chairman*), Arnold, Carden, Cottrill, Finley, Goodwin, Haberstick, Martin, Melrose, Morrow, Neal, Newman, Mrs. Price, Messrs. Shahan, Strong, Wells, Van Sickler, Maulsby, Rairden and Reed.

RULES

Mr. Speaker (*Chairman ex officio*), Messrs. Lubliner, Matthews, Norton, Thomas, Tabor and Welton.

JOINT COMMITTEE ON ENROLLED BILLS ON THE PART OF THE HOUSE OF DELEGATES

Messrs. Smith (*Chairman*), Ballard, Haynes, LaFon and Hyre.

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PROCLAMATION

OF

HIS EXCELLENCY, THE GOVERNOR,

CALLING THE LEGISLATURE OF WEST VIRGINIA TO CONVENE IN EXTRAORDINARY SESSION ON NOVEMBER 21, 1933, AND ALSO STATEMENT SENT MEMBERS OF THE LEGISLATURE AND GIVEN TO THE PRESS BY HIS EXCELLENCY AT THE TIME HE ISSUED SAID PROCLAMATION.

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

CHARLESTON

A PROCLAMATION

BY THE GOVERNOR

I, H. G. Kump, Governor of the State of West Virginia, by virtue of the authority conferred on me by section seven of article seven of the Constitution of this State, do hereby call the Legislature of West Virginia to convene in extraordinary session at two o'clock on the afternoon of the twenty-first day of November, one thousand nine hundred thirty-three, for the following purposes:

First: To enact enabling legislation under the "Tax Limitation Amendment" in order that taxes may be levied, collected and disbursed, and that regulations may be provided therefor.

Second: To enact legislation providing and appropriating additional revenue to effect:

1. The continuation of orderly government in counties and municipalities, and

2. The support of free schools.

Third: To provide and appropriate additional revenue for temporary supplemental aid and unemployment relief for the duration of the present emergency.

Fourth: To enact legislation for the relief of municipalities by:

1. Simplifying municipal government,

2. Authorizing the transfer of funds levied for special purposes to general purposes,

3. Providing additional sources of revenue, including business licenses and registration fees for motor vehicles owned in municipalities, and

4. Authorizing the promotion of self-liquidating projects and the borrowing of funds for this purpose from federal, state and private agencies.

Fifth: To enact general legislation to meet the unprecedented problems of local subdivisions and to create agencies for raising and distributing revenue in order to aid local services and to relieve local debt.

Sixth: To enact legislation to protect our citizens against the unnecessary loss of their property through the foreclosure of liens, and to enact measures co-ordinating and co-relating state statutes with federal statutes of like import.

Seventh: To enact legislation authorizing governing boards of state educational institutions and county boards of education to promote educational projects through the construction of buildings and the provision of other facilities; and to borrow funds for these purposes from any federal, state or private agency.

Eighth: To authorize the more efficient utilization of state property and to supply deficiencies in appropriations for state boards and institutions.

Ninth: To provide and appropriate funds to match federal grants in aid.

Tenth: To enact legislation redistricting the state, providing for the apportionment of representation in the House of Representatives in the Congress of the United States and for the apportionment of representation in the House of Delegates and the Senate of the State of West Virginia.

Eleventh: To enact legislation defining the offense and fixing the penalty for the crime of kidnapping.

Twelfth: To propose constitutional amendments to harmonize the provisions of the Constitution and the amendments thereto.

Thirteenth: To consider and act upon the revocation and withdrawal of the constitutional amendment and enabling act thereunder proposed at the regular session of the Legislature, one thousand nine hundred thirty-three, for the repeal of the "State Prohibition Amendment," and to propose another constitutional amendment in lieu thereof.

Fourteenth: To make the necessary appropriations of public moneys to pay the expenses of this extraordinary session and to provide funds for the administration of laws enacted.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State to be affixed.

(GREAT SEAL)

Done at the Capitol in the City of Charleston, this second day of November, in the year of our Lord, one thousand nine hundred thirty-three and of the State the Seventy-First.

By the Governor:

H. G. KUMP,

WM. S. O'BRIEN,

Secretary of State.

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

CHARLESTON

November 2, 1933

To the Members of the Senate and House of Delegates:

The Legislature has been called to convene in extraordinary session on the afternoon of November 21. It has been but a few months since you were called to a similar duty, and only an emergency that threatens our very statehood prompts me to reconvene you again at this time. Your legislative record is historical. In a short one hundred days you balanced the budget, provided for the appalling state deficit, absorbed several million dollars of old expenditures in new economies, established an assured revenue and enacted progressive measures unequaled in local records. Your action was prompted by patriotic impulse, directed with intelligent integrity and resulted

in splendid achievement. No doubt you will return to the problems that perplexed you last spring with something of languishing hopes. I approach them with fatigue, but your confidence is unshaken and, therefore, I do not despair.

The situation is now more technical and difficult than before but we must not yield the ground that has been gained, nor will we willingly permit the change of our state from a sound governmental unit to a humiliated receivership.

Therefore, I call you together at this time to counsel with me as to what can be done to restore and sustain orderly government, preserve the security of our people and maintain our free institutions.

Apparently we have deprived ourselves of all constitutional guarantees of local government, or, at best, so beclouded their status as to make them meaningless as legal guides. Indeed, it is suggested that there is "no prejudice to the people, if some governmental units do fail," and that the "Tax Limitation Amendment" authorizes the "alteration or even termination of any constitutional unit or scheme which cannot survive under the reduced levies." It is believed that these suggestions were not intended to mean what the language imports, but. they accentuate the dangers that impend. Life, liberty, property and the pursuit of happiness, depend upon efficient government and effective administration.

Let it be observed now and here, that the limited levies provided in the "Tax Limitation Amendment," are sufficient for current governmental needs but they are not sufficient for such needs and also to pay for the extravagance, waste and folly of recent years.

In a general way the situation seems to be this: In 1931 the total levy on general property for state and local purposes other than debt services was some $42,000,000.00. Under H. B. 314 the maximum property tax which could possibly be levied for the same purposes was $25,000,000.00. This was the maximum available. Actual governmental needs would not have required the full amount. This represented a reduction of some 40 per cent throughout the state at large and preserved the spirit and purpose of the "Tax Limitation Amendment."

In 1931 the public utilities of the state paid $12,500,000.00 of the general property tax for state and local purposes other than debt

services—some 34 per cent of the total. Under your legislation of last spring they were to contribute $9,300,000.00 of the $25,000,000.00 available—some 38 per cent of the total. To make up the saving that the "Tax Limitation Amendment" gave to them, the public utilities were made liable for an additional $3,500,000.00—one-third of all indirect taxes under the general revenue bill.

It is impossible to approximate the decrement in the revenue under the Court's interpretation of the Amendment until the effect, or incidence, thereof can be ascertained, but it is believed that such decrement will amount to approximately one-third of the total direct property tax. According to the figures provided by the Tax Commissioner's office, it appears that public utility property tax for the year 1933, will be reduced $2,994,731.00 by such interpretation, from the amount such utilities would have paid under the approved levies in accordance with H. B. 314. This assumes that the state tax amounting to $1,143,795.00 is outside the limited levies. If the state tax is within the limited levies, then such savings to public utilities is $4,138,526.00. This is only one item of the amount that must be replaced or absorbed in reduced services. It illustrates our problem.

The Federal Emergency Relief Administration calls upon West Virginia to provide approximately $500,000.00 a month for human relief to supplement federal allocations therefor.

The extent of indirect taxation necessary to balance such a loss and to provide this relief, staggers the imagination. Furthermore, such indirect taxation is confused in a maze of legal uncertainties, making accurate estimate impossible.

The first item of the call has to do with the enabling legislation under the "Tax Limitation Amendment" and to authorize the levy, collection and disbursement of taxes. This involves the amendment of H. B. 314, passed at the last regular session of the Legislature, making it conform to the "Tax Limitation Amendment" as interpreted by the Supreme Court of Appeals.

When H. B. 314 was drafted it was believed to embody not only the best, but, the only practicable, solution of the problems presented by the "Tax Limitation Amendment." Every painstaking care was exercised to preserve the intent of the amendment. Home-

owner, farmer, laborer and small business man, loomed large in this legislation and savings of from 40 to 60 per cent in property taxes were secured to farm and home. That is but simple justice. Now, this legislation must be completely altered and myriads of legal questions involved in a strange tax system to be set up will require your most patient attention. The second and third items of the call, namely; providing additional revenue for the continuation of orderly government in counties and municipalities; the support of free schools, and supplemental aid for unemployment relief, merge, largely, into the first item. The amendment of H. B. 314 to conform to the ruling of the Court is simple enough but the effect thereof, if the constitutional guarantee of uniform and equal treatment is respected, deprives many counties and municipalities of any revenue for current governmental expenses and reduces such revenue in other counties and municipalities to such an extent that they cannot function. "There's the rub." If the debt requirements of such counties and municipalities are otherwise provided for, then, all is well. How this may be done is one of our problems. Providing revenue for human relief is another.

It is believed that the relief of stricken counties and municipalities must be effected by finding a way to release the levies impounded by kindred subdivisions burdened with debt services. We have heretofore believed that section 6, article X of the Constitution precludes the state from coming to the relief of a debt-ridden "county, city or township," but, in the extremity, when the state has permitted the governmental units within her confines to become so involved in their fiscal affairs that essential governmental functions are failing for want of revenue, I am impelled to request you to consider whether or not it is the duty of the state to extricate the local governmental units from their difficulties by providing revenue in aid of their maintenance, or debt requirements, in whole or in part. This would involve certain inequities as between localities that have wisely administered their fiscal affairs and those that have been profligate, but necessary governmental adjustments cannot always avoid some injustices.

The purposes of the fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh items of the call require no comment. The twelfth item of the call is purposed to enable us to bring the "Tax

Limitation Amendment'' into harmony with other provisions of the Constitution and to make that instrument as a ''seamless garment.'' The purposes of the ''Tax Limitation Amendment'' must and will be preserved, but government must go on, and, we are honorable people and will pay our debts. It was the purpose of the ''Tax Limitation Amendment'' to relieve the home-owner, farmer, laborer and small business man, from the excessive burden of taxation under which they have languished to prostration. That relief has been carefully safeguarded by you, but, in order that it may remain secure, there must run along beside it a strong and effective government.

The thirteenth item of the call is intended to open the way toward modernizing the ''Prohibition Amendment'' to the Constitution and clarify its provisions.

The purpose of the fourteenth item of the call is manifest.

Many worthy suggestions and requests have been made for the inclusion in the call of other subjects for consideration, but it has seemed to me that, so far as it was possible to do so, this extraordinary session should be confined to providing the means to restore local self-government and for human relief.

The enormity of your task is apparent. The pressing problems are of the utmost difficulty—some believe them beyond adequate solution at this time. They are not of our making. We found them upon our doorstep. They are strange to the history of American legislation, jurisprudence and finance. Our responsibility is clear—it is to work them out.

The executive branch of the state government is at your command.

H. G. KUMP,
Governor.

LEGISLATURE OF WEST VIRGINIA

ACTS OF 1933

SECOND EXTRAORDINARY SESSION

CHAPTER 1

(Senate Bill No. 149—By Mr. Abbot)

AN ACT making appropriations of public moneys out of the treasury for the expenses of this extraordinary session of the Legislature.

[Passed March 24 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Appropriations for legislative printing, expenses joint investigating committee and governor's civil contingent fund.	2.	Appropriations for legislative expenses of Senate.
		3.	Appropriations for legislative expenses of House of Delegates.

Be it enacted by the Legislature of West Virginia:

That there is hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred thirty-four, the following sums of money for the following named purposes:

	Section 1. Legislative printing, binding and stationery	$50,000,00
	Expense joint CWA investigating committee, one-half to be paid by each house	727.40
	To reimburse Governor's civil contingent fund, amount paid for expenses Bureau for Government Research of West Virginia University, as shown by itemized statement filed with Chairman Senate Finance Committee, one-half to be paid by each house	1,891.03

SENATE

	Sec. 2. Salary of members	$ 500.00
	Mileage of members and officers for the second extraordinary session, one thousand nine hundred thirty-three	984.30
	President of the Senate, two dollars per day as presiding officer for one hundred twenty-four days	248.00
	Compensation and Per Diem of Other Elective Officers	
	Compensation of the Clerk of the Senate	2,232.00
	Compensation of the Sergeant-at-Arms	1,116.00
	Compensation of the Doorkeeper	1,116.00
	Compensation of attaches, superintendent capitol building and grounds and assistant janitors	30,348.00
	Contingent fund of the Senate	15,000.00
	The Clerk of the Senate, with the approval of the President of the Senate, is authorized to draw his warrants upon the Auditor, payable out of the contingent fund, for any bills for supplies and services that may have been incurred by the Senate and not included in this appropriation bill, and for bills for supplies and services incurred after adjournment, the requisition for same to be accompanied by a bill to be filed with the Auditor.	
	Miscellaneous Appropriations	
	Laird Office Equipment Company	$ 1,145.82
	Julius Singleton, P. M., stamps	1,517.50
	Chesapeake and Potomac Telephone Co.	2,049.35
	Tripure Water Company	28.80
	Diamond Ice and Coal Co.	29.68
	Evatype Rubber Stamp Co.	16.35
	E. S. Welton services	582.00
	Winter Floral Co.	12.50
	Frances Owens, typewriter rental	29.00
	Charleston Cut Flower Company, flowers	56.70
	Clutter Typewriter Company, rentals and supplies	294.90
	Ruth Copenhaver, services	246.00
	Smith and Brooks, supplies	16.38
	Expenses preliminary to organization	426.00
	Ada H. Ford, services	486.00
	Central Ohio Paper Co.	9.61
	Western Union Telegraph Co.	25.67
	J. E. and F. L. Thomas, supplies	19.08

42	H. R. Judy, keys	1.75
43	C. D. Elliott, Sergeant-at-Arms, expenses incurred	
44	for assistant Sergeants-at-Arms and automobile	
45	hire, under the order of the Senate on December	
46	18, 1933, to bring in absent members	82.50
47	Coyle and Richardson, wool crepe	7.80
48	Commercial Envelope Company, envelopes	84.50
49	S. Spencer Moore and Co., rentals and supplies	477.00

HOUSE OF DELEGATES

	Sec. 3. Mileage of members and officers of the	
2	House of Delegates	$ 3,051.90
3	Per diem of Speaker, as presiding officer, one hun-	
4	dred and twenty-four days at two dollars per day	248.00
5	Contingent fund House of Delegates	27,500.00
6	*Compensation of Other Elective Officers*	
7	Compensation of Clerk, one hundred twenty-four	
8	days at fifteen dollars per day	1,860.00
9	Compensation of the Sergeant-at-Arms, one hundred	
10	twenty-four days at nine dollars per day	1,116.00
11	Compensation of Doorkeeper, one hundred twenty-	
12	four days at seven dollars and fifty cents per day	930.00
13	*Compensation of Attaches*	
14	Per diems of attaches, appointed by the Speaker	41,827.00
15	The Sergeant-at-Arms of the House of Delegates,	
16	with the approval of the Speaker of the House, is	
17	authorized to draw his warrants upon the Auditor,	
18	payable out of the contingent fund, for any bills for	
19	supplies and services that may have been incurred	
20	by the House of Delegates and not included in this	
21	appropriation bill, for bills for supplies and services	
22	incurred after adjournment, the requisition for	
23	same to be accompanied by a bill to be filed with the	
24	auditor, but no payment shall be made to attaches	
25	under this paragraph.	
26	*Miscellaneous Appropriations*	
27	Expense of Utility Investigating Committee raised	
28	under H. R. No. 17	2,140.50
29	Expenses of Committee to Investigate Walls of the	
30	State Penitentiary raised under H. R. No. 54	90.00
31	Expenses of Committee to Investigate CWA and Wel-	
32	fare Departments in Braxton and Jackson coun-	

33	ties, raised under H. R. No. 48	648.48
34	Expenses authorized under H. R. No. 10	50.00
35	Expenses of Committee to attend Inter-State Truck	
36	and Bus Conference, authorized by H. R. No. 39	137.00
37	Expenses of Committee raised under H. R. No. 36 to	
38	investigate affairs of the West Virginia Univer-	
39	sity	176.89
40	Postage	1,591.00
41	W. W. Martin, Sergeant-at-Arms, expenses incurred	
42	attending funeral of Joseph S. Thurmond	3.70
43	S. Spencer Moore and Co., furniture, office supplies,	
44	rentals	1,048.46
45	Brawley Hardware Co., supplies	4.41
46	Evatype Rubber Stamp Co., rubber stamps	1.90
47	H. R. Judy, keys and repairs	11.00
48	Lowenstein and Co., hardware supplies	2.45
49	Laird Office Equipment Co., furniture and office sup-	
50	plies	366.39
51	Smith and Brooks, supplies	80.16
52	The Shorthand Reporter	6.86
53	J. E. and F. L. Thomas, office supplies	45.38
54	Underwood Elliott Fisher Co., typewriter rentals and	
55	supplies	331.78
56	C. W. Wendall, stapling machines, etc.	14.40
57	Winter Floral Co., flowers	70.20
58	Diamond Ice and Coal Co., ice	38.50
59	Kanawha Novelty Works, keys	7.10
60	Southern Hardware Co., office supplies	171.00
61	C. and P. Telephone Co., telephone service	1,048.23
62	Clutter Typewriter Co., typewriter rentals and sup-	
63	plies	93.00
64	Western Union	1.53
65	Bond-Rider-Jackson Co., supplies	1.32
66	Rockne Taxi Service, taxi service	15.50
67	Timberlake's Drug Co., supplies	13.90
68	O. C. Parsons, typewriter rental	18.00
69	Julia Lewis Roseberry, services	49.00
70	Charleston Towel Supply Co., towel services	5.00
71	W. W. Martin, services preliminary to opening of	
72	session	150.00
73	T. B. Davis, Supt. of Capitol Bldg., and Grounds	248.00
74	Sam White, janitor service	84.00

75	John Campbell, services	16.00
76	Charleston Cut Flower Co., flowers	15.75
77	Janitor service, preliminary to session	172.00
78	Boisy Green, janitor service	20.00

CHAPTER 2

(Senate Bill No. 111—By Mr. Abbot)

AN ACT to make a supplementary appropriation for current general expenses of the public service commission and providing the revenue therefor.

[Passed March 7, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation for current general expenses of the public service commission.
2. Special license fees for public utilities; how fixed and amount; fees kept in treasury as special fund; purposes for which used.
3. Appropriations, if not used before, carry over to July 1, 1936.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred thirty-four, and for the fiscal year ending June thirtieth, one thousand nine hundred thirty-five, to pay current general expenses of the public service commission for additional investigations, reports and valuations of utilities subject to the regulations of the public service commission under the provisions of chapter twenty-four, code of West Virginia, one thousand nine hundred thirty-one, in addition to the appropriation made by sub-section "G", section ninety-four, chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, the sum of ninety thousand dollars for each of said years.

Sec. 2. There shall be paid by all public utilities subject to the provisions of chapter twenty-four, code of West Virginia, one thousand nine hundred thirty-one, a special license fee in addition to any and all those such fees now required by law. The amount of such fees shall be fixed by the auditor and the amount so levied upon each of such public utilities shall be in the proportion which the total sum of intra-state business done by each such public service corporation bears to the total of all intra-state business done by public service corporations subject to regulation by the public service commission so as to produce a revenue of ninety thousand dollars

per annum, or so much thereof as may be necessary, in addition to such fees as may be fixed by the auditor under the provisions of section six, article three, chapter twenty-four of the code, which shall be paid on or before the first day of May, one thousand nine hundred thirty-four for the fiscal year beginning July first, one thousand nine hundred thirty-three and on or before the first day of August, one thousand nine hundred thirty-four for the fiscal year beginning July first, one thousand nine hundred thirty-four. Such sums of ninety thousand dollars, or so much thereof as may be necessary, shall be paid into the state treasury and kept as a special fund designated "Supplementary Public Service Commission Fund" and expended in the manner appropriated by section one of this bill for the purpose of paying the expenses of the commission, and the salaries, compensations, costs and expenses of its employees in making the investigations, reports and valuations therein provided for.

Sec. 3. If any part of the appropriation made by this bill shall not be expended in either of the fiscal years for which appropriated, the fund shall not be retired but may be expended at any time thereafter prior to the first day of July, one thousand nine hundred thirty-six for the purposes for which the same is hereby appropriated.

CHAPTER 3

(Senate Bill No. 123—By Mr. Hodges).

AN ACT to amend and reenact section one, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to the state road fund, providing for an expenditure therefrom for the relief of destitution.

[Passed March 2, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Sources of state road fund; purposes for which used, including two hundred fifty thousand dollars for human relief during fiscal year ending June 30, 1934.

Be it enacted by the Legislature of West Virginia:

That section one, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended

by chapter forty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. There shall be a state road fund, which shall consist of the proceeds of all state license taxes imposed upon automobiles or other motor or steam driven vehicles; the registration fees imposed upon all owners, chauffeurs, operators and dealers in automobiles or other motor driven vehicles; all sums of money which may be donated to such fund; all proceeds derived from the sale of state bonds issued pursuant to any resolution or act of the legislature carrying into effect the "road amendment" to the constitution of this state, adopted in the month of November, one thousand nine hundred twenty and the "road amendment" to the constitution of this state, adopted in the month of November, one thousand nine hundred twenty-eight; all moneys and funds appropriated to it by the legislature; all moneys and funds allotted or appropriated by the federal government to this state for road construction and maintenance pursuant to any act of the congress of the United States; the proceeds of all taxes imposed upon and collected from any person, firm or corporation and of all taxes or charges imposed upon and collected from any county, district or municipality for the benefit of such fund; the proceeds of all judgments, decrees or awards recovered and collected from any person, firm or corporation for damages done to, or sustained by, any of the state roads or parts thereof; all moneys recovered or received by reason of the violation of any contract respecting the building, construction or maintenance of any state road; all penalties and forfeitures imposed, recovered or received by reason thereof; and any and all other moneys and funds appropriated to, imposed and collected for the benefit of such fund, or collected by virtue of any statute and payable to such fund.

When any money is collected from any of the sources aforesaid, it shall be paid into the state treasury by the officer whose duty it is to collect and account for the same, and credited to the state road fund, and shall be used only for the purposes named in this chapter, that is to say: (a) To pay the principal and interest due on all state bonds issued for the benefit of said fund, and set aside and appropriated for that purpose; (b) to pay the expenses of the administration of the road department;

(c) to pay the cost of maintenance, construction, reconstruction and improvement of all primary roads; (d) to pay the cost, maintenance, construction, reconstruction and improvement of all secondary roads:

Provided, however, That from any money credited to said state road fund and not required for the purposes of clauses (a) and (b), and not required for the performance of any contracts heretofore made for the purposes of said clauses (c) and (d), during the fiscal year beginning July first, one thousand nine hundred thirty-three and ending June thirtieth, one thousand nine hundred thirty-four, not exceeding two hundred and fifty thousand dollars, may be used for the purpose of aiding in human relief by payment to the governor, or to the department of public welfare, in the manner provided by law.

CHAPTER 4

(Senate Bill No. 124—By Mr. Hodges)

AN ACT to amend and reenact section ninety-three, chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to general appropriations for the state road commission under a bill known as the "Budget Bill" by providing for the use of a part of the state road fund for human relief.

[Passed March 2, 1934; in effect from passage. Approved by the Governor.]

SEC.		SEC.	
93.	Budget Bill appropriation for state road commission amended to provide for expenditure of		two hundred fifty thousand dollars from state road fund for human relief.

Be it enacted by the Legislature of West Virginia:

That section ninety-three, chapter one, acts of the Legislature first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

General

	1934	1935
Section 93. To pay all expenses in connection with the assessment and collection of the tax on gasoline; payable on requisition of State Tax Commissioner	$13,125.00	$13,125.00

For complying with and carrying out the provisions of law, relating to refunds and for refunding moneys erroneously paid through the commission into the treasury, such sums are hereby appropriated as may be erroneously paid.

Complying with and carrying out the provisions of law relating to subscription to the Compensation fund for protection of employees, such sum as may be necessary is hereby appropriated.

In addition to the foregoing appropriations the balance or residue of the annual receipts of the state road fund are hereby appropriated for the payment of interest on and principal of outstanding road bonds, for maintenance and construction and reconstruction of state roads, in accordance with the provisions of chapter seventeen of the code, as amended by house bill number two, passed May sixteenth, one thousand nine hundred thirty-three:

Provided, however, There shall be set aside and expended to pay the cost of maintenance, construction, reconstruction and improvement of secondary roads the amount of the transfer from the general revenues of the state for the purpose of supplementing the state road fund, (plus whatever other amount is paid into the state road fund designated by law for secondary roads), after deducting therefrom the proportionate part of administrative expenses which is properly chargeable to secondary roads, as determined by the state road commission of West Virginia:

Provided, however, That of such balance or residue of said annual receipts not required for the payment of interest on and principal of outstanding bonds and not required for the payment of any contracts heretofore made for the maintenance, construction and reconstruction of state roads, either primary or secondary, for the fiscal year beginning July first, one thousand nine hundred thirty-three, and ending June thirtieth, one thousand nine hundred thirty-four, there is hereby appropriated for human relief the sum of $250,000, which may be

paid by the state road commission to the governor or to the department of public welfare in the manner provided by law, and the appropriation for the maintenance, construction, reconstruction and improvement of state roads, either primary or secondary, or both, is reduced accordingly.

To pay claims against the state road commission resulting from personal injury or property damages; this amount appropriated for remainder of year ending June thirty, one thousand nine hundred thirty-three, and to remain in effect until claims are paid, to be paid as follows:

R. C. Hardman	$406.65
R. F. Casdorph	14.50
P. L. Dysard	196.95
Tresa Keller	10.50
Mrs. G. C. Barber	35.00
M. C. Harper	50.00
United Pipe & Supply Co.	111.46
Atlantic Refining Co.	12.00
John E. Ahern	121.24
C. F. Cart	9.55
John Sandonias	28.00
W. R. Morris	10.95
Leonard Carter	10.75
C. H. Lyles	7.50
Verna Casdorph	20.00
E. A. Cunningham	150.00
Mrs. Lorena McLaughlon	13.50
Geo. Duty	200.00
J. E. Brown	569.70
Bert B. Ross	41.35
Clyde Belcher	46.25
G. W. Smith	5.00
A. F. Allen	100.00
C. D. Ross	320.00
H. A. Kesling	9.50
James S. Kahle	10.50
Vada Sears	185.70
Angelo Marini	172.50
J. W. Flowers	25.00
E. P. Connell	22.75
U. G. Arnett	138.00

O. D. Bubring 252.05

The state road commission is hereby authorized to expend for the purpose of equipment and supplies to be used in assisting the federal government in its reforestation program in West Virginia an amount equal to the appropriations which will remain unexpended and cancel as set out in sections 101, 102 and 103 of sub-section "F" of the "Budget Bill" as passed by the one thousand nine hundred thirty-one legislature for the fiscal year ending June thirty, one thousand nine hundred thirty-three, expenditures to be made upon the order of the governor.

CHAPTER 5

(Senate Bill No. 125—By Mr. Hodges)

AN ACT to provide for human relief, by directing the state road commissioner to pay to the department of public welfare the sum of two hundred and fifty thousand dollars, and providing for the expenditure thereof by the department of public welfare.

[Passed March 2, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation to department of public welfare of two hundred fifty thousand dollars to relieve human want.
2. Appropriation to be drawn from state road fund.
3. Use of appropriation by department of public welfare, with approval of the Governor.
4. Act to be liberally construed.
5. Declaration of legislature that sufficient revenue is available for this appropriation.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby appropriated for expenditure by the department of public welfare for the purpose of relieving human want and distress the sum of two hundred and fifty thousand dollars.

Sec. 2. The state road commission, by the state road commissioner, is hereby authorized and directed to draw its requisition upon the auditor, payable to the department of public welfare, against the state road fund for two hundred and fifty thousand dollars, upon which the auditor shall issue his warrant for said purpose payable to the department of public welfare, which said warrant when endorsed by the department of public welfare, by the director thereof, shall be deposited with the treasurer to the credit of the department of public welfare.

Sec. 3. The money so paid to the department of public welfare by the state road commission shall be expended by the department of public welfare for the purpose of relieving human want and distress in the state of West Virginia in the manner deemed best by the director of the department of public welfare, with the approval of the governor, and shall be paid out by the treasurer upon proper warrants issued upon the requisition of the director of the department of public welfare.

Sec. 4. This act, being remedial, shall be construed liberally and all officers, departments, boards and commissions are hereby expressly empowered to do all things necessary to carry out the provisions hereof.

Sec. 5. The legislature doth find that the revenues of the state road fund as provided by section one, article three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter forty, acts of the legislature, first extraordinary session, one thousand nine hundred thirty-three, not required for the purposes set forth in clauses (a) and (b) thereof, and not required for paying the obligations of any contracts heretofore made under clauses (c) and (d) thereof, are in excess of the amount of this appropriation, and that, therefore, under the provisions of senate bill number one hundred twenty-four, second extraordinary session, one thousand nine hundred thirty-three, amending section ninety-three, chapter forty, acts of the first extraordinary session, one thousand nine hundred thirty-three, it appears from such "Budget Bill," being said chapter one, acts of the legislature of West Virginia first extraordinary session, one thousand nine hundred thirty-three, that there is sufficient revenue available for the appropriation made by this act.

CHAPTER 6

(Senate Bill No. 135—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury for the purpose of granting additional state aid to the support of local schools.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation of additional five million dollars from state fund general revenue for fiscal year ending June 30, 1934, for free school system for an eight months term; fund transferred on requisition of governor.
SEC.
2. Same appropriation for fiscal year ending June 30, 1935.
3. Appropriation for fiscal year ending June 30, 1934, creates a casual deficit and governor authorized to borrow to meet treasury needs for this appropriation.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented generally by Title I and specifically for the support of free schools by Title II of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated from the state fund general revenue for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the sum of five million dollars in addition to all other appropriations made for the free school system in order to make effective the provisions of house bill number two hundred seventy-eight, second extraordinary session, one thousand nine hundred thirty-three, providing for an eight months school term. The fund appropriated hereby shall be transferred from the state fund general revenue to the general school fund on the requisition of the governor at such times and in such amounts as the receipts of the state fund general revenue will, in the opinion of the governor, permit.

Sec. 2. There is hereby further appropriated from the state fund general revenue for the fiscal year one thousand nine hundred thirty-four—one thousand nine hunderd thirty-five, the sum of five million dollars to make effective the provisions of house bill number two hundred seventy-eight providing for an eight months school term to be transferred to the general school fund on the requisition of the governor in the manner provided by section one hereof.

Sec. 3. The appropriation for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred

thirty-four being in excess of the amount of the revenues that will be collected from said taxes within said fiscal year the needs of the treasury to meet said appropriation in anticipation of the receipt of the revenues provided is hereby declared to constitute a casual deficit and the governor is authorized and empowered, in addition to any and all other powers now vested in him, to raise, from time to time, by temporary loans not maturing beyond June thirtieth, one thousand nine hundred thirty-five nor bearing a greater interest than six per cent per annum, so much as may be needed to supply the wants of the treasury in carrying out this appropriation.

CHAPTER 7

(Senate Bill No. 136—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury for the purpose of granting relief, in cooperation with the federal government, to the needy citizens of the state.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation of one million dollars for fiscal year ending June 30, 1934, for human relief; repayment, by governor, of two hundred fifty thousand dollars, from appropriation to state road fund; appropriation of two million dollars for fiscal year ending June 30, 1935, for human relief.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four," there is hereby appropriated to the governor, in order to afford relief to the needy citizens of the state, and to gain the advantages of federal cooperation, for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the sum of one million dollars to be paid as the governor shall direct, but not to exceed the sum of two hundred fifty thousand dollars in any one month: *Provided, however,* That two hundred fifty thousand dollars having heretofore been expended from the state road fund for this purpose in anticipation of this appropriation for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the governor may repay from this appropriation the sum

of two hundred fifty thousand dollars to the state road fund.

For the fiscal year one thousand nine hundred thirty-four —one thousand nine hundred thirty-five there is hereby appropriated two million dollars payable in monthly installments as the governor shall direct, but not to exceed the sum of two hundred fifty thousand dollars within any one month.

*CHAPTER 8

(Senate Bill No. 137—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury for the purpose of cooperating with the federal government in the establishment of public employment offices.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.		SEC.	
1.	Appropriation of five thousand dollars for each of the fiscal years ending June 30, 1934, and June 30, 1935, to the department		of labor for cooperation with the federal government in the establishment of public employment offices.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated out of the treasury from the general fund to the state department of labor the sum of five thousand dollars for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, for the purpose of complying with the provisions of house bill number forty-six. If the amount or any part of the amount appropriated for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four remains unexpended at the expiration of the fiscal year, such amount shall not revert to the treasury but shall remain available for expenditure by the department of labor during the fiscal year one thousand nine hundred thirty-four—one thousand nine hundred thirty-five.

For the fiscal year one thousand nine hundred thirty-four —one thousand nine hundred thirty-five, there is hereby appropriated an additional sum of five thousand dollars for said purpose.

*See chapter seventy-seven, acts of this session.

CHAPTER 9

(Senate Bill No. 138—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury for the purpose of liquidating the parole fund and the warden's trustee fund of the West Virginia penitentiary, now deposited in closed banks.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation of ten thousand dollars from general fund of state treasury to meet demands against parole and warden's trustee funds of West Virginia penitentiary held in closed or restricted banks; repayment to state treasury.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated the sum of ten thousand dollars from the general fund of the treasury to the warden of the penitentiary for the purpose of meeting the demands against the parole fund and the warden's trustee fund of the West Virginia penitentiary occasioned by the detention of said funds in closed or restricted banks. Any and all amounts received from the warden's deposits in closed or restricted banks not exceeding the amount of this appropriation as, and when received from such banks, shall be paid into the treasury and deposited to the state fund general revenue.

CHAPTER 10

(Senate Bill No. 139—By Mr. Abbot, by request)

AN ACT making an appropriation of public money out of the treasury for the purpose of granting relief to Harry E. Brown.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriations for the relief of Harry E. Brown.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated from the general fund to Harry E.

Brown, the sum of five hundred dollars to be paid immediately, and the further sum of three hundred nine dollars, payable in monthly installments of sixty dollars to be paid during the fiscal year one thousand nine hundred thirty-three —one thousand nine hundred thirty-four, according to the provisions of house bill number one hundred. And there is further appropriated to Harry E. Brown the sum of seven hundred twenty dollars to be paid during the fiscal year one thousand nine hundred thirty-four—one thousand nine hundred thirty-five, according to the provisions of house bill number one hundred.

CHAPTER 11

(Senate Bill No. 140—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury to effect the collection of taxes levied by house bill number three hundred sixty-five, second extraordinary session, one thousand nine hundred thirty-three, and for the more effective collection of other state taxes.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation of thirty thousand dollars for the fiscal year ending June 30, 1934, and one hundred thousand dollars for the fiscal year ending June 30, 1935, to be expended by the tax commissioner for the collection of state taxes.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated out of the state fund general revenue for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the sum of thirty thousand dollars; and for the fiscal year one thousand nine hundred thirty-four—one thousand nine hundred thirty-five the sum of one hundred thousand dollars, to provide the personnel and facilities for the collection of taxes laid under the provisions of house bill number three hundred sixty-five, second extraordinary session, one thousand nine hundred thirty-three, and the more effective collection of other state taxes, such appropriation to be expended upon the requisition of the tax commissioner.

CHAPTER 12

(Senate Bill No. 141—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury to provide additional service in the auditor's office.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.		SEC.	
1.	Appropriation of eight thousand six hundred dollars for the fiscal year ending June 30, 1934.		for additional service in the auditor's office.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated out of the state fund general revenue the sum of eight thousand six hundred dollars for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four to provide additional service in the state auditor's office.

CHAPTER 13

(Senate Bill No. 142—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury for printing, binding, stationery and storage.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.		SEC.	
1.	Appropriation of twenty-five thousand dollars for each of the fiscal years ending June 30, 1934,		and June 30, 1935 for printing, binding, stationery and storage.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated out of the state fund general revenue for printing, binding, stationery and storage for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four the sum of twenty-five thousand dollars and for the fiscal year one thousand nine hundred thirty-four —one thousand nine hundred thirty-five the sum of twenty-

five thousand dollars. The West Virginia board of control is hereby authorized to determine the necessity and advisability of all expenditures for printing, binding, stationery and storage except where the sum is specifically required by law and the appropriations hereby made may be expended upon the requisition of the West Virginia board of control.

CHAPTER 14

(Senate Bill No. 143—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury to provide additional services in the attorney general's office.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation of five thousand dollars for the fiscal year ending June 30, 1935, for additional employees in the attorney general's office.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated out of the state fund general revenue the sum of five thousand dollars for the fiscal year one thousand nine hundred thirty-four—one thousand nine hundred thirty-five for the purpose of meeting unusual demands upon the office of the attorney general, to be expended for additional employees, if necessary, upon the requisition of the attorney general.

CHAPTER 15

(Senate Bill No. 144—By Mr. Abbot, by request)

AN ACT to appropriate money out of the treasury to provide for the purchase of lands for state parks.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation of seventy thousand dollars for the fiscal year ending June 30, 1934, to acquire lands for the establishment of state parks.
2. Appropriation expended by conservation commission, with consent of the governor.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been

supplemented by Title I of "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four" there is hereby appropriated out of the state fund general revenue for the purpose of acquiring lands for the establishment of state parks for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the sum of seventy thousand dollars. If said sum or any part thereof be not expended in said fiscal year, the same may not be retired but may be expended during the ensuing year.

Sec. 2. This appropriation may be expended upon the requisition of the conservation commission of West Virginia by and with the consent of the governor.

CHAPTER 16

(Senate Bill No. 145—By Mr. Abbot, by request)

AN ACT to appropriate public money out of the treasury for the payment of the salaries and expenses of county agricultural agents.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriation of sixty thousand dollars for the fiscal year ending June 30, 1934, from general fund of extension division of college of agriculture of West Virginia University for salaries and expenses of county agricultural agents; allocation to counties; additional appropriation by county courts.

Be it enacted by the Legislature of West Virginia:

Section 1. The general revenue of the state having been supplemented by Title 1, "The Supplemental (Emergency) Revenue Act of one thousand nine hundred thirty-four," there is hereby appropriated for the fiscal year one thousand nine hundred thirty-four—one thousand nine hundred thirty-five, sixty thousand dollars out of the general fund to the extension division of the college of agriculture of West Virginia University for the payment of the salaries and expenses of county agricultural agents as provided by house bill number six, of the second extraordinary session, one thousand nine hundred thirty-three, passed March second, one thousand nine hundred thirty-four.

The director of the extension division of the college of agriculture of West Virginia University shall allocate the

funds appropriated by this act among the counties of the state in the proportion which the farm population of each county bears to the total farm population of the state. The allocation to a county shall not be expended for an agricultural agent or agents for that county unless the county court thereof provides necessary funds for the payment of office expenses and provides adequate office space. If a county court does not meet the requirements for the use of the allocation made for that county, such allocation shall become available for distribution among those counties which have complied with the requirements for allocation. Wherever the allocation for a single county is so small that a county agent cannot adequately be supported, two or more counties may, by agreement on the part of the county courts thereof, consent to the use of their several allocations for the support of agents for the participating counties.

In case this appropriation of state funds, together with the funds received from the government of the United States, is not sufficient to pay the salaries of county agricultural agents, a county court is authorized to appropriate out of the general fund of the county a sufficient amount to supplement the allocation of state funds for the payment of the salary of such agent or agents.

If any part of this act is, for any reason, held unconstitutional, the decision of the court shall not affect the validity of any of the remaining portions.

All existing provisions of law inconsistent with this act are hereby repealed.

CHAPTER 17

(Senate Bill No. 148—By Mr. Hodges)

AN ACT to appropriate the unexpended balances of any appropriation made for West Virginia University by section sixty-five, chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, for the purpose of paying an appropriation of sixty-one thousand, nine hundred thirty-one dollars and thirty-two cents, made by said section, to reimburse the West Virginia Stadium corporation

and West Virginia University Athletic committee for money advanced in construction, furnishings and equipment for the men's field house.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Appropriation of unexpended balances of appropriations made to West Virginia University to pay the appropriation heretofore made to reimburse West Virginia Stadium Corporation and West Virginia Athletic Committee for money advanced for mens' field house.

Be it enacted by the Legislature of West Virginia:

Section 1. For the purpose of paying an appropriation of sixty-one thousand, nine hundred thirty-one dollars and thirty-two cents, made by section sixty-five, chapter one, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, to reimburse the West Virginia University Stadium corporation and West Virginia University Athletic committee for money advanced in construction, furnishings and equipment for the men's field house of West Virginia University, there is hereby appropriated, and the state board of control is authorized to use, the unexpended balance of any other appropriation made in said section sixty-five.

CHAPTER 18

(House Bill No. 207—Originating in House Committee on the Judiciary)

AN ACT directing the state auditor to report to the Legislature concerning license taxes paid by the Ohio County Farmers cooperative, a non-profit cooperative association, and authorizing the budget commission to include in the next budget a sum sufficient to reimburse said association for the amount of such tax erroneously collected from it.

[Passed March 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Auditor to report to Legislature and budget commission, amount of license taxes, if any, erroneously collected by state from Ohio County Farmers Cooperative.
2. Budget commission directed to include said amount, if any, in next budget to reimburse said cooperative.

WHEREAS, It appears that the Ohio County Farmers cooperative was chartered in the year one thousand nine hundred twenty-three, under the provisions of chapter fifty-three, acts of the Legislature

of West Virginia, one thousand nine hundred twenty-three, authorizing the formation of non-profit, cooperative associations; and that by the provisions of the code of West Virginia then in force, chapter thirty-two, section one hundred thirty-eight, corporations chartered for agricultural purposes and not incorporated for profit, were and ever since have been exempt from payment of corporate license tax; and

WHEREAS, It further appears that license tax was erroneously collected from and paid by said association to the state of West Virginia for the years one thousand nine hundred twenty-three to one thousand nine hundred thirty-three, inclusive, in the total amount of two hundred ninety-seven dollars; therefore,

Be it enacted by the Legislature of West Virginia:

Section 1. The state auditor is hereby directed to report to the Legislature and to the budget commission what, if any, amount of license tax, and for what years, was erroneously collected by the state of West Virginia from the Ohio County Farmers cooperative, a non-profit cooperative association.

Sec. 2. The budget commission is hereby authorized and directed to include in the next budget submitted to the Legislature an item sufficient to reimburse said Ohio County Farmers cooperative for the amount of license tax, if any, erroneously collected from it by the state of West Virginia, as shown by said report of the state auditor.

CHAPTER 19

(House Bill No. 298—By Mr. Lilly)

AN ACT to amend and reenact section forty-seven, chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, making appropriations for Pine Crest sanitarium, formerly Rutherford sanitarium.

[Passed March 1, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
47.	Amending Budget Bill appropriations for Pine Crest Sanitarium (formerly Rutherford Sanitarium) to provide for expenditure of surplus collections for raising farm products, etc., and the purchase of additional land.		

Be it enacted by the Legislature of West Virginia:

That section forty-seven, chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hun-

dred thirty-three, be amended and reenacted so as to read as follows:

	1934	1935
Section 47. Current general expenses	40,000.00	40,000.00
Current general expenses, payable out of collections	33,000.00	33,000.00
Repairs and improvements	1,000.00	1,000.00

Provided, however, That in the event the amount collected from patients, from farm products, and other sources of revenue through said sanitarium, shall, during the fiscal years covered by this section, exceed the appropriations for current general expenses for said sanitarium, payable out of collections, namely thirty-three thousand dollars per year, the West Virginia board of control is hereby authorized to expend any such surplus collections, after they have been paid into the state treasury as provided by law, or so much thereof as in their judgment may be necessary, for the purpose of clearing, improving, cultivating, fencing and otherwise preparing the vacant land around this sanitarium for cultivation so as to raise fresh vegetables and farm products for the use of said sanitarium; for the purchase of necessary additional equipment, apparatus and supplies for said sanitarium; for the purpose of building tenement houses, barns, poultry houses and such other outbuildings as may be necessary for such farming purposes; for the purpose of purchasing such machinery, implements, stock, poultry, seed, feed and fertilizer as may be necessary for stocking and cultivating said farm; for the purpose of building any roads which may be necessary in and around said farm and premises; and, further, for the purchase or condemnation of such additional land as may be necessary to square up the property along the front where the new highway has recently been constructed, so as to eliminate any private ownership between the sanitarium property and said highway, and for the purchase or condemnation of any additional land adjacent to the sanitarium which may become necessary in order to prevent the erection of unsightly, unsanitary or undesirable buildings which might become a nuisance to the patients in said sanitarium, but no purchase of land shall be made except upon the written consent of the West Virginia board of control, approved by the governor of the state: *Provided, further,* That no increases in salaries at said sanitarium shall be made payable out of the additional funds hereby appropriated.

CHAPTER 20

(House Bill No. 378—By Mr. Norton)

AN ACT to amend and reenact section sixty-eight, chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
68. Amending Budget Bill appropriations for Marshall College to provide for payment, from surplus collections, of deferred payments on stadium.

Be it enacted by the Legislature of West Virginia:

That section sixty-eight, chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Marshall College

		1934	1935
2	Section 68. Salaries of officers, teachers and employees.....	150,000.00	150,000.00
3	Salaries of officers, teachers and em-		
4	ployees—PAYABLE OUT OF COL-		
5	LECTIONS	110,000.00	110,000.00
6	Current general expenses.....	25,000.00	25,000.00
7	Current general expenses—PAY-		
8	ABLE OUT OF COLLECTIONS....	35,000.00	35,000.00
9	Repairs and improvements.....	4,000.00	4,000.00
10	Equipment and books for new library	3,000.00	3,000.00

11 *Provided, however,* That notwithstanding the provisions of
12 section thirty-five of this act the board of control is authorized
13 to pay any deferred payments on the purchase of the stadium
14 at Huntington, West Virginia, which may fall due in the fiscal
15 year one thousand nine hundred thirty-three—one thousand
16 nine hundred thirty-four or one thousand nine hundred thirty-
17 four—one thousand nine hundred thirty-five: *Provided,* That
18 such payments shall be made out of any surplus remaining
19 from collections made at said college over and above the amount
20 necessary to meet salaries of officers, teachers and employees
21 and current general expenses: *Provided further,* That said sur-
22 plus collections must first be paid into the state treasury, as

23 required by section two, article two, chapter twelve of the code
24 of West Virginia, one thousand nine hundred thirty-one, and
25 then paid out only on approval of the board of control.

CHAPTER 21

(House Bill No. 391—By Mr. White)

AN ACT to amend and reenact section sixty-three, chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to appropriations for the West Virginia penitentiary.

[Passed March 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
63.	Amending Budget Bill appropriations for the West Virginia penitentiary to provide for an appropriation for Ray Estep.		

Be it enacted by the Legislature of West Virginia:

That section sixty-three, chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

West Virginia Penitentiary

	Section 63. Current general expenses..	150,000.00	150,000.00
2	Current general expenses—PAYABLE		
3	OUT OF COLLECTIONS.....	125,000.00	125,000.00
4	Repairs and improvements.....	15,000.00	15,000.00
5	To build wall to enclose additional land		
6	to increase size of interior of peniten-		
7	tiary		25,000.00
8	Any balances remaining in former ap-		
9	propriations made for the new wall are		
10	hereby reappropriated for expendi-		
11	ture during the biennium beginning		
12	July 1, 1933		
13	To pay Ray Estep, permanently injured		
14	while employed in Penitentiary coal		
15	mine	240.00	240.00
16	In the event the amount collected and		
17	paid into the treasury to the credit of		
18	the Current General Expense Fund,		

payable out of collections, does not aggregate $125,000.00, by reason of the operations of the proposed Hawes-Cooper Bill, or by reason of failure to utilize prison labor for road work at the present per diem of forty-five cents, or the inability of the state to contract its prison labor to the extent now contracted, then there is hereby authorized, payable out of general revenues of the state, an amount sufficient to cover the losses caused by any of the aforesaid contingencies.

CHAPTER 22

(Senate Bill No. 20—By Mr. Myers)

AN ACT to amend and reenact sections one, two and three, chapter four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, relating to the manufacture of license plates for motor vehicles and road signs and markers.

[Passed December 13, 1933; in effect from passage. Approved by the Governor.]

SEC.
1. State road commissioner authorized to establish plant at West Virginia penitentiary to manufacture motor vehicle license plates and road markers.
2. Board of control to furnish convicts and building, and state road commissioner to provide necessary equipment and materials, for said plant.
3. Manufacture or obtaining of said license plates and markers elsewhere unlawful; penalty; continuation of present manufacturing of license plates and markers until appropriation made to carry out this act.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, chapter four, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. For the purpose of obtaining license plates to be used upon motor vehicles licensed for operation in this state and road signs or markers of any description for state roads, the state road commissioner is hereby authorized and empowered on behalf of the state, to establish and operate a plant for the manufacture of such license plates and road signs or markers at the West Virginia penitentiary, at Moundsville, West Virginia.

Sec. 2. After this act becomes effective it shall be the duty of the state board of control to provide for said purpose a sufficient number of suitable convicts, confined in the penitentiary of this state, which it shall furnish to the state road commissioner for the purpose of manufacturing such license plates for motor vehicles and road signs or markers, and, in addition thereto, the state board of control shall provide a suitable building within the inclosure of the penitentiary in which such license plates and road signs or markers shall be manufactured and, when said convicts have been assigned to the state road commissioner and the building is ready for the manufacture of such license plates and road signs or markers, it shall be the duty of the state road commissioner to provide the equipment and materials necessary therefor.

Sec. 3. After this act shall take effect, it shall be unlawful for the state road commissioner to manufacture such license plates for motor vehicles or such road signs or markers of any description at any place other than the penitentiary of West Virginia, and it shall be unlawful for said state road commissioner to obtain such license plates and such road signs or markers otherwise than as herein provided. The provisions of general law relating to the removal and impeachment of the said road commissioner and members of the board of control shall have application to them for their failure to comply with this act: *Provided,* That until such time as the Legislature may appropriate money to pay the expense of moving the plant and the necessary equipment, as well as providing a suitable building in which to house the plant at the penitentiary, the state road commissioner may continue to manufacture such license plates and road signs or markers, as may be necessary, at the place and with the equipment now provided for such purpose.

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

CHAPTER 23

(Senate Bill No. 47—By Mr. Herold)

AN ACT to amend and reenact section two, article six, chapter sixty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to automobile registration and registration plates.

[Passed December 13, 1933; in effect from passage. Approved by the Governor.]

SEC.
2. Application for certificate of registration of motor vehicle; form, number and time of use of registration plates; penalty for misuse or change of certificate or plates.

Be it enacted by the Legislature of West Virginia:

That section two, article six, chapter sixty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 2. Every owner of one or more vehicles, not expressly exempted by this article, shall make a separate application, in writing, properly verified for each vehicle, on a form provided by the state road commissioner, for permission to operate the same on the public roads of this state. In the application for registration the applicant shall furnish such information as the state road commissioner may require. Upon receipt of such application, together with the fees hereafter provided for, the state road commissioner shall file the application and give to the same a distinguishing mark and number, and shall issue to the owner of the vehicle a certificate of registration, which shall contain the number or mark assigned such vehicle, the name and place of residence of the owner and his post office address, if the same shall be different from his place of residence. Such certificate shall be of convenient size and form, and shall be at all times carried upon such vehicle, and shall be subject to examination upon demand by any proper officer, as herein provided. In addition to the certificate of registration, the state road commissioner shall, without additional charge, deliver to the owner metal plates bearing the abbreviation of the name of this state, the year for which issued, and the distinguishing mark or number assigned to such vehicle. Such plates shall be known as registration plates. Each year there shall be chosen a color, or combination of colors, for such registration plates, which shall

be as different as practicable from the color, or colors, used on the plates of the preceding year, and the colors used for the current year of the bordering states, and the numerals and letters on such plates shall be of such color as to be shown in marked contrast to the remainder of the plate. The plates shall be of such size and character as the state road commissioner may prescribe so as to properly accommodate the numerals and other marks. An automobile shall be required to carry two, and any other licensed motor vehicle one, of such plates.

No motor vehicle shall be driven upon any of the highways of this state without the proper registration plates fastened thereon. Registration plates issued prior to the first of the licensing year for which they are to be effective may be placed on the vehicle for which issued, not more than ten days prior to the first day of such licensing year, and used without additional registration fee: *Provided,* That the state road commissioner may extend the period during which said registration plates may be used as aforesaid for such time as in his judgment may seem best.

Any person, firm or corporation failing to carry the certificate of registration, or who drives a motor vehicle without the proper registration plates affixed thereto, or who changes the name, number or other identification information on the certificate of registration, or registration plates, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten nor more than one hundred dollars: *Provided,* That in the case of a person to whom a certificate has been issued, but who at the time of arrest has not the same with him, the minimum fine shall be one dollar.

The provisions of this section shall apply both to the operator, or chauffeur, and to the owner who causes or knowingly permits his vehicle to be operated without a certificate of registration as herein provided.

CHAPTER 24

(House Bill No. 354—By Mr. Hiner)

AN ACT to amend and reenact section twenty-(b), article six, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to weight of loads on motor vehicles.

[Passed March 16, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
20-(b) Maximum load for motor vehicles; exceptions; penalties for violations.

Be it enacted by the Legislature of West Virginia:

That section twenty-(b), article six, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Sec. 20-(b). For purpose of registration of and determining of all fees to be paid for operation of vehicles in transportation of property, the manufacturer's rated capacity of any such vehicle will be accepted: *Provided,* That if the manufacturer warrant or guarantee such vehicle for a capacity greater than such rated capacity, then such warranted capacity shall be taken and considered as the rated capacity of such vehicle.

No vehicle, except by special permit as provided in section twenty, article eight, chapter seventeen of the code, one thousand nine hundred thirty-one, shall be operated upon any public highway of this state, or upon any street or alley within any municipality within this state, with a load thereon more than one hundred per cent greater than the capacity for which such vehicle is registered if such vehicle is registered for a capacity not exceeding two tons, or fifty per cent if such vehicle is registered for a capacity in excess of two tons and not exceeding four tons; or twenty-five per cent if such vehicle is registered for a capacity exceeding four tons: *Provided,* That the foregoing provisions of this section shall not apply to trucks of two tons or less rated capacity transporting agricultural products, live stock or timber and timber products, including bark and pulp wood. Any violation of this provision shall be a misdemeanor, and upon conviction thereof any owner or operator shall be fined not

less than twenty-five dollars nor more than two hundred dollars for the first offense and upon any subsequent offense occurring within the same licensing year, a fine of not less than fifty dollars nor more than five hundred dollars shall be imposed and the operator's or chauffeur's license of the operator may be revoked and the registration plates of such vehicle so overloaded shall be surrendered by the owner and cancelled by the commissioner.

CHAPTER 25

(House Bill No. 150—By Mr. Marsh, of Ohio)

AN ACT to amend and reenact section twenty-two, article eight, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to motor vehicles.

[Passed March 16, 1934; in effect from passage. Approved by the Governor.]

SEC.		SEC.	
22.	Markings and equipment of motor vehicles used for commercial purposes; lights at night on horsedrawn vehicles; list of registered vehicles in each county to be furnished by state road commissioner to county assessor; penalties.		

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article eight, chapter sixty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 22. All vehicles used for commercial purposes shall have plainly marked on the right side thereof in some conspicuous place the actual weight of the vehicle, with equipment, and the weight of the seating or loading capacity of such vehicle.

Every motor vehicle shall be equipped with two sets of brakes operating independently, except tractors and traction engines which shall be provided with suitable brakes.

Every motor vehicle and tractor, when in use on the roads, shall be equipped with a suitable horn or signaling device for producing an abrupt sound as a signal or warning of danger. The commissioner shall have the power to make and enforce suitable regulations governing the kind and use of such horns or signaling devices.

Every vehicle operated on any road in this state at night shall be equipped with a lamp, or lamps, as hereinafter provided, of sufficient power, and so adjusted and operated as to enable the operator of such vehicle to proceed with safety to himself and to other users of the road under all ordinary conditions of road and weather.

Every motor vehicle and tractor shall have mounted on the right and left sides of the front thereof a lamp, such lamps to be of approximately equal candle power, and every motorcycle shall have mounted on the front thereof one lamp. If such vehicles are so mechanically constructed, governed or controlled that they cannot exceed a speed of fifteen miles per hour, they shall have front lamps capable of furnishing light of sufficient candle power to render any substantial object clearly discernible on a level road at least fifty feet directly ahead, and at the same time at least seven feet to the right of the axis of such vehicle for a distance of at least twenty-five feet. If such vehicles can exceed a speed of fifteen miles per hour, then they shall have front lamps capable of furnishing light of sufficient candle power to render any substantial object clearly discernible on a level road at least two hundred feet directly ahead, and at the same time at least seven feet to the right of the axis of such vehicle for a distance of at least one hundred feet: *Provided,* That no front lamp capable of furnishing more than four candle power light shall be used if equipped with a reflector, unless so designed, equipped or mounted that no portion of the beam of light, when projected seventy-five feet or more ahead of the lamp, shall rise above a plane forty-two inches higher than and parallel with the level surface upon which the vehicle stands: *Provided further,* That no electric bulb or other lighting device of a greater capacity than thirty-two candle power shall be used, no matter how the same may be shaded, covered or obscured.

Every trailer and semitrailer, except small two-wheel trailers of one thousand pounds capacity or less, towed closely behind a motor vehicle, and semitrailers when towed alone, whose over-all length, in both cases, including towing vehicle and load, does not exceed thirty feet, when on the roads of this state at night, shall carry at the front of its left side one lamp

capable of throwing a white light visible from both sides of such vehicle.

Every horsedrawn vehicle, when on any road at night, shall display a light visible from every direction for at least two hundred feet.

Every motor vehicle, tractor trailer or semitrailer, when on the roads of this state, at night, shall have on the rear thereof, and to the left of the axis thereof, one lamp capable of displaying a red light visible for a distance of at least one hundred feet behind such vehicle: *Provided,* That when a vehicle is used in conjunction with another vehicle or vehicles, only the last of such vehicles shall be required to carry such a lamp. Every motor vehicle, tractor trailer and semitrailer when on any road of this state, at night, shall carry a lamp illuminating with white light the registration plate of such vehicle, so that the characters thereon shall be visible for a distance of at least fifty feet. The commissioner shall have power to make and enforce reasonable regulations regarding the kind of lighting devices that shall be used on vehicles.

Trailers having more than two wheels, when operated on any road in this state, shall be connected to the towing vehicle, or preceding trailers, by at least one chain, in addition to the hitch bar, of sufficient strength to hold the trailer on a hill if the hitch bar becomes disconnected, or shall be provided with some other adequate device to prevent rolling backward down hill.

The commissioner shall also prepare a list as of January first of each year showing the vehicles registered in each county of the state, the name and address of the owner, and the make and year model of the vehicle. A certified list for each county shall be forwarded to the assessor thereof on or before the first day of February of the year one thousand nine hundred thirty-four and on the first day of December of each year thereafter. When, on the list furnished any assessor, there appears the name of any person whose post office address is in the county for which the list applies but whose residence is in another county, the assessor shall send to the assessor of the county of such person's residence the information given by the submitted list.

Any person violating any of the provisions of this section

shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten nor more than one hundred dollars.

If any section, clause, sentence, paragraph, or other part hereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be confined in its operation to the part hereof directly involved in the controversy in which such judgment shall be rendered.

CHAPTER 26

(Senate Bill No. 25—By Mr. Mathews)

AN ACT to amend and reenact section seventeen, article seventeen, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the construction of toll bridges by the State Road Commission.

[Passed December 15, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
17.	Construction of intra or inter-state toll bridges by state road commission from bridge revenue		bonds; purchase of lands, rights-of-way, etc., by commission for such bridges.

Be it enacted by the Legislature of West Virginia:

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

Section 17. The commission may construct, whenever it shall deem such construction expedient, but solely by means of or with the proceeds of the bridge revenue bonds hereinafter authorized, any toll bridge or bridges over and across any river or stream lying wholly or partly within the state or forming a boundary of the state, of such design or designs and at such place or places as may be approved by the state road commission. The commission may purchase within this state and within any adjoining state, solely from funds provided under the authority of this article, such lands, structures, rights-of-way, franchises, easements and other interests in lands, including lands under water and riparian rights of any person, railroad or other corporation or municipality or political sub-

division, deemed necessary for the construction of any such bridge, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, title thereto to be taken in the name of the state.

CHAPTER 27

(House Bill No. 77—By Mr. Thomas)

AN ACT to provide for the construction, maintenance, establishment and operation by any incorporated city or the county court of any county of highway toll bridges over and across navigable and non-navigable streams wholly within the state of West Virginia, and interstate highway toll bridges over and across navigable and non-navigable streams from the state of West Virginia to other adjoining states, including the Ohio river between its intersection with the Pennsylvania state line, and the mouth of the Big Sandy river; and also for the purchase and/or leasing of bridges privately owned and in existence, and operation thereof under leases; and to authorize and provide for the borrowing of money by means of bonds payable from revenues, or otherwise, and/or to accept grants from any governmental agency for the construction and/or purchase of such bridges.

[Passed December 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Municipalities and county courts authorized to borrow money for and to construct intra or interstate toll bridges as self-liquidating projects; when consent of federal government and state road commission required.
2. Purchase, lease and operating of existing bridges by municipalities or county courts.
3. Powers of municipalities and county courts to construct or acquire said bridges, payable solely from bridge revenues; bonds, etc., for this purpose, exempt from taxation.
4. When statutory mortgage lien on said bridges and approaches created; enforcement; when receiver may be appointed.
5. Ordinances and orders to retire bridge revenue bonds; revenues remitted to sinking fund commission.

Be it enacted by the Legislature of West Virginia:

Section 1. Any incorporated city, in which or adjoining which there is a portion of a navigable or non-navigable river or stream, either wholly within the state of West Virginia, or partly within the said state, and another state or states, or between the state of West Virginia and any other state, including the Ohio river in this state, from its intersection with

the Pennsylvania state line, to the mouth of the Big Sandy river, is hereby authorized and empowered, in its corporate capacity, or through and by means of a bridge commission or other agency to be created or appointed by it, to construct, maintain and operate a highway toll bridge over and across such river or stream, from such a point within the corporate limits of such city, to such point on the opposite side of such river or stream, either within or without said city, as the said city, through its proper authorities, shall designate and select, for public use in travel, passage and transportation, over and across such river or stream: *Provided, however,* That no bridge shall be constructed, established or operated, over and across any navigable river, without compliance with the requirements, conditions and provisions provided by the congress of the United States and the laws of the United States, nor without approval of the state road commission of this state; and such city is authorized and empowered to borrow money by means of bonds payable from revenues, or otherwise, and/or to accept grants in part payment therefor from the reconstruction finance corporation, public works administration, or any other governmental agency authorized to make loans, a sum of money sufficient and necessary to pay all costs of construction of such bridge, including approaches thereto, the acquisition of all necessary rights-of-way and all engineering, legal and other expenses necessary thereto or connected therewith, including interest during construction, as a self-liquidating enterprise or project, within the meaning of the federal laws authorizing loans by such reconstruction finance corporation, or other governmental agency. And the county court of any county, in which there is a portion of such river or stream, or on which its county abuts or borders, is likewise authorized and empowered to construct, maintain and operate a highway toll bridge, or bridges, over and across such river or stream, and to borrow money, as aforesaid, for the construction thereof, in like manner and to the same extent, as such city, and to construct, maintain and operate such bridge, subject to the same limitations as are hereby imposed in the case of such cities.

Sec. 2. Any city or county so situated with reference to any river or stream, over and across which there is now a highway

bridge, owned and operated by any bridge company or corporation, and situated partly within such city or county, is authorized and empowered to purchase such bridge, with funds obtained in the manner and from the source or sources mentioned by section one of this act, and to own and operate the same, as a self-liquidating enterprise or project; and also to obtain the possession, control and operation of such bridge, under and by a lease or other contract, with the owner or owners thereof, upon such terms and conditions, and for such period of time, as may be agreed upon by such city or county court, and the owner or owners of such bridge.

Sec. 3. Any city or county court authorized and empowered by this act to construct or purchase and maintain and operate such highway toll bridge, is further authorized and empowered to do and perform any and all acts and make all contracts necessary to effectuate the general purposes of this act, including the acquisition, by original grant, purchase, condemnation or other lawful means, of all necessary permits, franchises, licenses, rights-of-way, easements and other rights in real estate, and title to and possession thereof, and/or to make such purchase, with the money borrowed as provided in section one of this act, or otherwise. Such city or county court shall have authority to make such contracts, agreements and covenants between it and said reconstruction finance corporation, public works administration, or other governmental agency, for the loan of said funds and securing payment thereof, as they may be able to effectuate, subject only to this limitation, that the bonds or other evidences of indebtedness issued or given as security therefor shall be payable solely out of the revenues of such bridge; and to construct, own, operate and maintain such bridge over and across such river or stream, and to make and enter into such contracts, and to do and perform such acts as may be necessary to the construction, and/or purchase, ownership, operation and maintenance of such bridge, subject to such burdens, restrictions and encumbrances as it may be necessary to incur and bear, in securing such funds for construction, including the creation by mortgage or deed of trust, on the said bridge, its equipment, tolls and revenues and franchise, and also subject to the laws of this state and the United States, relating to toll bridges over and across navigable streams, insofar as

they are applicable to such bridges. Bonds, or other evidences of indebtedness, issued hereunder, shall be exempt from taxation by the state of West Virginia or any county, district or municipality thereof.

Sec. 4. In the event bonds, or other evidences of indebtedness, issued under the provisions of this act, are not secured by a mortgage or deed of trust on the bridge acquired from the sale of such bonds, or other evidences of indebtedness, there shall be, and there is hereby, created a statutory mortgage lien upon the bridge and approaches so acquired or constructed from the proceeds of bonds, or other evidences of indebtedness, authorized to be issued, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such bridge and approaches thereto shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. or other evidences of indebtedness. Any holder of bonds, or other evidences of indebtedness, issued under the provisions of this act, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred, and may, by proper suit, compel the performance of the duties of the officials of the issuing municipality or county court set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, or other evidences of indebtedness, any court having jurisdiction in any proper action may appoint a receiver to administer said bridge on behalf of the municipality or county court, with power to charge and collect rates sufficient to provide for the payment of said bonds, or other evidences of indebtedness, and interest thereon, and for the payment of the operating expenses and to apply the income and revenues in conformity with this act and the order or ordinance providing for the issuance of said bonds, or other evidences of indebtedness.

Sec. 5. Every municipality or county court issuing bonds, or other evidences of indebtedness, under the provisions of this act, shall thereafter, so long as any such bonds or other evidences of indebtedness remain outstanding, operate and maintain its bridge so as to provide, charge, collect and account for revenues therefrom as will be sufficient to pay all operating

costs, provide a depreciation fund, retire the bonds or other evidences of indebtedness, and pay the interest requirements as the same may become due. The ordinance or order pursuant to which any such bonds or other evidences of indebtedness are issued shall pledge the revenues derived from the bridge to the purposes aforesaid, and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts, as and when so set apart into said special fund for the bond requirements, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and the ordinance or order pursuant to which such bonds or other evidences of indebtedness have been issued.

CHAPTER 28

(House Bill No. 62—By Mr. Hiner)

AN ACT to amend and reenact sections two, three, four and seven, chapter one, acts of the Legislature of West Virginia, one thousand nine hundred thirty-one, entitled: "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 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 semiannually the interest on said bonds and the principal thereof within twenty-five years."

[Passed November 24, 1933; in effect from passage. Approved by the Governor.]

SEC.
2. Fee for, and credit to state road sinking fund for transfer of registered bonds; fee for and registration of payable to bearer bonds; place payable and interest rate on coupon bonds; interest payment on registered bonds; principal and interest of bonds payable in lawful money of the United States and bonds exempt from taxation.
3. Form of bonds.
4. Form of coupons; signatures of treasurer and auditor.
7. Levy, if necessary, by board of public works on real and personal property within state to pay bonds and interest.

Be it enacted by the Legislature of West Virginia:

That sections two, three, four and seven, chapter one, acts of the

Legislature, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 2. The auditor and treasurer are authorized to arrange for the transfer of registered bonds and for each such transfer a fee of fifty cents shall be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. Bonds taken in exchange will be cancelled by the auditor and treasurer and be carefully preserved by the treasurer. The treasurer shall make provisions for registering payable to bearer bonds and for each bond registered a fee of fifty cents shall likewise be charged by and paid to the state of West Virginia, to the credit of the state road sinking fund. All of such bonds shall be payable at the office of the treasurer of the state of West Virginia, or, at the option of the holder, at some designated bank in the city of New York to be designated by the governor. Said bonds shall bear interest at a rate not exceeding four and one-half per centum per annum, payable semi-annually, on the first day of and the first day of , of each year, to bearer, at the office of the treasurer of the state of West Virginia, at the capitol of said state, or at the bank designated by the governor, upon presentation and surrender of interest coupons then due, in the case of coupon bonds. In the case of registered bonds the treasurer of the state of West Virginia shall issue his check for the interest then due on the first day of and of each year. and mail the same to the registered owner at his address as shown by the record of registration. Both the principal and interest of said bonds shall be payable in lawful money of the United States and said bonds shall be exempt from taxation by the state of West Virginia, or by any county, district, or municipality thereof, which fact shall appear on the face of the bonds as part of the contract with the holder thereof.

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

COUPON ROAD BOND

(Or Registered Road Bond, As The Case May Be)

OF THE

STATE OF WEST VIRGINIA

$..... No.....

The State of West Virginia, under and by virtue of authority of an act of its Legislature passed at the regular session of one thousand nine hundred thirty-one, on the day of , one thousand nine hundred thirty-one, and approved by the governor on the day of , one thousand nine hundred thirty-one, as amended by an act of its Legislature passed at the second extraordinary session of one thousand nine hundred thirty-three, on the day of , one thousand nine hundred thirty-three, and approved by the governor on the day of , one thousand nine hundred thirty-three, which is hereby made a part hereof as fully as if set forth at length herein, acknowledges itself to be indebted to, and hereby promises to pay to the bearer hereof (in the case of a coupon bond) or to ,or assigns, (the owner of record, in case of registered bonds) years after the date of this bond, to-wit: On the day of , 19 , in lawful money of the United States of America at the office of the Treasurer of the State of West Virginia, at the capitol of said state, or at the option of the holder at bank in the City of New York, the sum of dollars, with interest thereon at per centum per annum from date, payable semiannually in like lawful money of the United States of America at the Treasurer's office or bank aforesaid, on the first day of and the first day of of each year, (and in the case of coupon bonds) according to the tenor of the annexed coupons, bearing the engraved fac simile signature of the Treasurer of the State of West Virginia, upon surrender of such coupons. This bond (in the case of a coupon bond) may be exchanged for a registered bond of like tenor upon application to the Treasurer of the State of West Virginia.

To secure the payment of this bond, principal sum and interest, when other funds and revenues sufficient are not available for that purpose, it is agreed that, within the limits prescribed by the constitution, the board of public works of the State of West Virginia shall annually cause to be levied and

collected an annual state tax on all property in the state, until said bond is fully paid, sufficient to pay the annual interest on said bond and the principal sum thereof within the time this bond becomes due and payable.

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

In testimony whereof, witness the signature of , Treasurer of the State of West Virginia, and the countersignature of , the Auditor of said State hereto affixed according to law, dated the day of , one thousand nine hundred , and the seal of the State of West Virginia.

(Seal)

.....

Treasurer of the State of West Virginia

Countersigned:

.....

Auditor of West Virginia.

Sec. 4. The form of coupons shall be substantially as follows, to-wit:

STATE OF WEST VIRGINIA

Bond No..... Coupon No.....

On the first day of , 19 , the State of West Virginia will pay to the bearer, in lawful money of the United States, at the office of the Treasurer of the State, or at the option of the holder at bank in the City of New York, the sum of dollars, the same being semi-annual interest on Road Bond No. , series of one thousand nine hundred

.....

Treasurer of the State of West Virginia

The signature of the treasurer to said coupons shall be by his engraved fac simile signature and the coupons shall be numbered in the order of their maturity, from number one consecutively. Said bonds and coupons may be signed by the present treasurer and auditor, or by any of their respective successors in office; and bonds signed by the persons now in office may be sold by the governor or his successor in office without being

signed by the successor in office of the present treasurer or auditor.

Sec. 7. In order to provide the revenue necessary for the payment of the principal and interest of said bonds, as hereinbefore provided, the board of public works within the limits prescribed by the constitution, 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.

CHAPTER 29

(Senate Bill No. 63—By Mr. Neale)

AN ACT to amend and reenact section two, chapter fourteen, acts of the Legislature, regular session, one thousand nine hundred thirty-three, relating to depository banks for state funds and depository bonds.

[Passed January 17, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC. 2. Bond of state depository; form; | SEC. corporate and personal surety; collateral security.

Be it enacted by the Legislature of West Virginia:

That section two, chapter fourteen, acts of the Legislature.

regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 2. Before allowing any money to be deposited with any depository the board of public works shall require such depository to give bond with good security to be approved by said board, in the penalty of not less than ten thousand dollars, payable to the state of West Virginia, conditioned for the prompt payment, whenever lawfully required, of any state money, or part thereof, that may be deposited with such depository, or of any accrued interest on deposits, which bond shall expire on the thirtieth day of April next ensuing.

The board of public works may accept as surety on, or for the faithful performance of the conditions of such bonds, the following:

(a) A surety, fidelity or indemnity company authorized to do business in this state and having a combined capital and surplus of not less than one million dollars, and all bonds so secured are here designated as surety bonds;

(b) Persons or corporations which are duly authorized to become surety for another, who are owners of property situate in this state of an aggregate assessed valuation as shown on the current assessment books equal to the penalty of the bond plus all liens or charges against such property, and all bonds so seeured are here designated as personal bonds. Any person or any officer of any corporation becoming or offering to become surety on a personal bond may be required by the board of public works or the state treasurer to furnish to said board under oath in writing such data and documentary evidence as to the financial status of such surety as such board may request. Any person who shall knowingly make a false statement in the matter of supplying the information so requested as aforesaid shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars, and may, at the discretion of the court, be confined in the county jail for not exceeding one year;

(c) Collateral security consisting of bonds of the United States, and its possessions, of the federal land banks, of the home owners' loan corporation, of the state of West Virginia or of any county, district or municipality of this state or other bonds or securities approved by the said board of public works. All bonds so secured are here designated as collaterally secured

bonds. Withdrawal or substitution of any collateral pledged as security for the performance of the conditions of such bond may be permitted with the approval in writing of the treasurer of the state of West Virginia and three other members of the board of public works who shall report such withdrawal or substitution at the next meeting of the board. All depository bonds shall be recorded by the secretary of state in a book kept in his office for the purpose, and a copy of such record, certified by him, shall be prima facie evidence of the execution and contents of such bond in any suit or legal proceeding. All collateral securities shall be delivered to the treasurer of the state of West Virginia, who shall receipt therefor to the owner thereof, and the said treasurer and his bondsmen shall be liable to any person for any loss by reason of the embezzlement or misapplication of said securities by said treasurer or any of his official employees, and for the loss thereof due to his negligence or the negligence of any of his official employees; and such securities shall be delivered to the owner thereof when liability under the bond which they are pledged to secure has terminated. The treasurer may contract with one or more banking institutions in the state of West Virginia for safekeeping and exchange of such collateral securities, and may prescribe the rules and regulations for handling and protecting the same, subject to the approval of the board of public works.

CHAPTER 30

(Senate Bill No. 64—By Mr. Neale)

AN ACT to amend and reenact section two, chapter four, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to county depositories, and providing for the execution of bonds and/or the hypothecation of securities as security for deposits.

[Passed January 17, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
2.	Bond of county depository; personal or corporate surety; notice by clerk to county court when		personal surety conveys real estate; action on bond; collateral security.

Be it enacted by the Legislature of West Virginia:

That section two, chapter four, acts of the Legislature, first extra-

ordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 2. No such designation shall be binding on such county, nor shall any public money be deposited thereunder, until the banking institution designated shall execute bond with good and sufficient sureties, to be accepted and approved by the county court, payable to the state of West Virginia, in such sum as the county court shall direct, and which shall not be less than the maximum sum that shall be deposited in the depository at any one time. Such bond shall be executed by at least four resident freeholders as sureties owning in the aggregate unencumbered real estate having an assessed valuation thereon equal to the penalty of the bond, or by a fidelity or indemnity company authorized to do such business within the state, satisfactory to, and acceptable by the county court, and having not less than six hundred thousand dollars capital; and such bond shall be conditioned for the receipt, safekeeping and payment over of all money which may be deposited in or come under the custody of the banking institution designated a county depository under the provisions hereof, together with the interest thereon at the rate specified by this article; and such bond shall be further conditioned for the faithful performance, by the banking institution so designated, of all the duties imposed by this article upon a depository of public moneys: *Provided, however,* That the clerk of the county court shall keep a record of each surety on all personal bonds given as hereinbefore provided for, and the clerk shall notify the county court of every recorded conveyance of real estate made by any surety on said personal bond.

An action shall lie on such bond at the instance of the county court, or the sheriff, for the recovery of any money deposited in the depository, upon failure or default of the depository to fully and faithfully account for and pay over any and all public moneys deposited by the sheriff and of all interests earned and accrued thereon as required by this article. Such bond shall not be accepted by the county court until it shall have been submitted to the prosecuting attorney, and certified by him to be in due and legal form, and conformable to the provisions of this article, which certificate shall be indorsed thereon: *Provided, however,* That the county court may, in lieu of the bond provided for hereinbefore, accept as security

for money deposited as aforesaid, interest-bearing securities of the United States, or of a state, county, district or municipal corporation, or of the home owners' loan corporation, or indorsed county and district warrants of the county in which the depository is located; the face value of which securities shall not be less than the sum hereinbefore specified as the amount to be named in the bond in lieu of which such securities are accepted; or the county court may accept such securities as partial security to the extent of their face value for the money so deposited, and require bond for the remainder of the full amount hereinbefore specified, to be named in the bond, and in the bond so required, such acceptance of securities as partial security, and the extent thereof, shall be set forth. The hypothecation of such securities shall be by proper legal transfer as collateral security to protect and indemnify by trust any and all loss in case of any default on the part of the banking institution in its capacity as depository as aforesaid, and such collateral security shall be released only by order of record of the county court when satisfied that full and faithful accounting and payment of all the moneys has been made under the provisions hereof. The county court shall make ample provision for the safekeeping of such hypothecated securities, and the interest thereon when paid shall be turned over to the banking institution, so long as it is not in default as aforesaid.

CHAPTER 31

(Senate Bill No. 76—By Mr. Beneke)

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto the following as article ten, providing for the creation of "The Savings and Loan Association of the State of West Virginia" and defining its powers and duties.

[Passed January 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

Article X

SEC.

1. Building and loan and certain other loaning institutions authorized to create a savings and loan association of West Virginia.
2. Number of institutions required to form association; what articles of association to state.
3. Approval by commissioner of banking of application for charter before issuance by secretary of state.
4. Constitution and by-laws submitted to commissioner of banking; what to show.
5. When commissioner of banking

SEC.
may issue certificate of authority to do business.
6. Qualifications of members of association; subscriptions to capital stock; continuation of membership.
7. Payment of subscription to capital stock.
8. Permanency of association.
9. Board of directors not less than seven nor more than eleven in number; two appointed by Governor and nine elected by stockholders.
10. No subscriber to have more than one representation on board of directors or cast but one vote for each director.
11. Limit on association loans on real estate to shareholders.
12. Limit on amount members may borrow from association on real estate.
13. Interest rate on loans not to exceed six per cent per annum.
14. Association may borrow and issue notes and bonds; state not to guarantee interest or principal; collateral to be deposited with auditor before bonds are issued.
15. Association may represent individuals and others loaning money or real estate in state and act as agent for sale of real estate.
16. Consent of association required before members can foreclose deeds of trust held by them on real estate; notice to debtor.
17. Sale of foreclosed real estate to former owner; terms.
18. Reserve set aside before dividends paid.
10. Investment by fiduciaries, banks and others in association bonds without a court order.
20. Association may join federal agencies or associations.
21. Association supervised by commissioner of banking.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one, code of West Virginia, one thousand nine hundred thirty-one, be amended by the addition of the following as article ten thereof:

ARTICLE X

Section 1. Building and loan associations, savings and loan associations, title guaranty companies, fire insurance companies, life insurance companies, mutual savings banks, and other institutions making loans for a period of six years or longer are hereby authorized to create a savings and loan association of the state of West Virginia.

Sec. 2. Any number of building and loan associations, savings and loan associations, title guaranty companies, fire insurance companies, life insurance companies and mutual savings banks or kindred organizations of like kind and character, not fewer than eleven, may associate themselves together for the purpose of organizing a savings and loan association of the state of West Virginia as defined in this article, and subscribe for stock therein, and for that purpose they shall make, sign and acknowledge before some person authorized by the laws of this state to take acknowledgments of deeds, articles of association in writing which shall state:

First: The Savings and Loan Association of the State of West Virginia;

Second: The name of the city or town where the principal office or place of business is to be located;

Third: A provision that such association is organized under this article for the purpose herein expressed;

Fourth: The amount of the authorized capital stock, the number of shares in which the same shall be divided, the number of shares subscribed for, the amount of dollars which has been subscribed, the amount of dollars which has been paid;

Fifth: The names and post office addresses of all the incorporators and the number of shares of stock subscribed by each.

Sec. 3. No charter shall be issued for "The Savings and Loan Association of the State of West Virginia" by the secretary of state or amendment to such charter made, until the application therefor shall have been submitted to the commissioner of banking and approved by him, and his approval endorsed thereon. When so approved the secretary of state shall issue a charter to said savings and loan association of the state of West Virginia.

Sec. 4. The incorporators shall make and adopt the necessary constitution and by-laws consistent with law and submit two copies thereof, duly certified by the secretary and chairman of the organization meeting, to the commissioner of banking.

The constitution and by-laws, among other things, shall provide and determine:

First: The date of the regular annual meeting, the notice to be given, the qualification of voters and the manner of voting, the manner of calling special meetings, and the proportion of shares which shall constitute a quorum;

Second: The number and qualification of directors and their terms of office, the removal or suspension of directors, the filling of vacancies and the meeting of the board of directors, its powers and duties;

Third: The officers, the manner of their election, their terms of office and their duties;

Fourth: The certificates which shall be issued to shareholders;

Fifth: The fees that may be charged its members;

Sixth: The sums of money or dues that shall be paid upon the shares and the time of their payment; the time and manner of apportioning, crediting and paying dividends;

Seventh: Loans and investments, the security to be taken for

loans and the condition under which loans may be made and repaid;

Eighth: The fines which may be imposed upon members for failure to punctually pay dues, interest, premiums, taxes or insurance and for a reward for the punctual payment of the same;

Ninth: The conditions upon which shares may be transferred, repurchased or retired. Conditions upon which the association may advance money to borrowers for the payment of taxes, assessments, insurance premiums, repairs or other purposes as long as the security is sufficient;

Tenth: The manner and conditions under which the by-laws may be altered or amended.

Sec. 5. When the commissioner of banking shall have approved the by-laws of the association as filed with the commissioner of banking, a certified copy of the charter, also duly certified copies of the minutes of the meeting of the shareholders at which directors were elected, and of the first meeting of the directors at which officers were elected, also a list of the names of the directors and all officers which officers and directors shall be members of the corporations or associations owning the capital stock of "The Savings and Loan Association of West Virginia" with their addresses, and when the commissioner of banking is satisfied that such association has complied with all the requirements of the law precedent to the exercise of the powers imposed by law, and it appears that such association is lawfully entitled to commence business, he shall give to such association a certificate of authority under his hand and official seal that such association is authorized to commence business. The said savings and loan association of the state of West Virginia shall transact no business, except such as is incidental or necessary preliminary to its organization until it has been authorized by the commissioner of banking to do so.

Sec. 6. The members of "The Savings and Loan Association of the State of West Virginia," shall be only those who can qualify under section I of this article and to whom its shares shall have been issued or transferred in accordance with the provisions of its constitution and by-laws. Each association, company or corporation shall have the right to voluntarily subscribe to the capital stock of the said savings and loan association of the state of West Virginia in an amount of not less than one per

cent of the total amount which it has invested in real estate loans in West Virginia. The membership shall continue until the right to withdraw has been given them by the board of directors.

Sec. 7. The subscription to the capital stock by each member shall be paid under the terms and conditions prescribed by the board of directors.

Sec. 8. "The Savings and Loan Association of the State of West Virginia" shall be permanent in character.

Sec. 9. The board of directors of "The Savings and Loan Association of the State of West Virginia" shall be composed of not less than seven nor more than eleven members, two of whom, of opposite political faith, shall be appointed by the governor, and shall not be identified as a stockholder of any of the subscribing associations, companies or corporations, and nine to be elected by the stockholders.

Sec. 10. No subscriber shall have more than one representation on the board of directors. A subscriber shall be permitted to cast but one vote for each director.

Sec. 11. "The Savings and Loan Association of the State of West Virginia" shall be permitted to loan to its shareholders on real estate which was acquired by said member through foreclosure proceedings a sum not greater than sixty per cent of the amount invested in such property by said member or sixty per cent of the appraised value thereof, whichever is lower.

Sec. 12. Members of said association may borrow from "The Savings and Loan Association of the State of West Virginia" on loans and mortgages owned by them in an amount not to exceed sixty-five per cent of the appraised value of the note or the amount loaned, whichever is lower.

Sec. 13. The rate of interest to be paid upon such loans mentioned in sections eleven and twelve shall not be more than six per cent per annum.

Sec. 14. "The Savings and Loan Association of the State of West Virginia" shall have authority to borrow money from any federal agency or others by note and by the issuance of bonds, for such period and amounts of interest to be paid thereon as shall be determined by the board of directors. Neither the payment of principal or interest thereon shall be guaranteed by the state of West Virginia. Before any bonds shall be issued by the said association there shall be deposited with the auditor

of the state, collateral consisting of loans made upon real estate within the State of West Virginia in an amount of at least one hundred and twenty-five per cent of the bonds issued, and his certificate issued to the effect that such collateral is sufficient.

Sec. 15. "The Savings and Loan Association of the State of West Virginia" is empowered to represent individuals, companies, associations or corporations loaning money and making collections thereof upon real estate located within the state of West Virginia and to act as agent for the sale of real estate and the issuance of insurance for its members, and own real estate taken in foreclosure in regular course of business.

Sec. 16. Members of this association shall not be permitted to foreclose trust deeds on real property held by them as security for loans without the permission of the board of directors of the association, created by this article, first had and obtained. Before applying to said board for permission to foreclose, the defaulting debtor shall have had at least thirty days' written notice of intention to apply for such permission.

Sec. 17. Any member borrowing money on real estate owned by it through foreclosure proceedings shall agree that it will sell to the former owner, his heirs or assigns, or successors, the property now held by it for the exact amount of money due said member, including interest at six per cent, taxes, costs and repairs on the property sold, provided the said property has not previously been sold to a third party, and terms of sale are approved by the board of directors.

Sec. 18. Said association shall not pay any dividend to its members until a reserve of fifty per cent of the value of the outstanding bonds that are payable in five years shall have been set aside.

Sec. 19. Executors, administrators, guardians, curators, committees, trustees or other fiduciaries, banks, trust companies, building and loan associations, and insurance companies may without any order of any court invest money in the bonds issued by "The Savings and Loan Association of the State of West Virginia."

Sec. 20. The association is hereby authorized to join any federal agency or association created by virtue of an act of congress or trade association in the pursuance of the purposes for which said association was created.

Sec. 21. The said association shall be under the supervision of the commissioner of banking.

If any part of this act be for any reason declared unconstitutional, or otherwise invalid, the decision of the court shall not affect the validity of any remaining portion thereof.

CHAPTER 32

(Senate Bill No. 77—By Mr. Abbot, by request)

AN ACT to amend and reenact section six, article one, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, relating to the board of finance and its powers; to empower said board to participate in reorganization agreements for the rehabilitation of state and national banks, and the transfer of assets of such banks to other banking institutions.

[Passed January 18, 1934; in effect from passage. Approved by the Governor.]

SEC.
6. State board of finance to determine proportion of active and inactive state funds; when board may enter into depositors agreements for reorganization of state or national banks holding state funds; monthly statement of active and inactive funds by treasurer to board.

Be it enacted by the Legislature of West Virginia:

Section 6. The board of finance, composed of the governor, auditor and treasurer, of which the governor shall be chairman and the auditor shall be secretary, shall continue as heretofore by law created. Said board shall have the authority to determine the proportion of all state funds that shall be treated as active funds and shall have the authority to determine the basis upon which the inactive funds due any county shall be distributed among its inactive depositories and to establish any other rules and regulations that it may deem necessary or expedient to protect the interests of the state, its depositories and taxpayers.

The board shall have the authority to enter into any depositors' agreements for the purpose of reorganizing or rehabilitating any state or national bank in which state funds are deposited, and for the purpose of transferring the assets, in whole or in part, of any such state or national bank to any other banking institution existing or to be formed, when, in the judgment of the board, the interests of the state will be promoted

thereby, and upon condition that no right of the state to preferred payment be waived, and that the sureties on the depository bond, or so many thereof as in the opinion of the board are sufficient therefor, in writing consent to such participation on behalf of the state of West Virginia and agree that their liability as sureties shall not in any way be affected thereby. The treasurer shall furnish said board of finance, not later than the tenth of each month, a statement showing the balances on the last day of the preceding month in each active and inactive depository.

CHAPTER 33

(House Bill No. 332—By Mr. Strouss, by request)

AN ACT to amend chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto the following as article eleven, providing for any building and loan association or company or savings and loan association or company or savings bank or any other association or corporation to subscribe to the shares of any federal savings and loan association; to facilitate the operation in this state of any federal savings and loan association formed under and pursuant to an act of congress known as the home owners' loan act of one thousand nine hundred thirty-three; to authorize any such association or corporation to become a member and stockholder of the federal home loan bank and to borrow money therefrom; to authorize any such association or corporation to occupy the same offices and use the same facilities, officers, directors, and employes as under and in conjunction with a federal savings and loan association, and to authorize any such association or corporation to convert into a federal savings and loan association.

[Passed March 14, 1934; in effect from passage. Became a law without the approval of the Governor.]

Article XI

SEC.
1. Building and loan associations and other institutions eligible to membership in federal home loan bank may subscribe to shares of federal savings and loan association.
2. Powers of federal savings and loan associations in state.

SEC.
3. Powers of state building and loan associations, etc., in relation to federal home loan bank.
4. Joint offices, etc., with federal savings and loan association.
5. Conversion of state building and loan associations, etc., into federal savings and loan associations; supervision by and transfer of property to, after conversion, to federal association.
6. Any unconstitutional provision of article not to affect remaining provisions.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, be amended by the addition of the following as article eleven thereof:

ARTICLE XI

Section 1. Any building and loan association or company or savings and loan association or company or savings bank or any other association or corporation that may now or hereafter be eligible to become a member of any federal home loan bank according to the terms of the federal home loan bank act, as the same may be amended from time to time, is authorized and empowered to subscribe to the shares of a federal savings and loan association, and may pay for such shares in cash or by the transfer or assignment of such assets of the subscriber as are approved by the federal home loan bank board in writing, evidenced by the certificate of the federal home loan bank board on file with the subscriber.

Sec. 2. Whenever, by the terms of any general or special laws of this state, any restriction is imposed upon the conduct in this state of any building and loan association or company or savings and loan association or company or savings bank or any other association or corporation, the same shall not apply to the affairs or conduct of the business in this state of any savings and loan association formed under and pursuant to the act of congress known as the home owners' loan act of one thousand nine hundred thirty-three, as the same may be amended from time to time, but such federal savings and loan association or associations may conduct business in this state according to the terms of the said home owners' loan act and the federal home loan bank act and the rules and regulations from time to time fixed and prescribed by the federal home loan bank board and the federal home loan bank, and may do all things authorized or required by the said acts of congress, as amended from time to time, whereby the said rules and regulations and the said federal savings and loan association or associations shall

not be deemed foreign corporation or corporations as defined by any general or special law of this state.

Sec. 3. Any building and loan association or company or savings and loan association or company or savings bank or any other association or corporation that may now or hereafter be eligible to become a member of any federal home loan bank according to the terms of the federal home loan bank act, as the same may be amended from time to time, is authorized and empowered to subscribe for and own and hold stock in such federal home loan bank and become a member thereof, or to borrow money from any federal home loan bank pursuant to the said act of congress, as the same may be amended, and also to invest in the bonds of any federal home loan bank or the home owners' loan corporation, and also to give and pledge securities and conform to the provisions of the said federal home loan bank act and to the rules and regulations from time to time fixed and prescribed either by the federal home loan bank board or the federal home loan bank, and to perform any acts and execute any instruments authorized or required by the said act of congress, as amended from time to time, or by said rules and regulations.

Sec. 4. Any building and loan association or company or savings and loan association or company or savings bank or any other association or corporation that may now or hereafter be eligible to become a member of any federal home loan bank according to the terms of the federal home loan bank act, as the same may be amended from time to time, is authorized and empowered to occupy the same office or offices and use the same facilities, officers, directors, and employes as and in conjunction with a federal savings and loan association upon such terms and conditions as may be agreed upon with the said federal savings and loan association.

Sec. 5. Any building and loan association or company or savings and loan association or company or savings bank or any other association or corporation organized under the laws of this state may convert into a federal savings and loan association according to the terms of the federal home loan bank act and the rules and regulations of the federal home loan bank board, as the same may be amended from time to time, by a resolution to such effect adopted at a meeting of the shareholders of any such association or corporation by the affirmative vote

of a majority of the shareholders present in person or by proxy. Whenever any such association or corporation shall so convert itself into a federal savings and loan association, it shall thereupon come under the sole supervision of the federal home loan bank or the federal home loan bank board. At the time when such conversion becomes effective all the property of such association or corporation, including all its right, title, and interest in and to all property of whatsoever kind, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value of benefit then existing, belonging, or pertaining to it, or which would enure to it, shall immediately by act of law and without any conveyance or transfer or assignment, and without any further act or deed, be vested in and become the property of the federal savings and loan association, which shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by such association or corporation so converting, and the federal savings and loan association as of the time of the taking effect of such conversion shall succeed to all the rights, obligations, and relations of such association or corporation.

Sec. 6. The provisions of this article are several, but if any provisions of this article be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of the article. It is hereby declared as a legislative intent that this article would have been adopted had such unconstitutional provisions not been included therein.

*CHAPTER 34

(Senate Bill No. 89—By Mr. Hodges)

AN ACT to amend and reenact chapter thirteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, being house bill number two hundred nine of that session, relating to the transfer of funds of magisterial districts and independent school districts to the county board of education.

[Passed January 26, 1934; in effect from passage. Approved by the Governor.]

SEC.
2-(b). After July 1, 1933, funds of magisterial and independent school districts, except interest and sinking funds, to be transferred to county board of education; exceptions; use of tranfrerred funds.

Be it enacted by the Legislature of West Virginia:

That chapter thirteen, acts of the Legislature of West Virginia, first extraordinary session one thousand nine hundred thirty-three, being house bill number two hundred nine of that session, be amended and reenacted to read as follows:

Section 2-(b). On and after July first, one thousand nine hundred thirty-three, any and all moneys in the separate funds of any magisterial district or independent school district, other than interest and sinking funds, and all moneys which may thereafter be paid into such funds, from the collection of delinquent taxes or otherwise, except such portions thereof heretofore levied for interest and sinking fund purposes, are hereby transferred to the board of education for control, distribution and expenditure; and any such funds so transferred shall be used by said board in payment of any existing legal indebtedness, except bonded indebtedness, of any such district, and the residue, if any, for general school purposes in such district, without regard to the purpose for which the said moneys were originally collected, except that moneys collected for the purpose of replacement of or the erection of new buildings shall be expended in the magisterial or independent school district from which such moneys were collected.

All acts and parts of acts, both general and special, inconsistent with this act, are hereby expressly repealed.

*Repealed by chapter thirty-five, acts of this session

CHAPTER 35

(Senate Bill No. 110—By Mr. Paull)

AN ACT to amend and reenact chapter thirteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, being house bill number two hundred nine of that session, and to repeal senate bill number eighty-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, relating to the transfer of funds of magisterial districts and independent school districts to the county board of education.

[Passed February 28, 1934; in effect from passage. Approved by the Governor.]

SEC.
2-(b). After July 1, 1933, funds of magisterial and independent school districts, except interest and sinking funds, to be transferred to county board of education; SEC. exceptions; use of transferred funds; exceptions as to money collected for replacement or erection of new buildings.

Be it enacted by the Legislature of West Virginia:

That senate bill number eighty-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, be repealed and that chapter thirteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, being house bill number two hundred nine of that session, be amended and reenacted to read as follows:

Section 2-(b). On and after July first, one thousand nine hundred thirty-three, any and all moneys in the separate funds of any magisterial district or independent school district, other than interest and sinking funds, and all moneys which may thereafter be paid into such funds, from the collection of delinquent taxes or otherwise, except such portions thereof heretofore levied for interest and sinking fund purposes, are hereby transferred to the board of education for control, distribution and expenditure; and any such funds so transferred may be used by said board in payment of any existing legal indebtedness, bonded or otherwise, of any such district, or for general school purposes as the board may determine and without regard to the purpose for which the said moneys were originally collected, except that moneys collected for the purpose of replacement of or the erection of new buildings shall be expended in the magisterial or in-

dependent school district from which such moneys were collected.

All acts and parts of acts, both general and special, inconsistent with this act, are hereby expressly repealed.

CHAPTER 36

(House Bill No. 149—By Mr. Norton)

AN ACT to authorize the distribution of certain moneys to the county boards of education for the purpose of furnishing temporary relief to the employees of the county boards of education.

[Passed December 21, 1933; in effect from passage. Approved by the Governor.]

SEC.
1. Temporary transfer of three hundred fifty thousand dollars from state supplemental aid school fund to maintenance fund to pay employees of county boards of education, except teachers.
2. Distribution of transferred funds.
3. Reimbursement of general school fund by county boards of education for amount advanced for employees, except teachers.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby appropriated out of the equalization or supplemental aid fund provided in section six, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter nine of the acts of the Legislature of West Virginia, one thousand nine hundred thirty-three, first extraordinary session, the sum of three hundred fifty thousand dollars, which sum is hereby temporarily transferred from the said supplemental aid fund to the maintenance fund for the purpose of meeting an emergency and providing payment to the employees of the several county boards of education in the state, excepting payment to teachers.

Sec. 2. The amount to be distributed to each county board of education for the purpose of paying said employees, except teachers, shall be equal in amount to one-third of the amount to which a county is entitled in the distribution of state aid on the basic salary schedule, as provided in section six, article nine, chapter eighteen, as amended by chapter nine of the acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three.

Sec. 3. On or before April first, one thousand nine hundred thirty-four, the county boards of education receiving a disbursement as provided in sections one and two hereof, shall reimburse the general school fund for the amount so advanced and in the event any county board of education shall fail to make reimbursement of said fund, on or before the first day of April, one thousand nine hundred thirty-four, then the state superintendent of schools or the auditor may withhold from such county failing to reimburse the general school fund out of any school fund or funds belonging to such county an amount equal to the amount of the advancement provided under this bill.

CHAPTER 37

(House Bill No. 165—By Mr. Pelter)

AN ACT to amend and reenact section thirty, chapter ten, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to teachers' certificates.

[Passed January 17, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
30.	Renewal of teachers' certificates and appeal to state superintendent; extension for one year from June 30, 1934; after second renewal five year period, life certificate; certificates for five years or longer considered first grade certificates; renewal of short course certificates and appeal to state superintendent; renewal of first grade temporary certificates; extension of second grade and second grade temporary certificates; reinstatement of first class certificates and appeal to state superintendent; cancellation of certain certificates; approval of certificates by department of education.		

Be it enacted by the Legislature of West Virginia:

That section thirty, chapter ten, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Sec. 30. All first grade certificates, normal school certificates, collegiate elementary certificates, superintendents' certificates, high school principals' certificates, high school certificates, supervisors' certificates and special certificates, valid for five years, shall, upon their expiration or within the year immediately following, be renewable for five-year periods: *Provided,* That the holders thereof shall have taught or otherwise been actively engaged in educational

work for not less than three years of each five-year period, and that those who had not previously completed work for a master's degree or its equivalent, shall have completed since the issuance of their certificate or of its last renewal. 12-*a* not less than six semester hours of work in an accredited school: *Provided further,* That all applications for renewal shall be accompanied by a recommendation from the county superintendent of the county where the applicant last taught: *Provided, however,* That if the applicant seeking a renewal has cause to believe that the county superintendent refuses to give a recommendation without just cause, the applicant shall have the right in such case to appeal to the state superintendent of schools: *Provided, however,* That such certificates now valid which expire June thirtieth, one thousand nine hundred thirty-four, shall be and are hereby extended for a period of one year without it being required that the holders of such certificates complete the semester hours as is hereinbefore provided.

At the end of the second renewal five-year period, the holder of any certificate designated in the preceding paragraph shall receive a similar certificate valid for life: *Provided,* That the holder of such certificate has complied with the renewal requirements as above provided for each five-year period. All certificates issued for a period of five years or longer shall be considered first grade certificates as to renewal and payment of salaries.

In any case where a person has held a short course certificate, such certificate shall be renewable prior to October first, one thousand nine hundred thirty-three, in the manner now provided by law. On and after October first, one thousand nine hundred thirty-three, such short course certificates, as are then in force, shall be renewable for three-year periods: *Provided,* That the holder thereof shall have taught two years, or otherwise actively engaged in educational work for a period of two years, shall have completed during each three-year period not less than six hours of work in an accredited school, and shall be recommended for such renewal by the county superintendent of schools of the county in which the applicant last taught: *Provided, however,* That if the applicant seeking a renewal has cause to believe that the county superintendent refuses to give a recommendation without just cause, the applicant shall have

the right in such case to appeal to the state superintendent of schools. The short course certificate shall not be issued after October first, one thousand nine hundred thirty-three: *Provided, however,* That such certificates now valid which expire June thirtieth, one thousand nine hundred thirty-four, shall be and are hereby extended for a period of one year without it being required that the holders of such certificates complete the semester hours as is hereinbefore provided.

In any case where a person holds a first grade temporary certificate, such certificate shall be renewable: *Provided,* That the holder shall have taught one year, completed eight semester hours in an approved normal, college or university, and shall be recommended for such renewal by the county superintendent of schools of the county in which the one year was taught: *Provided, however,* That such certificates now valid which expire June thirtieth, one thousand nine hundred thirty-four, shall be and are hereby extended for a period of one year without it being required that the holders of such certificates complete the semester hours as is hereinbefore provided. The second grade temporary certificate shall not be renewed, but shall be extended for a period of one year from June thirtieth, one thousand nine hundred thirty-four under the special provision of this act governing the extension of renewable certificates for the same period without the completion of required school work; and such extension shall in like manner apply to second grade certificates granted by uniform examination.

In any case where any person has held a first class certificate, in accordance with the provisions of this act, and has permitted the same to lapse, such person may apply to the state superintendent of free schools for reinstatement for such certificate within a period of three years after the expiration of said certificate. The applicant shall furnish with his application a record showing the completion of not less than six semester hours of work in an accredited school since the issuance of the certificate, together with a statement signed by the county superintendent of schools of the county in which he resides, to the effect that the applicant is a person of good moral character, is in good health, is a suitable person to be entrusted with the care and education of children, and bears the reputation of having been a successful teacher:

Provided, however, That if the applicant seeking a renewal has cause to believe that the county superintendent refuses to give a recommendation without just cause, the applicant shall have the right in such case to appeal to the state superintendent of schools. If, in the opinion of the state superintendent of free schools, such applicant is a suitable person to be entrusted with the care and education of children, has been successful in the work of teaching, and has complied with the foregoing reinstatement requirements, such certificate shall be reinstated in such manner as to replace such applicant in the relative position he held as to certificate rights on the thirtieth day of June following the close of the last term of school taught on such certificate.

All certificates of all grades not issued through a regularly advertised examination, and all certificates not issued on grades earned in high school or other schools approved by the state board of education, a record of which is filed in the office of the state superintendent of schools shall be cancelled after due notice from the state superintendent that such records are not on file and after reasonable time shall have been given to show that the holder thereof held the required grades and credits when certificate was issued.

After the first day of July, one thousand nine hundred thirty-four, all teachers of this state shall hold certificates approved by the state department of education.

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

CHAPTER 38

(House Bill No. 187—By Mr. Hiner)

AN ACT to amend and reenact sections twenty-nine and thirty-one of chapter nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, amending article one of chapter twenty-five, of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia board of control and to dormitories, homes or refectories at the various state educational institutions; and to amend article one of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to

the West Virginia board of control, by adding thereto a new section to be known and numbered as section twenty-four-(a), providing for the erection of gymnasiums or stadia for athletic games, contests or exhibitions or physical training, dormitories, homes, refectories, swimming pools, and other necessary structures or buildings, for students, teachers, patients, inmates, officers and employees at the various state institutions under the control and management of the West Virginia board of control, and providing additional revenue for temporary supplemental aid and unemployment relief for the duration of the present emergency.

[Passed January 25, 1934; in effect from passage. Approved by the Governor.]

SEC.
24-(a). State board of control authorized to construct gymnasiums, etc., at institutions under its control; legislative finding of financial emergency.
29. Bonds for construction, etc., to be paid from fees and charges; revenues pledged to provide principal and interest of bonds; revenues to state sinking fund commission as special fund; trustee, when bonds purchased by federal agency.
31. State to incur no obligation; dormitories, etc., to be self-liquidating projects; board of control authorized to make necessary contracts with federal or private agency; advertisement and sale of bonds not sold to federal agency; provisions of act separable.

Be it enacted by the Legislature of West Virginia:

That sections twenty-nine and thirty-one, chapter nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, amending article one of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia board of control, be, and the same are hereby, amended and reenacted, and that article one of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, relating to the West Virginia board of control, be, and the same is hereby, amended by adding thereto a new section to be known and numbered section twenty-four-(a) to read, as follows:

Section 24-(a). The state board of control, within its discretion, is hereby authorized to provide, construct, erect, improve, equip, maintain and operate gymnasiums or stadia for athletic games, contests or exhibitions or physical training, dormitories, homes, refectories, swimming pools, or such other structures or buildings, for students, teachers, patients, inmates, officers and employees at the various state institutions named in this article and under the control and management of the state board of con-

trol, and the provisions, and limitations thereof, of sections twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three and thirty- four, inclusive, respectively, and any and all amendments thereof, of article one, and amendments thereto, of chapter twenty-five of the code of West Virginia, one thousand nine hundred thirty-one, shall be applicable thereto. This section is deemed necessary for the purpose of providing additional revenue for temporary supplemental aid and relief of unemployed persons and it is hereby declared that the present economic depression has created a serious emergency due to widespread unemployment and increasing inadequacy of state and local relief funds, resulting in the existing or threatened deprivation of a considerable number of families and individuals of the necessities of life, making it imperative that relief be furnished to needy and distressed people.

Sec. 29. Whenever bonds are issued for the construction, erection or equipment of dormitories, homes or refectories, or for the improvement or equipment of existing dormitories, homes or refectories, or for any or all of such purposes, as joint or several projects, for which a single or several issues of bonds may be issued within the discretion of the state board of control, rents, fees and charges shall be fixed, charged and collected in connection with the use or occupancy of, or service to be thereby rendered and furnished by, such dormitories, homes or refectories, and shall be so fixed or adjusted, in respect of the aggregate of rents, fees and charges from the dormitories, homes or refectories so constructed, erected, improved or equipped by means of or with the proceeds of a single issue of bonds, as to provide a fund sufficient to pay the principal and interest of each such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing, operating and insuring such dormitories, homes or refectories. Whenever bonds are issued to finance, at any one time, the construction and erection of dormitories, homes or refectories together with additions or extensions to an existing dormitory, home or refectory for students or teachers at state educational institutions, as a single construction project, the revenues derivable from both such dormitories, homes or refectories and such

additions or extensions to an existing dormitory, home or refectory, as constructed from the proceeds of a single issue of bonds, as a single construction project, may be pledged to provide a fund sufficient to pay the principal and interest of such single issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing, operating and insuring such dormitories, homes or refectories, and such additions or extensions to an existing dormitory, home or refectory. The rents, fees and charges from the dormitories, homes or refectories for which a single issue of bonds is issued, except such part thereof as may be necessary to pay such cost of maintaining, repairing, operating and insuring during any period in which such cost is not otherwise provided for (during which period the rents, fees and charges may be reduced accordingly), shall be transmitted each month to the state sinking fund commission and by it placed in a special fund which is hereby pledged to and charged with the payment of the principal of such bonds and the interest thereon, and to the redemption or repurchase of such bonds, such special fund to be a fund for all such bonds without distinction or priority of one over another. The moneys in such special fund, less a reserve for payment of interest, if not used by the sinking fund commission, within a reasonable time for the purchase of bonds for cancellation at a price not exceeding the market price and not exceeding the redemption price, shall be applied to the redemption by lot of any bonds which by their terms are then redeemable, at the redemption price then applicable: *Provided, however,* That if said revenue bonds are sold to and purchased by the United States of America or any federal or public agency or department created under and by virtue of the laws of the United States of America, then at the option of the United States of America or such federal or public agency or department in lieu of such moneys being transmitted to the sinking fund commission and by it placed in a special fund, the rents, fees and charges from the dormitories, homes or refectories for which a single issue of bonds is issued, except such part thereof as may be necessary to pay such cost of maintaining, repairing, operating and insuring as provided aforesaid, may be transmitted and paid to a trustee designated and named by the

United States of America or such federal or public agency or department in its agreement and contract with the state board of control, for the payment of the principal of such bonds and the interest thereon, under such terms and conditions as may be agreed upon.

Sec. 31. Nothing in these sections dealing with dormitories, homes or refectories shall be so construed or interpreted as to authorize or permit the incurring of state debt of any kind or nature as contemplated by the constitution of this state in relation to the state debt. The dormitories, homes or refectories herein are of the character described as self-liquidating projects under the laws of the United States.

The said board of control is authorized and empowered to enter into the necessary contracts and agreements to carry out the purposes hereof with the United States of America or such federal or public agency or department of the United States, or with any private agency, corporation or individual: *Provided, however,* That if such bonds are not sold to and purchased by the United States of America or any such federal or public agency or department, then the state board of control shall advertise such bonds for sale, on sealed bids, which advertisement shall be published at least once a week for three weeks, the first publication to be made at least twenty-one days preceding the date fixed for the reception of bids, in two newspapers published and of general circulation in the state and of opposite political affiliation, and such advertisement shall also be published in a financial paper published either in the city of New York, in the state of New York, or the city of Chicago, in the state of Illinois. The state board of control may reject any and all bids. If the bonds be not sold pursuant to such advertisement, they may, within sixty days after the date advertised for the reception of bids, be sold by the board at private sale, but no private sale shall be made at a price less than the highest bid which shall have been received pursuant to such advertisement. If not sold, such bonds shall be readvertised in the manner herein provided.

The provisions and parts of this act are separable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided

for, and if any of the sections or provisions, or parts thereof, are for any reason illegal or invalid, it is the intention that the remaining sections and provisions or parts thereof shall remain in full force and effect.

CHAPTER 39

(House Bill No. 278—By Mr. Pelter)

AN ACT to amend and reenact section six, article nine, chapter nine, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, to provide for the distribution of general school funds, authorizing the state to pay for basic salaries for eight months, and changing teacher-load in densely populated territories from thirty-eight to thirty-five.

[Passed February 21, 1934; in effect from passage. Became a law without the approval of the Governor.]

Article IX.

SEC.	
6.	Sources of general school fund; expenditures from fund for state and county superintendents; for elementary teachers' salaries for eight months; ascertainment of number of needed elementary teachers; for high school teachers' salaries for eight months; ascertainment of number of needed high school teachers; for supplementary aid to elementary and high school teachers funds; when state aid withheld; duties of auditor and state superintendent as to state aid.

Be it enacted by the Legislature of West Virginia:

That section six, article nine, chapter nine, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

ARTICLE IX.

Section 6. A separate school fund, to be called the "general school fund", shall be set apart for the support of the free schools of the state, and the revenue from the following sources and not otherwise appropriated shall be paid into it:

(1) The proceeds from the capitation tax;

(2) The income of the school funds;

(3) The net proceeds of all fines and forfeitures which accrued to the state during the previous year, except fines referred to in section six, article eight of this chapter;

(4) All moneys arising from the sources named in section

four, article twelve of the constitution, heretofore going to the "school fund" but as now amended going to the "general school fund";

(5) All interest on public moneys received from state depositories;

(6) State license tax on marriages;

(7) State tax on forfeitures;

(8) State tax on state licenses, except on motor vehicles and on owners, chauffeurs, operators and dealers in motor vehicles, hunting and fishing licenses and state licenses paid directly to the state auditor and secretary of state;

(9) All funds from any source paid into the treasury for school purposes and not otherwise appropriated.

This fund shall be used for the following purposes according to the order and preferences indicated below:

(1) To pay the salary of the state superintendent of free schools, his necessary traveling expenses not to exceed five hundred dollars per year, and the contingent and other expenses of his office;

(2) To pay toward the salary of each county superintendent on the basis of twenty cents per pupil in average daily attendance for the preceding year, but the maximum amount supplied by the state for the salary of any county superintendent shall not exceed two thousand dollars;

(3) To pay to each district a sum sufficient to supplement materially the elementary teachers' fund by paying for each needed teacher for a period of eight months, the following amounts:

(a) For each teacher holding a second-grade certificate, fifty-five dollars per month;

(b) For each teacher holding a first-grade certificate, seventy dollars per month;

(c) For each teacher holding a short normal certificate, seventy-five dollars per month;

(d) For each teacher holding a standard normal certificate, eighty-five dollars per month;

(e) For each teacher holding a certificate of higher grade, ninety dollars per month.

The total number of needed teachers in any district shall be determined by dividing the number of pupils in average daily attendance during the preceding year by eighteen, in

districts with an average daily attendance of one to five per square mile; by twenty-two, in districts having an average daily attendance of six to nine per square mile; by twenty-five, in districts having an average attendance of ten to nineteen per square mile; by thirty, in districts having an average daily attendance of twenty to thirty-nine per square mile; and by thirty-five, in districts with an average daily attendance of forty or more per square mile;

(4) To pay to each district a sum sufficient to supplement materially the junior and senior high school teachers' fund by paying for each needed teacher for a period of eight months the following amounts:

(a) For each teacher holding a standard normal certificate, eighty dollars per month;

(b) For each teacher holding a bachelor's degree approved by the state superintendent, ninety dollars per month;

(c) For each teacher holding a master's degree approved by the state superintendent, one hundred ten dollars per month.

The total number of teachers needed in any district shall be determined by dividing the average daily attendance in junior and senior high schools in the district during the preceding year by twenty-three.

(5) To supplement the elementary and high school funds in districts where the maximum levy and the aid granted in subsections three and four will not maintain the school and pay the minimum basic salaries to the number of needed teachers for the minimum term, each district may petition the state superintendent for aid and must affirmatively show by sworn statement that:

(a) The maximum levy on lawfully assessed valuations has been laid in the district;

(b) The maximum levy is insufficient, together with the state aid granted by subsections three and four of this section, to maintain the school for the minimum term;

(c) The proportion of teachers to pupils is proper;

(d) The schedule of teachers' salaries is reasonable;

(e) The budget of contingent expenses and building enterprise is commensurate with the actual needs of the district.

Thereupon the state superintendent may, in his discretion, grant so much aid as he thinks reasonable, in view of the con-

dition of the district and the request for aid from other districts.

(6) State aid granted by subsections three, four and five of this section may be withheld from full time schools in case the average daily attendance falls below twenty, or in case the board fails, or refuses to consolidate when, in the judgment of the state superintendent, consolidation is wise, and when the board fails to meet the standards established by the state board.

The auditor, on or before the twentieth day of July in each year, after first deducting the aggregate salary of the state superintendent, his necessary traveling expenses not to exceed five hundred dollars, the contingent and other expenses of his office, and the salaries of the county superintendents, shall ascertain the amount of the general school fund available for distribution and shall certify the same to the state superintendent.

The state superintendent on or before the first day of August, shall ascertain the needs for the various purposes in the order and preference enumerated, and shall have deposited in the manner prescribed by law, with the sheriff or treasurer of each district the amounts to which the district is entitled.

When the state superintendent determines that a district is entitled to supplemental aid under the provisions of subsection five, he shall make requisition upon the state auditor for the necessary amount and the auditor shall issue warrants to the district entitled to receive the supplemental aid.

CHAPTER 40

(House Bill No. 295—By Mr. Jarvis)

AN ACT to amend and reenact section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eleven, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to basic salaries of teachers.

[Passed March 15, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
2.	Minimum salaries for teachers; advanced salaries after first term; salaries for principals of elementary and high schools; basic salaries in effect June 1, 1933, restored after July 1, 1934.		

Be it enacted by the Legislature of West Virginia:

That section two, article seven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter eleven, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 2. A board of education shall not contract for the employment of any teacher at a monthly salary less in amount than the monthly amount which the district is entitled to receive for the employment of the teacher under section six, article nine, as amended, of this chapter: *Provided, however,* That boards of education shall provide in the contract advanced salaries as follows:

(1) For teachers who have taught one regular term of school and not more than five regular terms, the rate of salary shall be the basic salary plus at least three dollars a month for the second term; the basic salary plus at least five dollars a month for the third term; the basic salary plus at least seven dollars fifty cents a month for the fourth term; and the basic salary plus at least ten dollars a month for the fifth term; (2) For teachers who have taught five regular terms of school and less than ten regular terms, the rate of salary shall be at least fifteen dollars more a month than the rate of the basic salary of teachers holding similar credentials; (3) For teachers who have taught ten regular terms of school or more, the rate of salary shall be at least twenty dollars a month more than the rate of

the basic salary for teachers holding similar credentials: *Provided further,* That boards of education may fix higher salaries for principals of elementary and high schools consistent with the extra duties and responsibilities of said positions: *And Provided further,* That the basic salaries in effect June first, one thousand nine hundred thirty-three, shall again become effective on and after the first day of July, one thousand nine hundred thirty-four.

CHAPTER 41

(House Bill No. 397—By Mr. Hiner)

AN ACT authorizing the board of governors of West Virginia university to fix the salaries of the president of the university, athletic director, head football coach and all assistant football coaches at said university and to repeal all acts or parts of acts in conflict herewith.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Board of governors of West Virginia University to fix salaries of president, athletic director		and head and assistant football coaches.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of governors of the West Virginia university shall fix the salaries of the president of the university, athletic director, head football coach and all assistant football coaches at said university.

All acts or parts of acts in conflict or inconsistent with this act are hereby repealed.

CHAPTER 42

(Senate Bill No. 69—By Mr. White, of Mingo)

AN ACT to amend and reenact section twenty-one, article ten, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter fifty-nine, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to bonded indebtedness for road purposes and road funds, and to provide for the transfer of county and district road and bridge funds to the general county fund.

[Passed January 22, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
21. Bonded indebtedness of counties and magisterial districts debt of property pledged as security; levies for county and district obligations; transfer by county courts to general county fund of county road and bridge funds and district road funds, other than interest and sinking funds for bonded indebtedness.

Be it enacted by the Legislature of West Virginia:

That section twenty-one, article ten, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter fifty-nine, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 21. The bonded indebtedness incurred by the county and by its magisterial districts for road purposes shall remain the debt of the property originally pledged as security for the payment of the obligation. The county court shall impose upon the property in the county for county obligations, and in the magisterial district for district obligations, levies in the manner provided in sections seven and thirteen, article eight, chapter eleven, as amended, for the payment of the current requirements of principal and interest of the bonded indebtedness on and after July first, one thousand nine hundred thirty-three. All county courts, and other bodies acting in lieu thereof, are authorized to transfer to the general county fund any unexpended balances remaining in the county road and bridge funds or in district road funds, other than interest and sinking funds required for bonded indebtedness incurred for road purposes, and to transfer to the general county fund any unexpended balances of funds raised to pay the interest on and

create sinking funds for any such bonded indebtedness where said bonded indebtedness has been fully paid off and discharged or where there remains no other bonded debt within such taxing district to which such unexpended balances might be applied, as well as any balance remaining in any special road fund created by law, and all moneys which may hereafter be paid into such funds through the collection of delinquent taxes or otherwise.

CHAPTER 43

(House Bill No. 5—By Mr. Van Sickler)

AN ACT to amend and reenact chapter fifty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to duties of county courts and compensation of county commissioners for services other than services in court.

[Passed March 23, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
5. Duties and salaries of county commissioners.

Be it enacted by the Legislature of West Virginia:

That chapter fifty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to duties of county courts and compensation of county commissioners for services other than services in court, be and the same is amended and reenacted to read as follows:

Section 5. It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, and to investigate the conditions of the poor within their county not housed within such institutions; to visit detention homes for children within their counties, if any, and to visit and inspect bridges and bridge approaches under their control.

There shall be allowed and paid out of the county treasury, as other salaries are paid, to each county commissioner of each county (except as otherwise provided by law for the county of Ohio), for services performed for such county concerning the visiting of the poor and inspection of places of housing and

caring for the poor, inspection of jails, bridges and bridge approaches and for visiting detention homes for children within their counties and other county business by such commissioners other than services in court, the following sums of money, to wit: The county of Barbour fifteen dollars per month, the county of Berkeley thirty dollars per month, the county of Boone twenty-five dollars per month, the county of Braxton twenty-five dollars per month, the county of Brooke twenty-five dollars per month, the county of Cabell one hundred fifty dollars per month, the county of Calhoun twenty-five dollars per month, the county of Clay twenty-five dollars per month, the county of Doddridge fifteen dollars per month, the county of Fayette one hundred dollars per month, the county of Gilmer fifteen dollars per month, the county of Grant fifteen dollars per month, the county of Greenbrier twenty-five dollars per month, the county of Hampshire fifteen dollars per month, the county of Hancock twenty-five dollars per month, the county of Hardy fifteen dollars per month, the county of Harrison one hundred seventy-five dollars per month, the county of Jackson fifteen dollars per month, the county of Jefferson thirty dollars per month, the county of Kanawha two hundred fifty dollars per month, the county of Lewis twenty-five dollars per month, the county of Lincoln twenty-five dollars per month, the county of Logan one hundred dollars per month, the county of Marion one hundred fifty dollars per month, the county of Marshall seventy-five dollars per month, the county of Mason twenty-five dollars per month, the county of McDowell one hundred fifty dollars per month, the county of Mercer one hundred dollars per month, the county of Mineral twenty-five dollars per month, the county of Mingo seventy-five dollars per month, the county of Morgan fifteen dollars per month, the county of Monroe fifteen dollars per month, the county of Monongalia one hundred fifty dollars per month, the county of Nicholas twenty-five dollars per month, the county of Pendleton fifteen dollars per month, the county of Pleasants fifteen dollars per month, the county of Pocahontas fifteen dollars per month, the county of Preston twenty-five dollars per month, the county of Putnam twenty-five dollars per month, the county of Raleigh one hundred dollars per month, the county of Randolph twenty-five dollars per month, the county of Ritchie fifteen dollars per month, the

county of Roane twenty-five dollars per month, the county of Summers twenty-five dollars per month, the county of Taylor twenty-five dollars per month, the county of Tucker fifteen dollars per month, the county of Tyler fifteen dollars per month, the county of Upshur fifteen dollars per month, the county of Wayne seventy-five dollars per month, the county of Webster fifteen dollars per month, the county of Wetzel twenty-five dollars per month, the county of Wirt fifteen dollars per month, the county of Wood one hundred dollars per month, and the county of Wyoming twenty-five dollars per month.

CHAPTER 44

(House Bill No. 342—By Mr. Van Sickler)

AN ACT to authorize the county court of any county to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease, for the erection, construction, equipment, leasing and renting of any courthouse, other public buildings, or jail, with an option to purchase same, and to provide for the payment of a yearly rental for such by said court or to authorize any such court to construct, equip, maintain and operate a courthouse, other public buildings, or jail, in and for said county, and to borrow funds from the public works administration or other governmental agency authorized to make loans for the purpose of constructing and equipping said building or buildings, together with the right to purchase additional land, and to issue bonds in payment of same and to pledge a sufficient amount of revenue, within the constitutional limitation and within the limitations as provided by general law, to pay the face amount of said bonds and interest thereon within a period not to exceed thirty years.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County courts authorized to convey land and make contract with federal agency for erection, etc., of courthouse, jail or other public buildings and to lease or rent same, with right of purchase.
2. Annual levy for rentals.
3. County courts authorized to borrow money from federal agency to buy land and construct, etc., courthouses, jails or other public buildings and issue bonds for same; bonds exempt from taxation.
4. Statutory mortgage lien of bond holders; enforcement of lien.
5. County court issuing bonds to provide revenue to pay operating cost, depreciation fund and bond

SEC.
requirements and remit same to state sinking fund commission; form and negotiability of bonds; use of proceeds of bond issue; interim certificates.
6. Character of debt incurred under this act.
7. Powers of act additional and supplementary to other powers conferred by law.
8. Act to be liberally construed.
9. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of any county is hereby authorized and empowered to convey land and enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease, for the erection, construction, equipment, leasing and renting of a courthouse, other public buildings, or jail, with an option to purchase same, and to provide for the payment of a yearly rental for such by said court; and to contract with the United States government or any federal agency, to the end that said government or agency, its or any of its agencies or agents thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property any such building or buildings to be used for public purposes; and to contract with said government or any federal agency, for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year for a period of years not exceeding thirty, with the right to purchase said building or buildings and land on which the same is, or are, situated, and to apply towards the purchase price thereof any and all rentals paid to said government or agency, under the provisions of this act; and the said court shall pay to the said United States government or any federal agency, said yearly rental, or rentals, for the use and occupancy of said building, or buildings, if and when the same are constructed, which said yearly rental, or rentals, in the aggregate shall not exceed the total amount, and interest thereon, expended by said government or agency, on said project, or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said court shall levy and collect annually an amount sufficient to pay said rental, or rentals, for that par-

ticular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. Any county court is likewise authorized to construct, equip and maintain a courthouse, other public buildings, or jail, and to borrow funds from the public works administration or other governmental agency authorized to make loans, for the purpose of constructing and equipping said courthouse, other public buildings, or jail, and shall also have the right to purchase additional land on which to build same, within the discretion of the court. Such court is authorized to issue bonds for the purpose of paying the cost of such land, building and equipment and to pledge a sufficient amount of revenue within the constitutional limitation, and within the limitations as provided by general law, to pay the inerest on and the principal of said bonds within a period not to exceed thirty years. Such court is further authorized and empowered to do and perform any and all acts and make all contracts necessary to effectuate the general purposes of this act, including the acquisition by original grant, purchase or other lawful means of all necessary permits, easements and other rights in real estate, and title to and possession thereof, and/or to make such purchase with the money borrowed, as provided in this section. Such court shall have authority to make such contracts, agreements and covenants between it and the public works administration or other governmental agency, for the loan of said funds and securing payment thereof as they may be able to effectuate, subject only to this limitation, that the bonds issued or given as security thereof shall be payable solely out of the levies now provided for by general law, to be levied by said county court in and for said county, and to construct, equip and maintain such courthouse, other public buildings, or jail, and to make and enter into such contracts, and to do and perform such acts as may be necessary to the construction, operation and maintenance of the same, subject to such burdens, restrictions and encumbrances as it may be necessary to incur and bear in securing such funds for construction.

Bonds issued hereunder shall be exempt from taxation by the state of West Virginia or any county, district or municipality thereof.

Sec. 4. There shall be and there is hereby created a statu-

tory mortgage lien upon the said property so acquired or constructed from the proceeds of bonds authorized to be issued under this act, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such courthouse, other public buildings, or jail, shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred, and may, by proper suit, compel the performance of the duties of the officials of the said court set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer said property on behalf of the said court with power to charge and collect rents or income sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses, and to apply the income, rents or other revenue in conformity with this act and the order providing for the issuance of said bonds.

Sec. 5. Any county court issuing bonds under the provisions of this act shall thereafter, so long as any such bonds remain outstanding, operate and maintain said courthouse, other public buildings, or jail, so as to provide revenues as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds and pay the interest requirements thereon as the same may become due. The amounts, as and when so set apart by said county court, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and the order pursuant to which such bonds have been issued. The state sinking fund commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any order passed pursuant to the provisions of this act, and shall invest all sinking funds, as provided by general law. Bonds issued under the provisions of this act are hereby declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than six per

cent per annum, payable semi-annually, and shall mature in not more than thirty years from their date, and may be made redeemable at the option of the county court at such price and under such terms and conditions as said court may fix prior to the issuance of such bonds. Bonds issued hereunder shall be payable at the office of the state treasurer and some bank in the city of New York.

In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The county court shall fix the denominations, times and places of payment of such bonds, the principal of and interest on which shall be payable in lawful money of the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings and equipment thereon, and shall be checked out by the county court under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of bonds issued for any courthouse, other public buildings, or jail, shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not again be issued.

Prior to the preparation of definitive bonds, the county court may, under like restrictions, issue temporary bonds, or interim certificates, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act.

Sec. 6. Nothing in this act contained shall be so construed or interpreted as to authorize or permit any county court to incur a debt for and on behalf of said court of any kind or nature as contemplated by the provisions of the constitution of the state in relation to debt.

Sec. 7. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby, and shall be regarded as supplementary and additional to powers conferred by other laws.

Sec. 8. This act, being necessary for the health, welfare and public requirements of the public of the several counties, it should be liberally construed to effectuate the purposes thereof.

Sec. 9. The provisions of this act are separable and not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions, or parts thereof, are for any reason illegal, it is the intention that the remaining sections and provisions, or parts thereof, shall remain in full force and effect.

CHAPTER 45

(House Bill No. 18—By Mr. Dyer)

AN ACT to amend and reenact sections one and five, chapter sixteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to forfeited and delinquent lands.

[Passed February 14, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Redemption, before June 30, 1934, of lands delinquent or forfeited for nonpayment of taxes, without interest or costs; payment of costs by and fees to commissioners of school lands; procedure when two or more claimants for redemption.

SEC.
5. When auditor to charge no fees, costs or interest for redemption; auditor's monthly reports to assessors of redemptions; form of auditor's receipt when taxes paid to him.

Be it enacted by the Legislature of West Virginia:

That sections one and five, chapter sixteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 1. That the owner of any land and real estate in this state, his heirs, devisees or assigns and any person holding a lien thereon, or having the right to charge the same with a debt, which land and real estate has been returned delinquent and/or forfeited for the nonpayment of taxes levied and assessed against

the same, including forfeited land and real estate certified to the commissioner of school lands of the respective counties on which suits may or may not have been instituted or may still be pending in which no sale and/or confirmation of sale has been made, may redeem such land and real estate from such delinquency and/or forfeiture by the payment to the auditor of the state of West Virginia of the taxes so levied and assessed together with all taxes which would have been levied and extended on the land books against said real estate had there been no such forfeiture, without interest or costs, if the same shall be paid on or before June thirtieth, one thousand nine hundred thirty-four. Such payment shall include all taxes assessed and in arrears for any and all years prior to the year one thousand nine hundred thirty-three, and prior to such redemption, and any legal costs as now provided by statute that have accrued by reason of the prosecution of any suit shall be paid by the commissioner of school lands in the county in which the land is situated, when approved and so ordered by the court by order entered of record, from any funds in his hands, for which said commissioner shall have credit in his settlement of accounts, as such commissioner and commissioners of school lands shall be allowed in their settlements such reasonable sums as the court shall determine and allow for work done and services rendered by them and their attorneys in relation to the tracts, lots and parcels of land which have been heretofore certified to them and which have not before this act becomes effective been disposed of, and such sums so allowed may be, by order of the court, paid out of funds in the hands of the commissioners or which shall come into their hands: *Provided, however,* That where two or more claimants have filed their petition as required by law asking to redeem the same tract or tracts of land, said tract or tracts of land shall not be certified to the auditor by the circuit clerk as provided in section three of this act, nor be redeemed from the auditor as provided in section one of this as amended, but the party decreed by the court to be entitled to redeem said land by paying all costs accumulated as taxed by the clerk thereof, by reason of the contest of title, together with the portion of the taxes as above set forth unto the commissioner of school lands.

Sec. 5. It shall be the duty of the auditor of this state to re-

ceive payment of the taxes mentioned in the lists certified to him by virtue of sections two and three of this act, and to account for and disburse the same as other taxes received by him, and in the payment of such taxes as is mentioned in section one of this act, as amended, he shall charge no fees, costs nor interest, if redeemed on or before June thirtieth, one thousand nine hundred thirty-four, after which date all such redemptions shall be made as provided in section thirty, article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one. The auditor shall make written reports every thirty days to the assessor of each county in this state of all forfeited lands redeemed, and upon the payment of such taxes to the auditor as aforesaid he shall execute triplicate receipts, retain and file one in his office and deliver two thereof, including the original, to the party paying the same in the following form or to the following effect:

.....19....

Received of.....,

.....dollars in full payment of all taxes assessed against.....acres of land situate on.....in .....district, county of .....for the year(s) .....

.....

(here give the years for which delinquent and/or forfeited) in the name of.....

which are the total taxes assessed against the same, which payment is made by virtue of chapter sixteen, acts of the first extraordinary session, one thousand nine hundred thirty-three, as amended by the second extraordinary session thereof.

.....

Auditor of West Virginia.

CHAPTER 46

(House Bill No. 78—By Mr. Stout)

AN ACT to extend the time for redemption of real estate as provided in sections sixteen and thirty, respectively, article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, sold or to be sold for the nonpayment of taxes and purchased by individuals or the state, for each of the years one thousand nine hundred twenty-nine, one thousand nine hundred thirty, one thousand nine hundred thirty-one and one thousand nine hundred thirty-two; and to extend the time in which the auditor may certify to the commissioner of school lands lists of lands purchased for the state at sales thereof for taxes, as provided in section five, article three, chapter thirty-seven of the code of West Virginia, and not heretofore certified; and to extend the time in which the commissioner of school lands shall start proceedings against all forfeited lands heretofore certified to him.

[Passed December 9, 1933; in effect from passage. Approved by the Governor.]

SEC.
1. Extension of time for redemption of real estate sold for nonpayment of taxes and purchased by individuals.
2. Extension of time for auditor's certificates to commissioner of school lands of lands purchased by state at tax sales; extension of time for suits against forfeited lands by commissioner of school lands.

Be it enacted by the Legislature of West Virginia:

Section 1. The time within which real estate sold for the nonpayment of taxes and purchased by individuals may be redeemed, and the time within which a deed may be procured therefor, as provided in section sixteen, article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, for each of the years one thousand nine hundred twenty-nine, one thousand nine hundred thirty, shall be extended for a period of three years, from the time now fixed by statute, and, for the year one thousand nine hundred thirty-one, shall be extended for a period of two years, and, for the year one thousand nine hundred thirty-two shall be extended for a period of one year, from the time now fixed by statute.

Sec. 2. The time within which the auditor shall certify to the commissioner of school lands of the proper counties copies of the

certificates of the clerks of the county courts of such counties of lands purchased for the state at sales thereof for taxes, as provided in section five, article three, chapter thirty-seven, of the code of West Virginia, one thousand nine hundred thirty-one, shall be extended for a period of three years in addition to the time now fixed by statute. The commissioner of school lands shall cause no proceedings to be started against any forfeited lands, heretofore certified to him, by the auditor, for a period of three years, from the taking effect hereof, except at the instance and request of the owner or owners of any particular tract or tracts or of a redeemable interest herein to enable such owner or owners to redeem such tract or tracts, or unless the court for good reasons otherwise orders and directs.

CHAPTER 47

(House Bill No. 82—By Mr. Beacom)

AN ACT to amend and reenact section ten, chapter sixteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to redemption of delinquent lands.

[Passed February 7, 1934; in effect from passage. Approved by the Governor.]

SEC.
10. Time for redemption of real estate sold to the state for nonpayment of taxes for the years 1929-1932 and prior years extended to June 3, 1935.

Be it enacted by the Legislature of West Virginia:

That section ten, chapter sixteen, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 10. The time within which real estate sold for the nonpayment of taxes and purchased by the state may be redeemed as provided in section thirty, article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, for each of the years one thousand nine hundred twenty-nine, one thousand nine hundred thirty, one thousand nine hundred thirty-one and one thousand nine hundred thirty-two, and all years prior thereto shall be extended until June third, one thousand nine hundred thirty-five.

CHAPTER 48

(House Bill No. 124—By Mr. Thomas)

AN ACT to amend and reenact sections fifteen and sixteen, chapter twenty-five, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to sewage works of municipal corporations.

[Passed December 20, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
15. Provisions of ordinance required before issuance of bonds for construction of municipal sewage works; the sinking fund established from net revenues to be remitted to and administered by state sinking fund commission; fund for extensions or betterments.
16. Governing body to establish just rates for use of sewage works; sufficiency and readjustment of rates; public hearing, after published notice, on, and before adoption of, ordinance fixing rates; schedule of rates kept on file; extension of rates to additional premises, without notice; procedure when rates readjusted; lien of charges on premises served; action for recovery of service charges.

Be it enacted by the Legislature of West Virginia:

That sections fifteen and sixteen, chapter twenty-five, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 15. At or before the issuance of any such bonds the governing body shall by said ordinance create a sinking fund, to be remitted to and administered by the state sinking fund commission, for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid by the board into said sinking fund at intervals to be determined by ordinance prior to issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all bonds mature at one time, the proper maintenance of a sinking fund in such amounts as are necessary and sufficient for the payment thereof at such time; (d) a margin for safety and for the payment of prem-

iums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten per cent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenue of the works. Prior to the issuance of the bonds the board may by ordinance be given the right to use or direct the state sinking fund commission to use such sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into the sinking fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months and for depreciation, into the sinking fund or into a fund for extensions, betterments and additions to the works. The amounts of the balance of the net revenue as and when so set apart shall be remitted to the state sinking fund commission to be retained and paid out by said commission consistent with the provisions of this act and with the ordinance pursuant to which such bonds have been issued. The state sinking fund commission is hereby authorized to act as fiscal agent for the administration of such sinking fund, under any ordinance passed pursuant to the provisions of this act, and shall invest all such sinking funds as provided by general law.

Sec. 16. The governing body shall have power, and it shall be its duty, by ordinance, to establish and maintain just and equitable rates or charges for the use of and the service rendered by such works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses such works by or through any part of the sewerage system of the municipality, or that in any way uses or is served by such works, and may change and readjust such rates or charges from time to time. Such rates or charges shall be sufficient in each year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of

the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others interested shall have an opportunity to be heard concerning the proposed rates or charges. After introduction of the ordinance fixing such rates or charges, and before the same is finally enacted, notice of such hearing, setting forth the proposed schedule of such rates or charges, shall be given by one publication once each week for two consecutive weeks in two newspapers of opposite political faith published in such municipality, or in one newspaper, if only one political faith is represented by newspapers in the said municipality, at least ten days before the date fixed in such notice for the hearing, which may be adjourned from time to time, and if no newspaper be published in such municipality, the notice shall be published as aforesaid in two newspapers of opposite political faith, if there be such published in the county within which such municipality is embraced, once each week for two consecutive weeks. After such hearing the ordinance establishing rates or charges, either as originally introduced or as modified and amended, shall be passed and put into effect. A copy of the schedule of such rates and charges so established shall be kept on file in the office of the board having charge of the operation of such works, and also in the office of the clerk of the municipality, and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinbefore provided: ***Provided, however,*** That if such change or readjustment be made substantially pro rata, as to all classes of service, no hearing or notice shall be required. The aggregate of the rates or charges shall always be sufficient for such expense of operation, repair and maintenance and for such sinking fund payments. All such rates or charges, if not paid when due, shall constitute a lien upon the premises served

by such works. If any service rate or charge so established shall not be paid within thirty days after the same is due, the amount thereof, together with a penalty of ten per cent, and a reasonable attorney's fee, may be recovered by the board in a civil action in the name of the municipality, and in connection with such action said lien may be foreclosed against such lot, parcel of land or building, in accordance with the laws relating thereto.

CHAPTER 49

(House Bill No. 125—By Mr. Thomas)

AN ACT to amend and reenact sections three, five, six, seven and ten, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to waterworks systems of municipal corporations.

[Passed January 19, 1934; in effect from passage. Approved by the Governor.]

SEC.
3. Ordinance required before issuance of bonds to construct municipal waterworks system; form, negotiability, exemption from taxation, interest rate and due dates of bonds; bonds a statutory mortgage lien on system; purposes and sufficiency of service rates.
5. Amount, form and negotiability of bonds.
6. Bonds not a municipal debt but payable solely from revenues of system; additional bonds.
7. Bonds a statutory mortgage lien on system; enforcement; receivership upon default; enforcement of lien of bonds issued to acquire existing waterworks system.
10. Procedure for bonds and rates for improvements same as for construction or acquisition; obligation of existing lien or contract not to be impaired in construction of improvements.

Be it enacted by the Legislature of West Virginia:

That sections three, five, six, seven and ten, chapter twenty-six, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 3. Whenever the municipality shall determine to acquire (by purchase or otherwise), improve or construct a waterworks system under the provisions of this act, it shall cause an estimate to be made of the cost thereof, and shall, by ordinance, provide for the issuance of revenue bonds under the provisions of this act, which ordinance shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, rate of interest, time and place of payment,

and other details in connection with the issuance of the bonds. Such bonds shall be in such form and shall be negotiated in such manner and upon such terms as the governing body of such city or town may by ordinance specify. All such bonds shall be exempt from taxation by the state of West Virginia or any county or municipality therein. Such bonds shall bear interest at not more than six per cent per annum, payable semi-annually, and shall be payable at such times and place not exceeding thirty-four years from their date, as shall be prescribed in the ordinance providing for their issuance. Such ordinance shall also declare that a statutory mortgage lien shall exist upon the property so to be acquired, improved or constructed, fix a minimum rate or rates for water to be collected prior to the payment of all of said bonds and shall pledge the revenues derived from the waterworks system for the purpose of paying such bonds and interest thereon, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of, and interest on the bonds and the proportion of the balance of such revenues and income which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reasonable and proper operation thereof. The rates to be charged for the services from such waterworks shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof as and when the same become due, and to provide for the operation and maintenance of the system, and to provide an adequate depreciation fund.

Sec. 5. Bonds herein provided for shall be issued in such amounts as may be necessary to provide sufficient funds to pay all costs of construction, improvement or acquisition, including engineering, legal and other expenses, together with interest to a date six months subsequent to the estimated date of completion. Bonds issued under the provisions of this act are hereby declared to be negotiable instruments, and same shall be executed by the proper legally constituted authorities of the municipality and be sealed with the corporate seal of the municipality, and in case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in

office until such delivery. Said bonds shall not be negotiated at a price lower than a price which computed to maturity upon standard tables of bond values will show a net return of six per cent per annum to the purchaser upon the amount paid therefor.

Sec. 6. Bonds issued under the provisions of this act shall be payable solely from the revenues derived from such waterworks system, and such bonds shall not in any event constitute an indebtedness of such municipality within the meaning of the constitutional provisions or limitations, and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this act, and that it does not constitute an indebtedness of such municipality within any constitutional or statutory limitation. The ordinance authorizing the issuance of the bonds may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be deemed necessary or advisable for the assurance of payment of the bonds thereby authorized and as may thereafter be issued.

Sec. 7. There shall be and there is hereby created a statutory mortgage lien upon the waterworks system so acquired, improved or constructed from the proceeds of bonds hereby authorized to be issued, which shall exist in favor of the holder of said bonds and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such waterworks system shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred, and may, by proper suit, compel the performance of the duties of the officials of the issuing municipality set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer said waterworks system on behalf of the municipality with power to charge and collect rates sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses and to apply the income and revenues in conformity with this act and the ordinance providing for the issuance of such bonds.

Any municipality in acquiring an existing waterworks system may provide that payment thereof shall be made by issuing revenue bonds and delivering same at such prices as may be

agreed upon within the limitations as prescribed in section five hereof as amended. Any revenue bonds so issued in payment for such an existing waterworks shall for all purposes be regarded as partaking of the nature of and as being secured by purchase money mortgage upon the property so acquired; and the holders thereof shall have, in addition to any other remedies and rights prescribed by this act, such remedies and rights as may now or hereafter exist in law in the case of purchase money mortgages.

Sec. 10. Whenever any municipality now or hereafter shall own and operate a waterworks system, whether constructed under the provisions of this act or not, and shall desire to construct improvements and betterments thereto, it may issue revenue bonds under the provisions of this act to pay for same, and the procedure therefor, including the fixing of rates and the computation of the amount thereof, shall be the same as in this act provided for the issuance of bonds for acquisition or construction of a waterworks system in a municipality which has not heretofore owned and operated a waterworks system: *Provided, however,* That nothing in this act shall be construed as authorizing any municipality to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention being to authorize the pledging, setting aside and segregation of such revenues for the construction of such improvements and betterments only where and to the extent consistent with outstanding obligations of such municipality, and in accordance with the provisions of this act.

CHAPTER 50

(Com. Sub. for House Bill No. 131—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact section fourteen, article three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to the registration of voters for municipal elections.

[Passed March 6, 1934; in effect from passage. Approved by the Governor.]

SEC.
14. Municipal registration of voters not required unless provided by special charter or ordinance; municipal voting precinct boundaries to be same as precinct boundaries fixed by county court; municipal clerk to copy list of county registration; ordinance for correction of list by municipal council and appointment of challengers.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article three, chapter eight of the code of

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

Section 14. No municipality shall be required to register its voters, unless required to do so by its special charter, or unless by ordinance it so provides. In either of such cases the council shall provide by ordinance for making the voting precincts in the several wards of the municipality coincide as to boundaries, as nearly as may be, to the boundaries of the voting precincts fixed by the county court for all state and county elections; and in any year when a county registration of voters is made, the clerk, recorder, or other similar officer of every municipality shall make from the county registration books, after they have been returned by the registrars to the office of the clerk of the county court, a register of voters of such municipality, as part of his official duties, and without additional compensation therefor. The council shall also, in such case, by ordinance specify the times when council shall sit, which shall be not later than the third day preceding an election, for the purpose of examining such register of voters, of adding to such register the names of persons who have not been registered and who will be entitled to vote in the election; of transferring voters from one precinct to another, when proper so to do, and of striking off the name of any person who is no longer entitled to vote in said municipality or who has died. In all such matters the provisions of chapter three of this code with reference to the registration of voters shall govern so far as applicable, except as herein provided, and except, further, that the duties required by said chapter to be performed by the county court shall be performed by the council of the municipality, and those to be performed by the clerk of the county court shall be performed by the clerk, recorder, or other similar officer of the municipality. Such ordinance shall also provide that the two major political parties, through their respective municipal executive committees, acting by their chairmen, may appoint challengers to be present on the days when the council sits for the examination and correction of the register of voters, and for the making of transfers of voters from one precinct to another: *Provided, however,* That the provisions hereof shall not apply

to such municipalities as by their special charters are now, or may hereafter be, required to use as the municipal register of voters the county registration books as made by county registrars and the county court.

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

CHAPTER 51

(House Bill No. 326—By Mr. Randolph)

AN ACT to amend an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, and known as house bill number two hundred thirty-four, relating to tax levies, by adding thereto a new section to be known as section nineteen-(a).

[Passed February 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
19-(a). When municipality, with consent of tax commissioner, may [SEC.] for current expenses, levy rates apportioned for debts.

Be it enacted by the Legislature of West Virginia:

That an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, known as house bill number two hundred thirty-four, relating to tax levies, be amended by adding thereto a new section to be known as section nineteen-(a), to read as follows:

Section 19-(a). When the levy rates apportioned to municipalities for debt purposes are not required in whole or in part therefor, and there is no other taxing district, which in keeping with the principles of equality and uniformity as herein provided, can use such remainder of rates, or the same is not required by any other taxing district, the municipality may then utilize the balance of such debt levies, unused and not required for debt purposes, for current expense purposes, when required therefor, provided the consent of the tax commissioner be had.

CHAPTER 52

(Senate Bill No. 82—Originating in the Senate Committee on Redistricting)

AN ACT to amend and reenact section three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, relating to congressional districts.

[Passed March 13, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.
3. State membership in the house of representatives in the congress arranged into six congressional districts.

Be it enacted by the Legislature of West Virginia:

That section three, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 3. The number of members to which the state is entitled in the house of representatives of the congress of the United States shall be apportioned among the several counties of the state, arranged into six congressional districts, numbered as follows, that is to say:

First District: Consisting of the counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion and Taylor.

Second District: Monongalia, Preston, Barbour, Webster, Pocahontas, Randolph, Tucker, Pendleton, Grant, Hardy, Mineral, Hampshire, Morgan, Berkeley and Jefferson.

Third District: Ritchie, Doddridge, Harrison, Calhoun, Gilmer, Lewis, Upshur, Braxton, Clay, Nicholas and Fayette.

Fourth District: Tyler, Pleasants, Wood, Wirt, Jackson, Roane, Mason, Putnam, Cabell, Wayne and Lincoln.

Fifth District: Mingo, Wyoming, McDowell, Mercer, Summers, Monroe and Greenbrier.

Sixth District: Kanawha, Boone, Logan and Raleigh.

CHAPTER 53

(House Bill No. 24—By Mr. Pelter)

AN ACT to amend and reenact section two, article two, chapter one of the code of West Virginia, one thousand nine hundred thirty-one, relating to apportionment of membership of House of Delegates.

[Passed March 14, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
2. Membership in the House of Delegates limited to ninety-four and apportioned among the various counties of the state.

Be it enacted by the Legislature of West Virginia:

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

Section 2. The house of delegates shall consist of ninety-four members, who shall be apportioned as follows:

The counties of Barbour, Berkeley, Boone, Braxton, Brooke, Calhoun, Clay, Doddridge, Gilmer, Grant, Hampshire, Hancock, Hardy, Jackson, Jefferson, Lewis, Lincoln, Mason, Mineral, Monroe, Morgan, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wetzel, Wirt and Wyoming shall have one delegate each.

The counties of Greenbrier, Marshall, Mingo, Monongalia and Wayne shall have two delegates each.

The counties of Logan, Marion, Mercer, Raleigh and Wood shall have three delegates each.

The counties of Fayette, Harrison and Ohio shall have four delegates each.

The counties of Cabell and McDowell shall have five delegates each.

The county of Kanawha shall have eight delegates.

CHAPTER 54

(Com. Sub. for Senate Bill No. 14—Originating in the Senate Committee on the Judiciary)

AN ACT to amend and reenact section eight, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the ownership of property for the purpose of taxation.

[Passed February 22, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
8.	Ownership of real property for taxation purposes; when mortgagee or trustee deemed owner; mortgaged personal property;		reserve funds of annuity or other designated companies not taxable property of such companies.

Be it enacted by the Legislature of West Virginia:

That section eight, article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted to read as follows:

Section 8. As to real property the person who by himself or his tenants has the freehold in his possession, whether in fee or for life, shall be deemed the owner for the purpose of taxation. A person who has made a mortgage or trust deed to secure a debt or liability shall be deemed the owner until the mortgagee or trustee takes possession, after which such mortgagee or trustee shall be deemed the owner. Personal property mortgaged or pledged shall, for the purpose of taxation, be deemed the property of the party who has the possession: *Provided, however*, That the reserve funds required in compliance with the terms and conditions of policies and contracts of domestic life insurance, annuity, investment and savings contract companies, complying with the requirements of chapter thirty-three of the code, shall not be deemed taxable property of such companies.

CHAPTER 55

(Com. Sub. for Senate Bill No. 48—Originating in the Senate Committee on the Judiciary)

AN ACT to repeal section seven, chapter sixteen, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to liens for money borrowed to pay taxes.

[Passed December 21, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Repealing section seven, chapter sixteen, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, providing for lien for money borrowed to pay taxes.		

Be it enacted by the Legislature of West Virginia:

Section 1. Section seven, chapter sixteen, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, is hereby repealed.

*CHAPTER 56

(Senate Bill No. 49—By Mr. Hodges)

AN ACT to amend and reenact section seven, article nine, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twelve, acts of the Legislature, extraordinary session, one thousand nine hundred thirty-two, and add thereto section seven-(a), relating to tax levies and collections, and providing for the collection of municipal taxes by the sheriff.

[Passed December 15, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
7.	Semi-annual collection of taxes by sheriff; discount and interest; assessor to extend levies for, and sheriff to collect municipal taxes.	7-(a).	After collecting eighty-five per cent of taxes, sheriff to receive commission of one and one-half per cent on remainder collected before delinquent list approved by county court.

Be it enacted by the Legislature of West Virginia:

That section seven, article nine, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended and reenacted by chapter twelve, acts of the Legislature, extra-

*Amended by chapter fifty-seven, acts of this session.

ordinary session, one thousand nine hundred thirty-two, be amended and reenacted to read as follows and add thereto section seven-(a):

Section 7. All taxes assessed on real and personal property by the state, county court, boards of education and municipal corporations, beginning with taxes assessed for the year one thousand nine hundred thirty-three, shall be collected by the sheriff and may be paid in two equal installments; the first installment shall be payable on or before November first of the year in which the assessment is made; the second installment shall be payable on or before the first day of the following May. All taxes paid on or before the date such taxes are payable, including both first and second installments, shall be subject to a discount of two and one-half per centum. If the first installment is not paid before December first of any year, interest at the rate of nine per centum per annum shall be added from said December first until paid; if the second installment is not paid before June first, interest at the rate of nine per centum per annum shall be added from said June first until paid. The sheriff shall, on the first day of December and the first day of June following the year for which the taxes were levied, proceed immediately to collect the taxes then due.

The sheriff shall pay all money collected from the levies of any municipal corporation to the treasurer of such municipal corporation, which payment shall be made by him monthly on the first day of each month for all taxes collected during the preceding month.

It shall be the duty of the assessor to extend the levies of municipalities on the land and personal property books at the same time as other levies are extended.

Nothing contained herein shall, in any way, set aside the provisions of house bill sixty-three, relating to the time of payment and the allowance of discount for taxes assessed for the year one thousand nine hundred thirty-three.

Sec. 7-(a). After the sheriff has collected eighty-five per cent of all taxes assessed on real and personal property, he shall, in addition to the salary and compensation now authorized by law, be allowed a commission of one and one-half per cent on the remainder of the taxes actually collected, exclusive of

interest thereon, if the collection be made before the delinquent list has been approved by the county court. The commission so allowed shall be determined by the county court and charged against the various funds for which the taxes are collected. All acts and parts of acts, general and special, inconsistent with this act, are hereby repealed.

CHAPTER 57

(Senate Bill No. 134—By Mr. Hodges)

AN ACT to amend and reenact section seven, article nine, chapter eleven of an act of the Legislature of West Virginia, known as senate bill number forty-nine, passed December fourteenth, second extraordinary session, one thousand nine hundred thirty-three, relating to tax levies and collections, and providing for the collection of municipal taxes by the sheriff.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
7. Semi-annual collection of taxes by sheriff, discount and interest; assessor to extend levies for, and sheriff to collect and account for municipal taxes; sheriff's bond for municipal collections to be approved, and premium on, paid by council.

Be it enacted by the Legislature of West Virginia:

That section seven, article nine, chapter eleven, of an act of the legislature of West Virginia, passed December fourteenth, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 7. All taxes assessed on real and personal property by the state, county court, boards of education and municipal corporations, beginning with taxes assessed for the year one thousand nine hundred thirty-three, shall be collected by the sheriff, and may be paid in two equal installments; the first installment shall be payable on or before November first of the year in which the assessment is made; the second installment shall be payable on or before the first day of the following May. All taxes paid on or before the date such taxes are payable, including both first and second installments, shall be subject to a discount of two and one-half per centum. If the first installment is not paid before December first of any year, interest at the rate of nine per centum per annum shall be added from said December first until paid; if the second installment is not paid before

June first, interest at the rate of nine per centum per annum shall be added from said June first until paid. The sheriff shall, on the first day of December and the first day of June following the year for which the taxes were levied, proceed immediately to collect the taxes then due.

The sheriff shall pay all money collected from the levies of any municipal corporation to the treasurer of such municipal corporation, which payment shall be made by him monthly on the first day of each month for all taxes collected during the preceding month, and for the faithful performance of his duties in this respect, the sheriff shall execute a bond, to be approved by the municipal council, in the penalty to be fixed by the council, the premiums thereon to be paid by the municipal council, not to exceed the amount of such municipal taxes estimated to be collected by the sheriff within any period of sixty days.

It shall be the duty of the assessor to extend the levies of municipalities on the land and personal property books at the same time as other levies are extended.

Nothing contained herein shall, in any way, set aside the provisions of section thirty-two of house bill number two hundred thirty-four, as amended and reenacted by house bill number three hundred fifty-nine, second extraordinary session, one thousand nine hundred thirty-three.

CHAPTER 58

(Senate Bill No. 58—By Mr. Hodges)

AN ACT to amend and reenact section two, article twenty, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the collection of a head tax on dogs, and providing for the collection by the assessor of such dog taxes as may be levied by municipalities.

[Passed January 17, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
2.	County assessor to assess and collect when assessing personal property, head tax of one dollar on male and two dollars on female dogs and to collect head tax on dogs levied by municipal ordinances; procedure when tax not paid to assessor or sheriff; assessment of dogs as personal property by owner; accounting by assessor, less ten per cent commission, for collections; use of taxes so collected to reimburse sheep, etc., owners for damage by dogs; annual transfer of unexpended balances to teachers' fund.		

Be it enacted by the Legislature of West Virginia:

That section two, article twenty, chapter nineteen of the code of

West Virginia, one thousand nine hundred thirty-one, relating to the collection of a head tax on dogs, be amended and reenacted so as to read as follows:

Section 2. It shall be the duty of the county assessor and his deputies of each county within this state, at the time they are making assessment of the personal property within such county, to assess and collect a head tax of one dollar on each male dog and two dollars on each female dog found within their jurisdiction, and in addition to the above, the assessor and his deputies shall have the further duty of collecting any such head tax on dogs as may be levied by the ordinances of each and every municipality within the county. In the event that the owner, keeper, or person having in his possession or allowing to remain on any premises under his control any dog above the age of eight months, shall refuse or fail to pay such tax, when the same is assessed, or within fifteen days thereafter, to the assessor or deputy assessor, then such assessor or deputy assessor shall certify such tax to the sheriff of his county who shall take charge of the dog for which the tax is delinquent and impound the same for a period of fifteen days, for which service he shall be allowed a fee of one dollar and fifty cents to be charged against such delinquent taxpayer in addition to the taxes herein provided for. In case the tax and impounding charge herein provided for shall not have been paid within the period of fifteen days, then the sheriff may sell the impounded dog and deduct the impounding charge and the delinquent tax from the amount received therefor, and return the balance, if any, to the delinquent taxpayer. Should the sheriff fail to sell the dog so impounded within the time specified herein, he shall kill such dog and dispose of its body. In addition to the head tax on dogs, the owner of any dog above the age of eight months shall be permitted to place a value upon such dog and have such dog assessed as other personal property. The assessor collecting the head tax on dogs shall be allowed a commission of ten per cent upon all such taxes collected by him, and shall turn in to the county treasury ninety per cent of such taxes so collected, as are levied by this section, and he shall turn over to the treasurer or other proper officer of each and every municipality within the county ninety per cent of such taxes levied by the ordinances of such municipality. All such dog taxes, except those belong-

ing to municipalities, shall be credited to a fund in the county treasury for the compensation of persons who have suffered loss or damage on account of the destruction, loss, or injury by dogs of any sheep, lamb, goat, or kid, and claims for such loss or damage shall be presented to and allowed, when satisfactorily proven, by the county court, and said court shall issue drafts payable out of said fund in settlement of such claims, together with the compensation allowed to the sheriff for killing and burying dogs, when such claims cannot be by law collected from the owner or keeper of such dog or dogs. Such dog taxes as are collected for and turned over to municipalities shall be deposited by the proper officer of such municipality to such fund and shall be expended in such manner as the law of such municipality may provide.

Any surplus of such funds remaining unexpended in the county treasury and not needed for the payment and satisfaction of claims and expenses under the provisions of this article shall be annually paid into and credited to the teachers' fund of the county school district. But the funds thus used shall be in amount deemed proper and safe in the judgment and discretion of the county court.

CHAPTER 59

(House Bill No. 2—By Mr. Righter, by request)

AN ACT to amend and reenact section one, article seven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the collection of capitation taxes.

[Passed December 21, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County assessor, making personal property assessment, to collect from males over twenty-one years of age, school and state road capitation taxes of one dollar each and also municipal capitation taxes; procedure by assessor if capitation taxes not paid; accounting to auditor and municipalities for collections; civil war veterans exempt; reports by assessor to county courts and municipal councils, at levy terms, of collections; subsequent collections to be made by sheriff; liability of assessor and/or sheriff for non-collection; assessor's bond for collections; duty of tax commissioner and municipality as to tax tickets, etc.; when assessor, or deputies, guilty of embezzlement.

Be it enacted by the Legislature of West Virginia:

That section one, article seven, chapter eleven of the code of

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

Section 1. While making the assessment required in article three of this chapter, it shall be the duty of the assessor and deputies to see every person in his county who is liable to taxation therein upon property or capitation, and obtain from him a sworn statement in writing of his personal property, but it shall likewise be the duty of every person liable to taxation to make a report in writing of his property to the assessor, whether called upon to do so or not; he shall at the same time collect from every male person, over the age of twenty-one years, liable therefor, a capitation tax of one dollar for the support of free schools; and the assessor shall also collect the state road capitation tax of one dollar from all persons liable therefor, as required by section twenty-three, article ten, chapter forty, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, as amended, and deliver to such person a receipt therefor; and the assessor shall also collect any municipal capitation taxes levied for any purposes whatsoever, from all persons liable therefor, and deliver to such person a receipt therefor; in case any person liable therefor shall fail or refuse to pay such capitation. the assessor shall levy upon and take into his possession property or effects of the delinquent sufficient to pay such capitation taxes and the cost of levy and sale; the assessor shall have, as to such capitation taxes, the same powers of levy and sale of collection as is vested in the sheriff for the collection of taxes and he shall be entitled to the same fees: the assessor shall, not later than the fifteenth day of each month, turn over to the auditor the full amount of all capitations for both state school purposes and for the state road fund collected by him during the previous month and not paid over, and the auditor shall, within ten days after the receipt of said capitations, pay to the assessor ten per cent of all such capitations so collected and remitted for compensation to the assessor for his services in making collection and remittance aforesaid; the assessor shall, not later than the fifteenth day of each month, turn over to the treasurer or other proper official of each and every municipality within the county the full amount of all municipal capitations collected by him during the previous month and not paid over, and the said treasurer or other proper official shall, within

ten days after the receipt of said capitations pay to the assessor five percent of all such capitations so collected and remitted for compensation to the assessor for his services in making collections and remittance aforesaid: *Provided, however,* That the assessor shall not be entitled to receive any commission on collections if he shall fail to account for and turn over, within the time herein fixed, any money collected by him under the provisions of this section: *Provided further,* That all soldiers and sailors who are residents of West Virginia, and who served in either the union or the confederate army during the civil war, shall be exempt from paying capitation taxes of any kind in this state. At the levy term of the county court the assessor shall make report to such court of all capitations collected for state school purposes and all capitations collected for state road purposes and at the levy term of the municipal governing body of each and every municipality within the county, the assessor shall make report to such body of all capitations collected for municipal purposes; and such report to the county court and to each municipal governing body shall include the names of those from whom collected, the names of all delinquents, and the cause of delinquency in each case. Such reports shall be verified by the affidavit of the assessor. Such assessor shall not thereafter for the year have authority to collect capitations, but a copy of such reports shall be by the county court and each municipal governing body within the county, turned over to the sheriff, who shall forthwith proceed to collect all capitation, both for state school purposes and for the state road fund and for municipal purposes remaining unpaid whether or not they appear upon such report; the assessor shall be charged by the county court and by each municipal governing body within the county with all delinquencies appearing in such reports and likewise with all delinquencies not reported by him but afterwards ascertained or reported by the sheriff, or ascertained in any other way, and credited with all collections on that account made and paid over to the sheriff; he shall also be credited with such delinquencies as the county court and each municipal governing body within the county shall be satisfied could not have been collected either by the assessor or sheriff, by the exercise of due diligence, and, in case the sheriff shall fail to use due diligence in the ascertainment and collection of such delinquencies, he and

his sureties, on his official bond, shall be liable to the assessor for all damages sustained by him, on that account; the assessor shall, in addition to other bonds required of him, give bond in a penalty to be fixed by the county court, of not less than four thousand nor more than twenty thousand dollars, and to the municipal governing body of each municipality within the county, the assessor shall, in addition to other bonds required of him, give bond in a penalty to be fixed by such municipal governing body of not less than five hundred dollars nor more than twenty thousand dollars, and such bonds shall be conditioned for the faithful performance of his duties under this chapter.

It shall be the duty of the tax commissioner to prepare and furnish to the assessors all tickets, blanks and forms necessary for the purpose of this section: *Provided, however,* That each municipality shall furnish to the assessor of the county all tickets, blanks, and forms necessary for municipal purposes under this section; the tickets so furnished shall be numbered consecutively, and the assessor shall account for each ticket furnished him, as well as for the taxes collected.

Any assessor, assessors or deputy assessors failing to account for and turn over, within the time herein fixed, any money or moneys collected by them under the provisions of this section, shall be guilty of embezzlement.

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

CHAPTER 60

(Senate Bill No. 132—By Mr. Abbot, by request)

AN ACT to amend and reenact sub-section (c), section five, article XII-A, chapter thirty-three, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, imposing a privilege tax on railroad car corporations and on express companies.

[Passed March 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
5. (sub-section c.) Tax of one and one-half per cent on net incomes of railroad car corporations and express companies earned within state; determination of amount; tax not to apply to railroad freight car corporations not owned by railroad corporations or subsidiaries.

Be it enacted by the Legislature of West Virginia:

(c) The tax as to railroad car corporations and as to express corporations or companies shall be one and one-half per cent of net income earned within the state, such income to be determined by ascertaining a sum bearing the proportion to the total net income of the corporation or company that its business done in West Virginia, measured in car-mile of car operation, bears to all business done, measured in like fashion: *Provided, however,* That nothing in this act shall be construed as applying to railroad freight car corporations not owned by railroad corporations or their subsidiaries.

CHAPTER 61

(House Bill No. 43—By Mr. Beacom)

AN ACT to amend and reenact sections ninety-three, ninety-three-(a) and ninety-five, chapter twenty of the acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, relating to the issuance of licenses to manufacturers, brewers, distributors, package dealers and dispensers

of nonintoxicating beer, reports to be made to the tax commissioner and payment of license taxes and the raising of revenues therefrom.

[Passed January 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
93. License tax on package dealers in, dispensers, manufacturers, brewers and distributors of nonintoxicating beer; barrel tax on beer manufactured within or without the state; separate tax for each place of business; tax on social, etc., clubs; tax on dining, etc., cars.
93-(a). Manufacturers or wholesale distributors to have no interest in sale or dispensing of beer under package dealer's or dispenser's license or in equipment used in such connection.
95. Application to tax commissioner for license; non-renewal of license; yearly sworn statement to tax commissioner by package dealer or dispenser; bond of manufacturer, brewer or distributor; sale of collateral security given in lieu of bond; monthly report and tax payment by manufacturer, brewer or distributor.

Be it enacted by the Legislature of West Virginia:

That sections ninety-three, ninety-three-(a) and ninety-five, chapter twenty of the acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 93. There is hereby levied and imposed upon package dealers, as herein defined, an annual license tax of fifty dollars, and upon dispensers, as herein defined, an annual license tax of one hundred dollars. There is hereby levied and imposed upon manufacturers or brewers, as herein defined, manufacturing nonintoxicating beer within this state, an initial license tax of five hundred dollars per year, and whether such nonintoxicating beer be kept or sold in barrels or other containers, an additional tax of one dollar on each barrel of thirty-one gallons, and in like ratio on each part barrel so manufactured in this state. There is hereby levied and imposed upon distributors, as herein defined, an initial license tax of two hundred fifty dollars per year, and an additional tax of one dollar on each barrel, and in like ratio on each part barrel of nonintoxicating beer, whether distributed in barrels or other containers, so distributed in this state: *Provided, however*, That the barrel tax herein levied shall, as to nonintoxicating beer made in West Virginia, be paid by the manufacturer or brewer, and the barrel tax on nonintoxicating beer made outside of West Virginia shall be paid by the original consignee thereof within this state, who shall be deemed the distributor for the purposes of this act, and required to take out

a license as such, and the issuance of such distributor's license shall operate as a forfeiture of any package dealer's or dispenser's license held by him; and no nonintoxicating beer manufactured, sold or distributed in West Virginia shall be subject to more than one barrel tax.

Each such package dealer, dispenser, manufacturer or brewer and distributor being engaged in the business of selling, delivering or otherwise distributing nonintoxicating beer, and having more than one place of business within the state of West Virginia, shall pay the full amount of the initial tax hereby imposed for each such place of business: *Provided, further,* That any social, fraternal or business clubs not operating for profit, and having been in continuous operation for five years or more prior to the enactment of this law, shall pay an annual license tax of fifty dollars, as a dispenser hereunder: *And provided further,* That railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of ten dollars for each dining, club or buffet car in which it is dispensed.

Sec. 93-(a). No person, firm or corporation having an interest in the manufacture or wholesale distribution of nonintoxicating beer shall be permitted, either directly or indirectly, to be connected with, or have an interest in the sale or dispensing of nonintoxicating beer, either under a package dealer or a dispenser's license, or any interest, whatsoever, in any equipment used in connection with the sale or dispensing of nonintoxicating beer.

Sec. 95. All licenses under this act for manufacturers, brewers, distributors, package dealers and dispensers shall be issued by the tax commissioner upon the filing of the application herein required except that such tax commissioner shall not be required to renew the licenses of any such manufacturer, brewer, distributor, package dealer or dispenser who shall have failed and refused to comply with any of the provisions of this act, or any lawful regulation of the tax commissioner with relation to such business, during the time when any such applicant shall have operated under any license theretofore issued to him.

Every such package dealer or dispenser, on or before the first day of July of any year, shall make out and deliver to the

state tax commissioner, on the blank to be furnished by the commissioner for that purpose, a statement showing the name of such package dealer or dispenser, a brief and accurate description of the place or places where his business as such package dealer or dispenser is conducted and by whom owned. Such statement shall be signed and sworn to before a notary public or other officer empowered to administer oath.

Every manufacturer, brewer and distributor applying for license under this act shall, in addition to furnishing the information required in the last preceding section, furnish a bond in some solvent surety company to be approved by the tax commissioner, payable to the state of West Virginia, in the minimum amount of one thousand dollars, and, within the discretion of the tax commissioner, in the maximum amount of ten thousand dollars, conditioned for the payment of any and all additional taxes accruing during the period of such license. In lieu of such bond, a manufacturer, brewer or distributor may deposit securities of the United States of America, the state of West Virginia, or any subdivision thereof, to be approved by the tax commissioner, in such amount as he may prescribe, for which security the tax commissioner shall execute a receipt showing the purpose for which the same were deposited, and which security shall be kept in the joint custody of the state treasurer and the state tax commissioner and may be sold by the state tax commissioner if it becomes necessary so to do, in order to recover any sums due from such manufacturer, brewer or distributor pursuant to this article; but no such sale shall be had until after such manufacturer, brewer and distributor shall have had an opportunity to litigate the validity of any tax, if he elects so to do. In any such sale, a surplus, if any, above the sum due under this article, shall be returned to such manufacturer, brewer or distributor. Such sale shall be made by the state tax commissioner at his office in the state capitol and shall not be made until at least ten days' notice thereof shall have been mailed by registered letter to the manufacturer, brewer or distributor at the place of business named in his license. And the state tax commissioner may give such other notice of such sale as he may deem necessary.

On or before the tenth day of each calendar month during the license period, every such manufacturer, brewer or distributor shall make a report in writing under oath to the tax

55 commissioner, in such form as may be required by the tax com-
56 missioner, showing the number of barrels of nonintoxicating
57 beer manufactured or distributed by such manufacturer, brewer
58 or distributor for the preceding calendar month, or part thereof
59 during which such manufacturer, brewer or distributor was
60 engaged in business, and at the same time pay the tax thereon
61 levied by this act.

*CHAPTER 62

(Com. Sub. for House Bill No. 63—Originating in House Committee on the Judiciary)

AN ACT to amend and reenact chapter thirty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, entitled: "An act to amend sections one to fifteen, inclusive, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, by substituting therefor sections one to twenty-six, inclusive, relating to tax levies", by substituting therefor sections one to twenty-five, inclusive.

[Passed December 9, 1933; in effect from passage. Approved by the Governor.]

SEC.

1. Declaration by the Legislature that this act is the only solution of the problem of orderly functions of government dealing with the operation of public schools and counties; payment of bond issues of political subdivisions, except municipalities, issued prior to November 8, 1932, from taxes on privileges, franchises, etc., levied by the Legislature; political subdivisions not relieved from payment of bonded indebtedness; state not to assume the debt of any political subdivision.
2. State levy of one cent on each one hundred dollars valuation of real and personal property subject to taxation.
3. Classification of property for local levy purposes.
4. Meetings of local levying bodies.
5. Levy estimates by county court; publication and forwarding to tax commissioner; adjourned meeting to hear objections to estimates; correction of estimate and levy; approval by tax commissioner; amount of levies by classifications.
6. Copies of levy order to tax commissioner, state auditor, etc.; duties of clerk, assessor and sheriff; collections and delinquencies.
7. Levy estimates by boards of education; publication and forwarding to tax commissioner, adjourned meeting to hear objections to estimates; approval by tax commissioner; amount of levies by classifications.
8. Levy orders certified by board to county superintendent and tax commissioner; report by county superintendent.
9. Levy estimates by municipal council; publication and forwarding to tax commissioner; adjourned meeting to hear objections to estimates; approval by tax commissioner; amount of levies by classifications; additional levy for bonded indebtedness; when entire classified levies required for bonded indebtedness, no levy to be laid for current expenses; if maximum levies not required, remainder may be levied for current expenses.
10. Certified copies by municipal recorder to tax commissioner, etc.
11. What order of local levying body for election for increased levy

*See decision of Supreme Court of Appeals—Berry v. Fox, Tax Comr., et al., 172 S. E. 896.

Amended and reenacted by chapter sixty-seven, acts of this session.

SEC.
to show; amount of levy, when authorized by voters.
12. Publication and posting of election notice; form of ballot.
13. Duties of tax commissioner and attorney general as to forms and instructions.
14. Supersedeas to levy order; rescission before or after decision; recovery of money collected before rescission.
15. Use of alloted levies by other taxing districts, with consent of tax commissioner.
16. Funds derived by taxation to be expended only for purpose for which raised.
17. Limitations on expenditures by local fiscal bodies.
SEC.
18. Indebtedness created, etc., in violation of section sixteen, void.
19. Suits to avoid illegal expenditures or obligations.
20. Personal liability of officials for illegal expenditures.
21. Suits against officials for illegal expenditures; disposition of money recovered; recovery of costs.
22. Criminal liability of officials; penalties.
23. Procedure for removal of member of local fiscal body violating provisions of this article.
24. Discounts for prompt payment of taxes.
25. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 1. In order to maintain and preserve those orderly functions of government dealing with the operation and administration of public schools and counties as provided for in the constitution of the state, and it being the judgment of the Legislature that the following is the only solution of this problem consonant with the amendment to the constitution adopted November eighth, one thousand nine hundred thirty-two, and the decisions of the Supreme Court of Appeals thereon and the Legislature finding that only by this method can adequate constitutional levies be made available for the different levying bodies of the state, this act, therefore, contemplates that the payment of the interest, sinking fund and amortization charges of bond issues issued prior to the eighth day of November, one thousand nine hundred thirty-two, of connties, magisterial districts, school districts and other districts, except municipalities, issued for roads, now used as a part of the state road system, and issued for schools, now used as a part of the state free school system, shall be paid from taxes levied by the Legislature on privileges, franchises and incomes of persons and corporations, as authorized by section one, article ten, of the constitution of West Virginia as amended by a vote of the people on the eighth day of November, one thousand nine hundred thirty-

two: *Provided, however,* That should the legislative appropriation for the payment of said interest, sinking fund and amortization charges, in whole or in part, for any reason fail, then the levies hereinafter provided for shall first be applied to the payment of such charges until the same are satisfied.

Nothing contained herein shall be so construed as to relieve any county, magisterial district or school district of its liability for the payment of its outstanding bonded indebtedness.

Nothing herein shall be so construed as to make the state assume or become responsible for the debts or liabilities of any county, magisterial district or school district.

Sec. 2. The board of public works shall lay a levy of one cent on the one hundred dollars' valuation of all real and personal property subject to taxation in the state, the proceeds of which levy shall be paid into the state fund for general revenue. The proper officers shall extend the levy on the property books of their respective counties.

Sec. 3. For the purpose of local levies, property shall be classified as follows:

Class I. All tangible personal property employed exclusively in agriculture, including horticulture and grazing;

All products of agriculture (including livestock) while owned by the producer;

All money and all notes, bonds, bills and accounts receivable, stocks and other intangible personal property.

Class II. All property owned, used and occupied by the owner exclusively for residential purposes;

All farms, including land used for horticulture and grazing, occupied and cultivated by their owners or bona fide tenants.

Class III. All real and personal property situated without municipalities, exclusive of classes I and II.

Class IV. All real and personal property situated within municipalities, exclusive of classes I and II.

Sec. 4. Each local levying body shall hold a session on the first Tuesday in August for the transaction of business generally, and particularly for the business herein required, but for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, such meeting shall be held on the first Tuesday following the first Wednesday after this act becomes effective.

Sec. 5. The county court shall, at the session provided for in section four of this article, make an itemized statement which shall set forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year;

(2) Debts legally incurred, including interest on indebtedness, funded or bonded or otherwise;

(3) All expenditures to be paid out of the levy for the current fiscal year, with proper allowance for delinquent taxes, exonerations and contingencies;

(4) The total amount necessary to be raised for each fund by levy of taxes for the current year;

(5) The proposed county levy in cents on each one hundred dollars' assessed valuation of each class of property for the county;

(6) The separate and aggregate amounts of the real, personal, and public utility property in each class in the county and in each subdivision thereof;

A copy of the statement, duly certified, by the clerk of the court shall be forwarded to the tax commissioner, and shall be published twice, at least one week intervening between publications, in two newspapers published in the county, of general circulation and of opposite politics. If there is only one newspaper published in the county, the publication shall be made therein: *Provided, however,* That publication having been made for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, no further publication shall be required for said fiscal year, and the county court shall cause to be posted at the front door of the court house the statement herein provided for not less than ten days prior to the second meeting hereinafter provided for, which posting shall constitute full and sufficient publication for said fiscal year.

The session, except for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene. For the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the session shall stand adjourned until the second Tuesday after the meeting provided for in section four of this article.

The court shall then hear and consider any objections made orally or in writing by the prosecuting attorney, by the tax commissioner or his representative, or by any taxpayer of the county, to the estimate and proposed levy or to any item thereof. The court shall enter of record any objections so made and the reasons and grounds for such objections.

The failure of any officer or taxpayer to offer objections shall not preclude him from pursuing any legal remedy necessary to correct any levy made by any fiscal body under this article.

The court, after hearing objections, shall reconsider the proposed original estimate and proposed rate of levy, and if the objections are well taken, shall correct the estimate and levy. No such estimate and levy, however, shall be entered until the same shall have first been approved, in writing, by the tax commissioner. When the same shall have been approved by the tax commissioner, the clerk shall then enter the estimate and levy, together with the order of the court approving them and the written approval of the tax commissioner thereof, in the proper record book.

The county court shall then levy as many cents per hundred dollars' assessed valuation on each class of property in the county or its subdivisions, according to the last assessment, as will produce the amounts shown to be necessary by the statement. The levy for all county purposes authorized by law, shall not exceed, on class I property, nine and four-tenths cents; on class II property, eighteen and seven-tenths cents; and on class III and class IV property, thirty-seven and five-tenths cents.

When less than the maximum levies are imposed, the levies upon each class of property shall be in the same proportions as the maximums herein authorized.

Sec. 6. When an order is made for a levy the clerk of the court, within three days, shall prepare, certify and forward copies to the tax commissioner, the state auditor, the assessor and the officer who, according to law, is required to collect the levy. He shall charge the collecting officer with the amount of the levy in the proper account book. The assessor shall immediately extend the taxes in the land and personal property books. The officer who is required to collect the levy shall make

out proper tax bills. County levies shall be collected by the sheriff at the same time, in the same manner, and under the same regulations as other taxes are collected. Delinquent lists for county levies shall be returned and delinquent lands sold for county levies in the same manner and at the same place and under the same regulations that lands returned delinquent for state taxes are returned and sold.

Sec. 7. Every board of education shall, at the session provided for in section four of this article, if the laying of a levy has been authorized by the voters of the district under article nine, chapter eighteen of the code, make a statement setting forth:

(1) The separate amounts due the various funds, and the amounts that will become due and collectible during the current fiscal year except from the levy of taxes to be made for the year;

(2) Debts legally incurred, including interest on indebtedness, funded or bonded or otherwise;

(3) All expenditures to be paid out of the levy for the current fiscal year, with proper allowances for delinquent taxes, exonerations and contingencies;

(4) The amount necessary to be raised by the levy of taxes for the current fiscal year;

(5) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property;

(6) The separate and aggregate amounts of the assessed valuation of real, personal, and public utility property within each class.

The secretary of the board shall forward immediately a certified copy of the statement to the tax commissioner and shall publish the statement in a manner similar to that provided in section five of this article. For the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the session shall stand adjourned until the second Tuesday, after the meeting provided for in section four of this article.

The session, except for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene and proceed in a manner similar in all respects to that provided for in section five of this article.

The board shall not finally enter any levy until the same shall have received the approval, in writing, of the tax commissioner,

and after receiving such approval shall enter the statement as originally approved in its record of proceedings, together with the written approval of the tax commissioner, and shall levy as many cents on each one hundred dollars' assessed valuation of each class of property as will produce the amount necessary for defraying the expenses for the fiscal year. These levies shall not exceed on class I property, twenty-seven and one-tenth cents; on class II property, fifty-five and three-tenths cents; on class III and on class IV property, one hundred eleven and five-tenths cents.

When less than the maximum levies are imposed, the levies upon each class of property shall be in the same proportions as the maximums herein authorized.

Sec. 8. Within three days after the board of education has laid the levies, the secretary of the board shall forward to the county superintendent and to the tax commissioner certified copies of the orders laying levies and the rate of levy upon each class. Within three days thereafter the county superintendent shall report the rate of levy for each of the various classes and the total value of real, personal, and public utility property in each class in every district to the clerk of the county court, the assessor, the state superintendent and the auditor. The proper county officers shall then extend on the property books the amount of taxes levied. The sheriff shall collect and account for the taxes as required by law.

Sec. 9. The municipal council shall, at the session provided for in section four, ascertain the fiscal condition of the corporation, and make an itemized statement which shall set forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year;

(2) Debts legally incurred, including interest on indebtedness, funded or bonded or otherwise;

(3) All other expenditures to be paid out of the funds of the municipality for the current fiscal year with proper allowance for delinquent taxes, exonerations, and contingencies;

(4) The total amount necessary to be raised by the levy of taxes for the current fiscal year;

(5) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property for interest and sinking fund requirements;

(6) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property remaining after the debt levy herein provided for;

(7) The separate and aggregate assessed valuation of real, personal, and public utility property in each class in the municipality.

The recording officer of the municipality shall forward immediately a certified copy of the statement to the tax commissioner, and shall publish the statement in a manner similar to that provided in section five of this article. The session, except for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene and proceed in a manner similar in all respects to that provided for in section five of this article. For the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, the session shall stand adjourned until the second Tuesday after the meeting provided for in section four of this article.

The council shall not finally enter any levy until the same shall have been approved in writing by the tax commissioner and after receiving such approval shall enter the statement as finally approved in its record of proceedings, together with the written approval of the tax commissioner and shall levy as many cents on each one hundred dollars' assessed valuation of each class of property as will produce the amount necessary to defray the interest and sinking fund charges on such indebtedness. For this purpose, the levies in the first instance shall not exceed, on class I property, twelve and five-tenths cents; on class II property, twenty-five cents; and on class IV property, fifty cents. When such maximum levies shall not produce sufficient revenue to discharge the requirements for such indebtedness the council shall lay an additional levy upon all property subject to taxation within the municipality, without regard to classification, as will produce a sufficient amount in addition to said classified levies, to meet such requirements for interest and sinking fund.

When the entire classified levies of the municipality are required for the payment of such indebtedness, the council shall have no power or authority to lay any such levies for the current expenses of said municipality. When less than the maxi-

mum levies in this section provided are required for the payment of such interest and sinking fund requirements the council may levy so much of the levies authorized herein as remain after providing for such indebtedness to meet requirements for current expenses of the municipality.

When less than the maximum levies are imposed for any and all purposes, the levies upon each class of property shall be in the same proportion as the classified levies herein authorized.

Sec. 10. Within three days after the council of a municipality has laid the levies, its recording officer shall forward certified copies of the order laying the levies to the tax commissioner, the state auditor and the officer whose duty it is to extend the levies.

Sec. 11. A local levying body may provide for an election to increase the levies, by entering on its record of proceedings, an order setting forth:

(1) The purpose for which additional funds are needed;

(2) The amount for each purpose;

(3) The total amount;

(4) The separate and aggregate assessed valuation of each class of taxable property within its jurisdiction;

(5) The proposed additional rate of levy in cents on each class of property;

(6) The proposed number of years, not to exceed three, to which the additional levy shall apply.

The local levying body shall submit to the voters within their political subdivision, the question of the additional levy at either a general or special election. If at least sixty per cent of the voters cast their ballots in favor of the additional levy, the local levying board may impose the additional levy. This levy shall not exceed fifty per cent of the rates authorized in section five, seven or nine of this article, as the case may be.

Levies authorized by this section shall not continue for more than three years without resubmission to the voters.

Sec. 12. The local levying body shall publish notice, calling the election, at least once each week for two successive weeks before the election in two newspapers of opposite politics and of general circulation in the territory in which the election is held. If there is only one newspaper published in the county, the publication shall be made therein. The local levying body

shall also post printed copies of the order at each place of voting at least ten days before the election. All the provisions of the laws concerning general elections shall apply as far as they are practicable, except as follows: A separate ballot shall be used at a levy election held in connection with any other election. The ballot shall be entitled: "Special election to authorize additional levies for the year(s).....and for the purpose of....., according to the order of the.....entered on the ..... day of....."

"The additional levy shall be on class I property..... cents; on class II property.....cents; on class III property (if any).....cents; on class IV property.... (if any).....cents."

Sec. 13. The tax commissioner shall prepare and furnish forms and instructions for making the statement required in sections five, seven and nine of this article. The attorney general shall prepare and furnish forms and instructions for the holding of any election authorized by this article.

Sec. 14. Within forty days after an order for a levy the circuit court of the county, or the judge in vacation, may allow a writ of supersedeas on the petition of at least twenty-four persons interested in reversing the order. The levying body, without awaiting the final decision, may rescind the order, and impose a new levy. If the court, on the hearing, finds that the order is contrary to law and reverses the order, the levying body shall impose a levy according to law. If money is collected under any order which is afterward rescinded or reversed, the collecting officer shall, upon demand, refund any payment to the person from whom it was collected. If the collecting officer fails to repay the amount, he and his sureties shall be jointly and severally liable for the amount and the costs of recovery. Recovery may be had by summons before a justice or on motion in the circuit court.

Sec. 15. When all the levies allotted hereunder to any county court, school board or municipality shall not be required by such county court, school board and municipality, then any other one or more of such levying bodies within the county may levy so much or such part thereof as remains of said allotment within its particular taxing district, by and with the consent in writing, of the tax commissioner obtained after a

proper showing, in writing, to the tax commissioner of the necessity therefor.

Sec. 16. County courts, boards or officers expending funds derived from the levying of taxes shall expend the funds only for the purposes for which they were raised.

Sec. 17. A local fiscal body shall not expend money or incur obligations:

(1) In an unauthorized manner;

(2) For an unauthorized purpose;

(3) In excess of the amount allocated to the fund in the levy order;

(4) In excess of the funds available for current expenses.

Sec. 18. Any indebtedness created, contract made, or order or draft issued in violation of section sixteen of this article shall be void.

Sec. 19. Whenever a fiscal body expends money or incurs obligations in violation of this article, action or suit, in the name of the state of West Virginia for the use of the political division affected, shall be instituted by the prosecuting attorney of the county, or the attorney general of the state, in a court of competent jurisdiction to recover the money expended or to cancel the obligation, or both.

Sec. 20. A person who, in his official capacity, willfully participates in the violation of section sixteen of this article shall be personally liable, or jointly with other participants, for the amount illegally expended.

Sec. 21. A person who in his official capacity wilfully participates in an illegal expenditure may be proceeded against for the recovery of the amount illegally expended. The political subdivision concerned, a taxpayer of the subdivision, the state tax commissioner or a person prejudiced may bring the proceeding.

All moneys recovered in these proceedings shall be paid into the treasury of the proper fiscal body and credited to the proper fund.

If the plaintiff prevails, he shall recover against the defendant, the costs of the proceedings, including a reasonable attorney's fee to be fixed by the trial court.

Sec. 22. A person who in his official capacity wilfully vio-

lates the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined not more than five hundred dollars, or confined in jail not more than one year, or both. Upon conviction he shall also forfeit his office.

Sec. 23. The state, a taxpayer, or the tax commissioner may institute and prosecute to final judgment any proceeding for the removal of a member of a local fiscal body who has wilfully or negligently violated any of the provisions of this article.

Upon the petition of the state, a taxpayer, or the tax commissioner, the court, or in vacation the judge, shall set a time for hearing the petition. An attested copy of the petition and the charges contained therein, shall be served upon the defendants at least twenty days prior to the date of hearing. No other pleading or notice of the proceedings shall be necessary.

Sec. 24. The discounts allowed for prompt payment of taxes as provided by law, shall for the first half of the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, be extended and allowed by the collecting officer, if payment thereof be made on or before February first, one thousand nine hundred thirty-four: ***Provided, however,*** That the tax commissioner may, in his discretion, uniformly extend such discount period to not later than March first, one thousand nine hundred thirty-four, by giving proper notice thereof, in writing, to the collecting officers of the several counties.

Sec. 25. If any section, paragraph, sentence, clause, word and/or application of any part hereof be held unconstitutional, the same shall not affect the validity of the remaining portions.

All existing provisions of law inconsistent with this act are hereby repealed.

*CHAPTER 63

(Com. Sub. for House Bill No. 64—Originating in the House Committee on Taxation and Finance)

AN ACT to appropriate from the general revenues of the state from taxes imposed by the Legislature on privileges, franchises and incomes of persons and corporations as authorized by section one, article ten of the constitution of West Virginia, as amended in the year one thousand nine hundred thirty-two, moneys to pay the interest, sinking fund and amortization charges

of bond issues of counties, magisterial districts, school districts and other taxing districts, except municipalities, issued for roads, now used as a part of the state road system, and issued for schools, now used as a part of the state free school system, issued prior to the eighth day of November, one thousand nine hundred thirty-two.

[Passed December 9, 1933; in effect from passage. Approved by the Governor.]

SEC.
1. Appropriations from state treasury for fiscal years ending June 30, 1934, and June 30, 1935, of moneys required to meet bonded indebtedness, issued for roads and schools, of political subdivisions, except municipalities.
2. Procedure for payment of appropriations.
3. Political subdivisions not relieved from, or state responsible for, their debts or liabilities.
4. Transfer of moneys, securities, etc., of political subdivisions to state sinking fund commission.
5. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. There are hereby appropriated out of the treasury for the fiscal year ending June thirtieth, one thousand nine hundred thirty-four and for the fiscal year ending June thirtieth, one thousand nine hundred thirty-five, from the taxes imposed by the Legislature on the privileges, franchises and incomes of persons and corporations as authorized by section one, article ten of the constitution of West Virginia, as amended in the year one thousand nine hundred thirty-two, so much moneys as may be required to meet all interest and sinking fund charges due and to become due during the said years upon bonded indebtedness of all counties, magisterial districts and school districts and other taxing districts, except municipalities, issued for roads, now used as a part of the state road system, and issued for schools, now used as a part of the state free school system, issued prior to the eighth day of November, one thousand nine hundred thirty-two.

Sec. 2. Requisition for the payment of all such items shall be drawn by the secretary of the state sinking fund commission upon the auditor and shall show specifically the bond issues for the payment of which such requisitions are drawn and the individual amounts required therefor and the auditor shall thereupon issue his warrant for said purpose, payable to the state sinking fund commission. The state sinking fund com-

*The Supreme Court of Appeals held this act unconstitutional on January 16, 1934, Berry v. Fox, Tax Comr., et al, 172 S. E. 896.

mission shall make remittances to the persons entitled thereto from the money so received in like manner as is provided by general law.

Sec. 3. Nothing contained herein shall be so construed as to relieve any county, magisterial district or school district of its liability for the payment of its outstanding bonded indebtedness.

Nothing herein shall be so construed as to make the state assume or become responsible for the debts or liabilities of any county, magisterial district or school district.

The appropriations contained herein are for the purpose of making available for the operation of local government uniform levies authorized under the amendment to the constitution adopted November eighth, one thousand nine hundred thirty-two.

Sec. 4. All moneys, securities, investments and properties of any character including delinquent taxes levied for interest and sinking fund purposes, when collected, and including taxes for interest and sinking fund purposes which have not been turned over to the state sinking fund commission, now owned and held by any such county, magisterial district, school district or other taxing district, or held by the state sinking fund commission or any other person, firm or corporation, private or public, for the purpose of paying interest, sinking fund and amortization charges on their respective bond issues, are hereby transferred to the state sinking fund commission for administration for the purposes for which the same are now held.

Sec. 5. If any section, paragraph, sentence, clause, word and/or application of any part hereof be held unconstitutional, the same shall not affect the validity of the remaining portions.

All existing provisions of law inconsistent with this act are hereby repealed.

CHAPTER 64

(House Bill No. 274—By Mr. Hiner)

AN ACT to provide for the adjudication of the validity or invalidity of indebtedness, not bonded, of counties, magisterial districts, magisterial or independent school districts, municipalities and other taxing districts, and the funding and payment of such indebtedness, not bonded, of established legality.

[Passed January 26, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Preamble; legislative declaration of emergency.
2. Definitions.
3. Statements by fiscal bodies of indebtedness, etc., to tax commissioner and prosecuting attorney.
4. When tax commissioner may require prosecuting attorney to file the petition provided in section five.
5. Petition to circuit court for ascertainment of amount and legality of indebtedness not bonded; consolidation of proceedings on behalf of all taxing districts in county; form of published notice by court of filing of petition and appointment of commissioners.
6. Proceedings on petition as in a cause in equity.
7. Appointment, qualification and oath of commissioners; meeting, organization, preliminary investigation and report of commission to court.
8. Order of court for complete audits and information; duty of tax commissioner upon receipt of attested copy of order; costs of completed audits charged to taxing district.
9. When additional audits provided, or none required, court order for sitting of commissioners; form of published or posted notice of sitting.
10. Claims presented to and investigated by commission; approval by fiscal body of claim for which no order has been issued; objections to allowance of claims; extension by court of time of sitting of commission.
11. Report to court of findings of commission.
12. Examination of report by court; recommitment to commission; when completed, published or posted notice that court will act on report; procedure on hearing on report; disputed claims; copy of decision of court to each taxing district affected.
13. Jury trial on unapproved or contested claim; if waived court to hear evidence and decide; writ of error to supreme court of appeals.
14. Court may reconstitute commission in whole or in part.
15. Compensation of commissioners, stenographers and clerks; extension of time, upon approval of tax commissioner; costs apportioned among taxing districts; costs as to contested claims.
16. Decision on adjudicated claim final; unpresented claim may be adjudicated in any other proper proceeding.
17. When petition required by tax commissioner to be filed no indebtedness claims to be paid until adjudicated; levies to be approved by tax commissioner; levies after indebtedness adjudicated; successive annual levies for not more than ten years.
18. Fund created to pay indebtedness; payments into, including delinquent taxes collected.
19. Regulations of tax commissioner concerning adjudicated claims and judgments; principles of regulations.
20. Statement by fiscal body when successive levies necessary.
21. Approval by tax commissioner of plan of payment; refunding certificates.
22. Acceleration of payment of indebtedness.
23. Certificates of indebtedness in lieu of claims or judgments; single or coupon; cancellation of claims or orders refunded.
24. Tax commissioner to prescribe form of certificate.
25. Certificates as vouchers for sheriff.
26. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

PREAMBLE

Section 1. WHEREAS, The severe financial and economic de-
2 pression existing for several years past has resulted in an un-

precedented increase in delinquent taxes in the state of West Virginia and the several subdivisions thereof; and by reason of such increase in the amount of delinquent taxes, estimated revenues upon which the operation of the counties, districts and municipalities of the state were predicated failed to materialize, with the result that deficits have accumulated in many of the taxing districts of the state and there are large amounts of outstanding orders and drafts unpaid, and for the immediate payment of which no provision has been made; and

WHEREAS, The immediate provision for the payment of all of such accumulated deficits would be extremely burdensome to the taxpayers of the state of West Virginia, who have already and are now suffering from the severe financial and economic depression of recent years; and

WHEREAS, It is believed and the Legislature of West Virginia hereby declares its belief that the conditions heretofore existing have created an emergency of such nature as to justify legislation for the extension of time for the payment of such deficits and the funding thereof in keeping with what is believed by the Legislature to be a judicially enforced rule of common law applicable to taxation for the payment of indebtedness, not bonded.

Sec. 2. The term "indebtedness" as used in this bill shall mean contractual indebtedness, not bonded, whether evidenced by orders or otherwise and incurred on or prior to June thirty, one thousand nine hundred thirty-three. The words "taxing district" as used in this bill shall mean any county, magisterial district, magisterial or independent school district, municipality or any other taxing district except the state of West Virginia. The words "fiscal body" as used in this bill shall mean any governmental agency charged with the laying of levies for the payment of indebtedness of any taxing district as herein defined. The word "order" when used in this bill with reference to a written evidence of indebtedness shall mean a writing issued by the fiscal body directed to the sheriff or other paying officer requiring him to pay therein named a sum certain and shall include such writings which are commonly referred to as drafts, warrants or orders. The words "certificate of indebtedness" as used in this bill shall mean any evidence of indebtedness of a taxing district other than orders issued prior to the enactment of this bill.

Sec. 3. Each fiscal body shall make, for each taxing district

for which it lays levies, a statement showing: (a) the total amount of indebtedness incurred prior to or on the thirtieth day of June, one thousand nine hundred thirty-three, distinguishing between such indebtedness incurred prior to November eighth, one thousand nine hundred thirty-two and that incurred thereafter, by each taxing district for which such fiscal body is required to lay the levies; (b) the estimated amount to be received from collections of taxing districts for the fiscal year beginning July first, one thousand nine hundred thirty-two, and preceding years during the fiscal year beginning July first, one thousand nine hundred thirty-four and for the three years following; (c) the estimated returns of the levies apportioned for indebtedness purposes to such fiscal body for such taxing district by the provisions of house bill number two hundred thirty-four, second extraordinary session, one thousand nine hundred thirty-three; (d) the amount thereof required for bonded indebtedness; (e) the remainder, if any, available for indebtedness as defined in this bill, and (f) the assessed valuation by classes of all taxable property in the taxing district and shall forward a copy of such statement to the tax commissioner and to the prosecuting attorney of the county in which the taxing district is situate.

Sec. 4. The tax commissioner shall examine the statements provided by section three hereof for each taxing district and if, in his opinion, the laying of levies for all of such indebtedness not otherwise provided for will cause a disturbance in the administration of the financial affairs of the taxing district not necessary to the protection and enforcement of the right of any creditor and unnecessarily burdensome to the taxing district, in view of the present emergency, he may require the prosecuting attorney of the county in which the taxing district is situate to file in the circuit court of said county a petition on behalf of such fiscal body as provided in section five of this bill.

Sec. 5. The prosecuting attorney of any county, when so required by the tax commissioner as provided in section four of this bill, shall file in the circuit court of the county in which the taxing district is located on behalf of the county or of any other taxing district thereof, a petition against all holders of indebtedness, as herein defined, owing by the taxing district or

districts, alleging the facts appearing from the statement provided by section three hereof, and any other pertinent facts, concluding with a prayer that the amount and legality of such indebtedness be inquired into by the court in the manner provided by this bill. Proceedings on behalf of any or all taxing districts within the county may be consolidated and presented by one petition, but the facts relating to each taxing district shall appear therein separately. No summons or other process shall be necessary, other than the notices herein provided for, except such process as may be necessary in the adjudication of contested claims as hereinafter provided for. The court shall thereupon cause notice of the filing of the petition and that it will appoint commissioners thereunder on a day certain to be given by publication for two successive weeks in two newspapers of different political affiliations, published in the county, if there be two, if not, in one newspaper published in the county, and if there be no newspaper published in the county, then by posting notice for at least ten days at the front door of the courthouse and at a public place in each magisterial district and municipality in the county, which day shall be not more than thirty days after the filing of the petition. The form of such notice shall be sufficient if substantially as follows:

"NOTICE IS HEREBY GIVEN, that....., Prosecuting Attorney of the County of....., has filed in the Circuit Court of.....County a petition on behalf of the County Court of.....County, The Board of Education of the County of....., the Town Council of the Town of.....(etc., or any, or all, as the case may be) against all persons having contractual claims, not bonded, against the.....County, ... district, ...; municipality, etc., under the provisions of Chapter ....., acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three. And the Circuit Court of.....County will, on the .....day of....., 19...., at the courthouse of said county of....., at..... o'clock of that day, appoint three commissioners to inquire into the legality of such indebtedness in the manner required by said act.

.....

Clerk of the Circuit Court of.....

County."

Sec. 6. The petition shall be considered as a bill in equity and the proceedings thereon shall be considered as a cause in equity in so far as the procedure thereof be applicable, except as otherwise provided by this bill.

Sec. 7. Within thirty days after the petition shall have been filed, and on the day stated in the notice under section five hereof, the court or the judge thereof in vacation, shall, by order, designate three special commissioners to constitute a commission to inquire into the indebtedness of such taxing district or taxing districts and to receive proof of contractual claims against such taxing district and to report on the validity or invalidity of such alleged indebtedness in the manner provided by this act. The commissioners shall be citizens of the state of West Virginia and residents of the county in the circuit court of which the petition is filed. Not more than two of said commissioners shall be residents of the same magisterial district or affiliated with the same political party, and at least one of said commissioners shall be a regularly qualified practicing attorney of said court. No person shall be qualified to serve on said commission if he has any financial interest, directly or indirectly, except as a taxpayer, in any matter to be passed upon by it. Before entering upon the discharge of their duties hereunder, the commissioners shall take the oath prescribed by section five, article four, of the constitution. The order appointing said commissioners shall set a day on which the commissioners shall meet at the courthouse of said county and organize by designating one of their number chairman, and one to act as secretary of the commission, and shall direct that the commission forthwith make a preliminary investigation of the financial affairs of the taxing district and of the official audits and other information available for use in connection with the discharge of their duties hereunder, and shall require that said commission report to the court in writing on a day to be specified in the order, the organization of the commission and the available audits and other information touching the inquiry to be made, and whether or not such audits and other information are sufficiently complete to enable the commission to discharge its duties hereunder.

Sec. 8. If, upon the report of the commission required by section seven of this act, the court be of opinion that the official audits and other information relating to the financial affairs

of the taxing district are insufficient to enable the commission to properly discharge its duties, the court shall, by order, request the tax commissioner to complete such audit, or audits, and provide such information as the tax commissioner may reasonably procure incidental to such audit, and the clerk of the court shall forward to the tax commissioner an attested copy of such order; whereupon the tax commissioner shall, at the earliest practical time, cause such audit, or audits, to be completed through the thirtieth day of June, one thousand nine hundred thirty-three, and shall furnish such other information incident to making of such audit as may be requested by the court, and when such audit, or audits, shall have been completed, the tax commissioner shall make a report in writing to the circuit court and shall transmit therewith such completed audits, together with such other information incidental thereto as shall have been requested by the court. The cost of the making or completion of such audit, or audits, shall be charged to the taxing district or the respective taxing districts so audited, as the case may be, by the tax commissioner, and the charge therefor shall be on the same basis as regular audits, as provided by section eight, article nine, chapter six of the code, and shall be paid by the fiscal body of such taxing district as a part of the cost of the proceeding under this bill in like manner as the payment of other costs is provided for in section fifteen of this bill.

Sec. 9. When no additional audits shall be required, or when such additional audits as may be required shall have been provided, the court shall then, by order, direct the commissioners to sit at the courthouse of said county on a day fixed by said order, and from day to day for such length of time within the limits prescribed by section fifteen of this bill as the court may deem necessary for the completion of the duties required of such commission, which time of meeting shall be not less than thirty days after the entry of such order, and shall cause the commissioners to give notice by publication for four successive weeks in two newspapers of opposite politics published in the county, if there be two such, if not, then in one newspaper published in the county; and if there be no newspaper published in the county, then by posting a notice at the front door of the courthouse and at a public place in each magisterial dis-

trict and each municipality within the county for thirty days prior to the day of such meeting. The notice shall be sufficient if substantially to the following effect:

"NOTICE IS HEREBY GIVEN that the undersigned, ..., ...and....., special commissioners of the circuit court of.....county, appointed for the purpose of inquiring into and making a report on the legality of indebtedness of.....county. .....district, ...municipality, (any or all, as the case may require) will sit at the courthouse of .....county on the.....day of....., 193...., and from day to day thereafter until the.....day of....., 19...., for the purpose of discharging their duties under the order of the court entered on the.....day of ....., 193...., pursuant to the provision of chapter....., acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three.

(Signed).....,.....,.....

Commissioners."

Sec. 10. On the day and at the place provided by the order and notice under section nine, the commission shall meet and the holder and owner, or his representative, of any contractual claim, as herein defined, against the taxing district, whether evidenced by order or otherwise, may present to the commission such claim, and if the claim be not evidenced by order the same may be presented by sworn statement, showing clearly the nature of the claim and the amount thereof, and the commission shall carefully inquire into and investigate all of such claims and reports to the court thereon in the manner provided by section eleven of this act. The commission shall not approve any claim for which no order shall have been issued, unless the same be first approved by the fiscal body by an order entered of record in the proper book of the fiscal body. Any taxpayer or other person legally interested, may file before the commission, in writing, any objection or objections to the allowance of any claim in whole or in part, whether evidenced by order or otherwise. When the order of the court under section nine has prescribed a shorter time than the time provided in section fifteen hereof for the sitting of the commissioners, and the commissioners shall not, within such time, be able to discharge their duties under said order, they shall, in writing, give information

thereof to the court, with a statement of the estimated number of additional days required, and the court may, by order, extend, from time to time, the number of days for the sitting, not, however, beyond the number specified in section fifteen hereof.

Sec. 11. The commission, after having fully investigated all claims presented and having received any objections filed against any claim, shall make a report in writing, setting forth separately for each taxing district for each fiscal body: (a) the claims to the legality and amount of which no objection has been made and which the commissioners unanimously agree to be properly payable; (b) claims to which objections have been filed but which the commission unanimously agree should be paid; (c) claims to which an objection has been filed but which a majority of the commissioners agree should be paid; (d) claims which a majority of the commissioners agree should not be paid, whether or not any objection has been filed thereto. The report shall itemize separately the approved claims incurred prior to the eighth day of November, one thousand nine hundred thirty-two, and the approved claims incurred thereafter prior to or on June thirtieth, one thousand nine hundred thirty-three. When the claim is represented by an order, the report shall show the date of the order, the number thereof, and the name of the original payee and the name of the present holder. The report shall show the original amount of each claim and, separately, the interest thereon legally accrued, under existing statutes, to the date of the report. The commission shall return to the court, with the report, all written statements of claims presented not evidenced by order and all written objections made to the allowance of any claims.

Sec. 12. The report shall be filed by order of the court. The court shall examine the report and if the court be of opinion that it is not sufficient, it may, by order, re-commit it, in whole or in part, for further inquiry, to the commission, with such directions as the court may deem proper. Whereupon the report shall be completed and again returned to the court. When, in the opinion of the court, the report is complete, the court shall cause notice to be given by publication for two successive weeks in two newspapers of different political affiliation published in the county, if there be two, and, if not, then in one newspaper published in the county, and if there be no such

newspaper published in the county, then by posting a notice at the front door of the courthouse and at a public place in each magisterial district and each municipality within the county for not less than ten days, that on a day certain specified in the notice, the court will act upon the report of the commission. The notice shall be sufficient if substantially in form as follows:

"Notice is hereby given that the circuit court of..... county will, on the... day of....., one thousand nine hundred thirty-....., at.....o'clock, at the courthouse of.....county, act upon the report of ....., ..., and ....., special commissioners, heretofore appointed to report upon the validity of indebtedness of.....county,..... district, ... municipality (all or any, as the case may be). Any person interested in the affirmance of said report or in the making of any objection thereto may then be heard.

.....

Clerk of the Circuit Court of

.....County."

The court may, on its own motion, make further inquiry into any claim and any taxpayer may, at such time, interpose objection in writing to the payment of any claim, whether interposed before the commission or not, and the court may then, by order, affirm all claims unanimously approved by the commission and to which no objection has been filed. The court may then proceed to hear evidence relating to any claim to the payment of which an objection has been interposed or which the court, on its own motion, desires to further investigate.

When objection is made to the payment of any claim the holder and owner thereof shall file or cause to be filed in the cause a concise statement of the claim, showing its nature and amount, duly itemized and verified, and the objector to such claim shall file in writing his or its objection thereto, stating concisely the grounds of such objection, likewise duly verified. Such statements shall constitute the pleadings with respect to such claim and the sufficiency of such statements may be tested by demurrer. When such statements are sufficient in law, issue may be joined thereon. Technical pleadings and forms shall not be required.

When the court approves the report, or any part thereof, or any particular claim, the order shall show in detail the description of each separate claim as shown by the report, and the clerk shall transmit a copy of such order insofar as it pertains to each taxing district to the fiscal body, which shall cause the same to be entered in full on its proper record book.

Sec. 13. Any claimant whose claim has not been approved by the court under section eleven of this bill, or any protestant against any such claim may, as to any and all matters of fact involved, have the validity of such claim considered by a jury, according to the rules applicable to the trial of an action at law, by making application in writing for such jury trial on or before the day of the hearing by the court, whereupon the controversy relative to such claim upon the pleadings provided by section twelve of this act shall be docketed on the law side of the court for such trial and shall be tried as in an action at law. Upon the termination of such law action the judgment shall be reported to the equity side of the court for the entry of a proper order in the premises. The failure of any party to demand a jury trial shall constitute a waiver thereof by all parties interested in the controversy relating to such claim, and the court may hear evidence in support of or against such claim, and shall make such findings as would be proper upon the merits in an action at law upon formal waiver of trial by jury by all parties. A writ of error to the judgment of the circuit court on any claim may be had to the supreme court of appeals of West Virginia in like manner as a writ of error in an action at law.

Sec. 14. The court for any reason in its opinion deemed proper, may reconstitute the commission in whole or in part.

Sec. 15. Each commissioner shall be allowed for his services a per diem to be fixed by the court, not to exceed five dollars for each day actually engaged in the discharge of his duties hereunder, not to exceed thirty days. The court may allow a per diem not to exceed three dollars for a period of not to exceed forty-five days of actual employment for stenographic and clerical services incident to the hearings by the commission and the compilation of its report. When such period of time is not sufficient for the completion of the work of the commission in pursuance of this act, the time may be extended by order of the court upon the written request of the commission,

approved in writing by the tax commissioner. Where more than one taxing district is involved the court shall apportion the general costs equitably among the taxing districts concerned, and no costs other than those specifically mentioned herein shall be incurred by the commission without the express order of the court therefor. When a claim, to the payment of which objection has been made by the presecuting attorney, any fiscal body or any member thereof, is successfully prosecuted by the claimant, the costs of the hearing thereon shall be charged to the taxing district concerned. If such claimant fail to establish the validity of such claim, the taxing district shall recover its costs from the claimant. If the contest of any claim arises from the objection of a taxpayer or other person legally interested, the costs shall abide the final disposition of the claim and shall be charged against the parties in like manner as costs are charged in an action at law. The costs of the proceedings hereunder, except as above expressly provided, shall be paid from the levies laid and collected for the payment of indebtedness involved, and the proper fiscal body in laying such levies shall include therein the estimated amount of such costs.

Sec. 16. Any claim finally adjudicated in the proceeding herein provided for shall not thereafter be litigated in any other judicial proceeding, but any claimant who does not present his claim in such proceeding shall not be precluded thereby and may have his claim adjudicated in any other proper proceeding at law or in equity.

Sec. 17. No fiscal body and no officer of any taxing district for which the tax commissioner has required the filing of a petition under this act as provided by section four hereof, shall pay any indebtedness claims or order unless the same shall have been adjudicated under the provisions of this act or otherwise reduced to judgment. For the purpose of this act the fiscal body shall for the fiscal year beginning July first, one thousand nine hundred thirty-three, lay such levies authorized under existing law, as may be approved or required by the tax commissioner. As soon as reasonably practicable after the circuit court shall have acted upon the report of the commissioners as provided by section twelve of this act, the fiscal body shall meet and shall consider such indebtedness adjudicated under the provisions of this act along with any other indebtedness reduced

to judgment in other proceedings, and under the regulations of the tax commissioner, as provided by section nineteen of this act, and, subject to the approval of the tax commissioner, shall determine a program of payment from estimated receipts from delinquent taxes levied for the fiscal year beginning July first, one thousand nine hundred thirty-two, and for prior years, and by successive annual levies for not more than ten years including the fiscal year beginning July first, one thousand nine hundred thirty-three.

Sec. 18. There is hereby created in each and every taxing district having indebtedness as defined by this act an "indebtedness fund other than bonded" which fund shall be used for the purpose of payment of such indebtedness. Into this fund shall be paid all money now in the hands of any public officer which was derived from the collection of taxes for the fiscal year beginning July first, one thousand nine hundred thirty-two and taxes for prior years, which taxes were levied by the fiscal body for the particular taxing district for purposes other than bonded indebtedness; and all collections of like delinquent taxes made hereafter shall, by the officer collecting the same, be paid to such indebtedness fund. All levies collected under the provisions of house bill number two hundred thirty-four, second extraordinary session, one thousand nine hundred thirty-three, for indebtedness, other than bonded, shall also be paid to said indebtedness fund. No funds received from the collection of delinquent taxes hereafter made shall be used for the payment of the current expenses of any fiscal body or taxing district so long as any such indebtedness as defined by this act or any interest thereon remains unpaid; but all such delinquent taxes when collected, except those levied for the payment of bonded indebtedness, shall be paid into the proper indebtedness fund hereby created.

Sec. 19. The tax commissioner shall promulgate regulations to govern fiscal bodies in the payment of the claims approved by the circuit court under the authority of this act and other claims properly reduced to judgment. The regulations promulgated by the tax commissioner shall be with view to the payment of indebtedness as defined in this act at as early a date as is reasonably consistent with the interests of the state of West Virginia and the taxpayers thereof, and with possible levies

therefor under section twenty-three, of house bill number two hundred thirty-four, second extraordinary session, one thousand nine hundred thirty-three, and such regulations may be promulgated for use in the alternative as the circumstances of the particular taxing district may require; and such general regulations shall in no event be considered to be exclusive of the promulgation of a special regulation or the approval of a special plan of payment for any particular taxing district. By way of illustration, if such indebtedness may within a reasonable time be paid from the levies under house bill number two hundred thirty-four, other than those provided by section twenty-three, a plan of payment based thereon may be adopted; or if in any particular taxing district the laying of a reasonable levy under said section twenty-three might accomplish the payment of such indebtedness within a lesser period of time consistent with the interest of the state of West Virginia and the taxpayers thereof, a plan utilizing such levies under said section twenty-three and effecting payment at an earlier time may be promulgated and adopted.

Any and all regulations promulgated by the tax commissioner and any plan of payment adopted by the fiscal body with the approval of the tax commissioner, shall embody the principles that (1) payments shall be made pro rata upon all approved claims from year to year, except that payment of small claims not to exceed one hundred dollars may be made from the receipts of the first two years; (2) the annual payment of interest shall not exceed the legal rate upon all deferred installments including the fixing of the time for the payment of interest; (3) the anticipation of all or any part of deferred payments prior to the time stipulated therefor, including the selection by lot of such certificates of indebtedness as shall be anticipated if less than all, and the termination of interest after reasonable notice of the selection of any certificate of indebtedness for payment.

Sec. 20. When, in the judgment of the fiscal body, subject to the approval of the tax commissioner, the payment of such indebtedness by one levy, together with estimated receipts from delinquencies, would be unnecessarily burdensome in view of the existing emergency, the fiscal body shall determine the number of years, not exceeding ten, for which successive levies shall be laid, and shall prepare a statement showing: (a) the total

amount of such indebtedness adjudicated under the provisions of this act or reduced to judgment; (b) what levies, if any, remain from the apportionments of levies for debt purposes to such fiscal body under the provisions of house bill number two hundred thirty-four other than section twenty-three thereof, after making provision for bonded indebtedness as therein required; (c) the levies, if any, laid under section twenty-three of house bill number two hundred thirty-four for bonded indebtedness of such taxing district; (d) the estimated amount of delinquent taxes to be received applicable to the payment of such indebtedness, showing the estimated amount to be received for each year during the period for which the payment of such indebtedness is extended; (e) the assessed valuation of all property subject to taxation within the taxing district by classifications; (f) the rate of levy required, if any, under section twenty-three of house bill number two hundred thirty-four, if such indebtedness were to be paid by a single levy.

Sec. 21. Before any such plan shall be finally adopted, it shall be submitted to the tax commissioner, who may approve or disapprove it. If the tax commissioner disapproves the plan submitted, he shall direct the changes therein to be made or shall direct the making of another plan in keeping with the provisions hereof. If the fiscal body does not agree to any plan of payment finally promulgated and approved by the tax commissioner, then the order of the tax commissioner promulgating the plan shall be final and the adoption of such plan by the fiscal body may be enforced by the tax commissioner in any appropriate proceeding or proceedings in law or equity. When a plan shall have received the approval of the tax commissioner, the fiscal body shall proceed to issue refunding certificates in the manner provided by section twenty-three hereof.

Sec. 22. If at any time prior to the payment of all such indebtedness and the interest on the deferred installments thereof, the tax commissioner be satisfied that the financial affairs of the taxing district have improved, the tax commissioner may require the fiscal body to accelerate the payment of such deferred installments and to make full payment of all such indebtedness prior to the time of final payment set out in the original plan.

Sec. 23. Promptly upon the adoption of such payment plan, the fiscal body shall, at the request of the holder of any order approved under this act, or of any claim otherwise reduced to

judgment, issue to the holder thereof in lieu of such orders or claims and upon the proper release of any such judgment, a certificate, or certificates, of indebtedness payable out of the indebtedness fund provided by section eighteen of this act in form prescribed by the tax commissioner as provided by section twenty-four. Such certificates of indebtedness may be issued, one certificate for each annual payment to be made, or may be issued in the form of coupon certificate of indebtedness with a coupon to evidence such annual payment of principal together with interest accruing on the whole certificate remaining unpaid at the date of the payment of such coupon.

Any person owning more than one claim, order or judgment against the same fund may require one certificate to be issued for the aggregate amount of his several claims.

All orders and proofs of claim received in exchange for such certificates of indebtedness shall be stamped across the face thereof "paid by refunding certificate no. ....." and shall be cancelled and filed with the records of the fiscal body.

Sec. 24. The tax commissioner shall prescribe the form of the certificates of indebtedness hereunder, which shall contain a brief description of the order, claim or claims of the indebtedness refunded by such certificate.

Sec. 25. Any certificate of indebtedness evidencing an annual payment of any certificate of indebtedness coupon evidencing an annual payment of principal and/or interest shall constitute a voucher in the hands of the sheriff for which he shall receive credit in his settlements.

Sec. 26. If any section, paragraph, sentence, clause, word and/or application of any part hereof be held unconstitutional, the same shall not affect the validity of the remaining portions.

All acts or parts of acts, both general and special, inconsistent with the provisions of this act, are hereby repealed.

CHAPTER 65

(House Bill No. 359—By Mr. Melrose)

AN ACT to amend and reenact section thirty-two of an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, known as house bill

number two hundred thirty-four, relating to discount on taxes and providing for extending the period of discount for prompt payment of taxes.

[Passed March 8, 1934; in effect from passage. Approved by the Governor.]

SEC.
32. Discount periods for prompt payment of taxes for the fiscal year beginning July 1, 1933; extensions by tax commissioner; further extensions when levies contested.

Be it enacted by the Legislature of West Virginia:

That section thirty-two of an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, known as house bill number two hundred thirty-four, be amended and reenacted so as to read as follows:

Section 32. The discounts allowed for prompt payment of the first half of taxes for the fiscal year beginning July first, one thousand nine hundred thirty-three, as provided by law, shall be extended and allowed by the collecting officer, if the first half of the tax payment be made on or before April fifteenth, one thousand nine hundred thirty-four: *Provided, however,* That the tax commissioner may, in his discretion, uniformly extend such discount period to not later than May first, one thousand nine hundred thirty-four: *Provided further,* That in any county where, by reason of legal contests with respect to levies, and such contests are not fully determined prior to the first day of April, one thousand nine hundred thirty-four, the tax commissioner may extend such discount periods, as to all taxes levied for said year, for forty-five days from the time when said levies are actually determined.

CHAPTER 66

(House Bill No. 365—By Mr. Norton)

AN ACT to provide revenue to meet the present fiscal emergency of the state by the imposition of surtaxes on sales, privileges, productions, business and incomes, and by the imposition of a general consumers sales tax.

[Passed March 23, 1934; in effect on April 1, 1934. Approved by the Governor.]

Title I
SEC.
1. Imposition of emergency surtaxes declared necessary.
2. How act cited.
3. Imposition of an emergency surtax of one-half of existing tax imposed by subsections (a), (b), (c), (d) and (g) of section

SEC.
2. chapter 33, acts first extraordinary session 1933; exceptions.
4. Imposition of emergency surtax of one-half of existing tax imposed by sections two, three, four and five, article XII-A of chapter thirty-three, acts first extraordinary session 1933; exceptions.
5. Taxes imposed by this act are for the privilege of doing business in state; to be calculated from June 30, 1933 to June 30, 1935.
6. When taxes imposed by sections three and four payable.
7. What provisions for administration, collection and enforcement to apply to taxes imposed by section three.
8. What provisions for administration, collection and enforcement to apply to taxes imposed by section four.
9. Proceeds of taxes imposed by this title to be paid into the state fund, general revenue.
10. When provisions of title terminate.

Title II

SEC.
1. Imposition of general consumers sales tax declared necessary.
2. Definitions.
3. Tax of two per cent of gross proceeds arising from selling tangible personal property at retail and from certain selected services imposed until June 30, 1935; tax paid by purchaser and kept separate and paid to state by retailer; amount of tax on individual sales; no registration license for or transfer of title of automotive vehicle to be issued in state until tax is paid; exceptions; all taxes collected from purchasers to be remitted to tax commissioner.
4. Burden of proof that sale was not at retail upon seller.
5. When returns to be made on gross proceeds of retail sales.
6. Provisions of title to apply to furnishing of services; exceptions.
7. Sales exempt from tax.
8. Tax added to sale price and collected from consumer.
9. Retailer not to absorb tax; penalty for violation.
10. Adoption by competing taxpayers of uniform methods of adding average equivalent of tax to selling price; rules and regulations by tax commissioner.
11. Tax returns when business done wholly or partly on credit basis.
12. Retailer, also engaged in business not taxable, to keep separate books.
13. Tax commissioner to prescribe rules to determine gross proceeds of sales to affiliated companies.
14. Monthly report and remittance by taxpayer to tax commissioner.
15. Tax commissioner may authorize returns at other times.
16. When quarterly returns may be made.
17. Annual returns under oath and remittance; extension.
18. Consolidated returns for business done in two or more places.
19. Duties of person liable for tax; preservation of records.
20. Duty of tax commissioner as to moneys received and preservation of returns by taxpayer.
21. When information obtained in administration of act is privileged.
22. Proceeds of tax for support of free schools; expended as provided by law.
23. Provisions of title terminate June 30, 1935.

Title III

SEC.
1. Tax commissioner to promulgate and enforce rules for enforcement of provisions of act.
2. Tax commissioner responsible for acts of employees or appointees.
3. Penalty for violation of provisions of act.
4. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

TITLE I

Emergency Surtaxes

Section 1. Because the enabling legislation under the "Tax Limitation Amendment" has required adjustments which have greatly reduced the revenue of the state, it is necessary that emergency surtaxes be imposed to provide funds essential to the conduct of government.

Sec. 2. This act may be cited as "The Supplemental (Emer-

gency) Revenue Act of one thousand nine hundred thirty-four."

Sec. 3. Every person taxable under sub-sections (a), (b), (c), (d) and (g) of section two, article thirteen, chapter eleven, code of one thousand nine hundred thirty-one, as amended by chapter thirty-three, acts of the first extraordinary session, one thousand nine hundred thirty-three, shall pay, in addition to the taxes imposed by that act, and in addition to all other taxes, an additional emergency surtax of one-half of each tax imposed by sub-sections (a), (b), (c), (d), and (g), section two, article thirteen chapter eleven, code of one thousand nine hundred thirty-one, as amended by chapter thirty-three, acts of the first extraordinary session, one thousand nine hundred thirty-three, but there shall be no additional tax on water companies or upon privileges taxed under sub-section (c), except in case of wholesalers or jobbers.

Sec. 4. Each person taxable under sections two, three, four, or five, article twelve-(a), chapter eleven, code of one thousand nine hundred thirty-one, as amended by chapter thirty-three, acts of the first extraordinary session one thousand nine hundred thirty-three, shall pay, in addition to that tax and all other taxes, an additional emergency surtax of one-half of the tax imposed by the above mentioned article, except that there shall be no additional tax on telephone corporations.

Sec. 5. The taxes imposed by this title are for the privilege of doing business within this state during the operation of this act and shall be calculated for a period beginning July first, one thousand nine hundred thirty-three, and ending June thirtieth, one thousand nine hundred thirty-five, in the same manner as the taxes imposed by articles twelve-(a) and thirteen, chapter eleven, code of one thousand nine hundred thirty-one, as amended by chapter thirty-three, acts of the first extraordinary session one thousand nine hundred thirty-three.

Sec. 6. The taxes imposed by sections three and four, shall be paid quarterly on the first of November, February, May and August, except that an amount calculated upon the first two quarters of the fiscal year July first, one thousand nine hundred thirty-three, to June thirtieth, one thousand nine hundred thirty-four, shall be due and payable on April first, the third quarter May fifteenth, and the fourth quarter August first, one thousand nine hundred thirty-four.

Sec. 7. Except as otherwise provided by this act, the provisions for the administration, collection, and enforcement of taxes imposed by article thirteen, chapter eleven of the code as amended by chapter thirty-three, acts of the first extraordinary session, one thousand nine hundred thirty-three shall apply, so far as applicable, to the administration, collection and enforcement of the taxes imposed by section three of this title.

Sec. 8. Except as otherwise provided by this act, the provisions for the administration, collection and enforcement of taxes imposed by article twelve-(a), chapter eleven of the code, as amended by chapter thirty-three, acts of the first extraordinary session, one thousand nine hundred thirty-three, shall apply so far as applicable to the administration, collection and enforcement of the taxes imposed by section four of this title.

Sec. 9. The proceeds of the taxes imposed by this title shall be paid into the state fund, general revenue, and be expended in such manner as may be provided by law.

Sec. 10. All provisions of this title shall terminate and cease to be of effect upon the thirtieth day of June, one thousand nine hundred thirty-five. The termination of this title shall not affect the enforcement of any right, liability, or duty arising during or out of the operation thereof.

TITLE II

General Consumers Sales Tax

Section 1. In order to meet the fiscal needs created by shifting the base of taxation from general property, it is declared essential that a general consumers sales tax be imposed for a limited period.

Sec. 2. For the purposes of this title:

First, "Persons" shall mean any person, firm, partnership, association or corporation;

Second, "Tax commissioner" shall mean the state tax commissioner;

Third, "Gross proceeds" shall mean the amount received in money, credits, property or other consideration from sales at retail within this state, without deduction on account of the cost of the property sold, amounts paid for interest or discounts, or other expenses whatsoever. Losses shall not be deducted, but

deductions may be made to the amount of credits or refunds for returned goods and of the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in "gross proceeds";

Fourth, "Sale at retail" shall mean any transaction by which the ownership of tangible personal property is transferred for a consideration, when the transfer is made in the ordinary course of the transferor's business and is made to the transferee for consumption or use or any other purpose save resale in the form of tangible personal property. "Sale at retail" includes conditional sales and transactions under whatever name whereby title is ultimately to pass, although possession is retained for security;

Fifth, "Sale at retail" shall not include an isolated transaction in which any tangible personal property is sold, transferred, offered for sale, or delivered by the owner thereof, or by his representative for the owner's account, such sale, transfer, offer for sale or delivery not being made in the ordinary course of repeated and successive transactions of a like character by such owner or on his account by such representative;

Sixth, "Retail dealer" shall mean a person engaged in the business of sale at retail in this state;

Seventh, "Wholesale dealer" shall mean a person engaged in this state in the business of selling to a retail dealer in this state for resale only;

Eighth, "Business" shall include all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect;

Ninth, "Taypayer" shall mean any person liable for any tax hereunder;

Tenth, "Tax" shall include all taxes, interest or penalties levied hereunder.

Sec. 3. For the privilege of engaging in the business of selling tangible personal property at retail, and of dispensing certain selected services defined in section six of this title, every person shall pay a tax of two percent of the gross proceeds of the business done during the period from the date of the passage of this act until the thirtieth day of June, one thousand nine hundred thirty-five. The retail dealer shall keep the tax paid by the purchaser separate and apart from the proceeds of sale and shall account to the state for all the tax paid by the purchaser.

There shall be no tax on sales where the monetary consideration is five cents or less. On each sale where the monetary consideration is from six cents to fifty cents, both inclusive, the tax payable by the purchaser shall be one cent; on each sale where the monetary consideration is from fifty-one cents to one dollar, both inclusive, the tax payable by the purchaser shall be two cents, and on each fifty cents of such monetary consideration, or fractional part thereof, in excess of one dollar, the tax payable by the purchaser shall be one cent. *Provided, however,* That no registration license shall be issued by the state road commission for the operation of any automotive vehicle in this state other than for those vehicles which are licensed at the time of the effective date of this act, or which may have hitherto been licensed and the applicant for license is the same person in whose name license had previously been issued, unless and until the tax upon such vehicle, as provided by this section, has been paid: *And, provided further,* That no transfer of title for the operation of any automotive vehicle in this state shall be issued by the state road commissioner unless and until the tax upon such vehicle, as provided in this section, has been paid: *And provided further,* That the provisions of the above two provisos shall not apply to automotive vehicles engaged in interstate commerce under classes H and I; and, the state road commissioner shall have authority, and it shall be his duty to promulgate such rules and regulations as may be necessary for the proper certification to the state road commission that such tax has been paid.

No profit shall accrue to any person by virtue of the provisions of this section, as a result of the collection of the tax herein levied upon purchasers, notwithstanding that the total amount of such taxes collected may be in excess of the amount for which such person would be liable by the application of the levy of two percent to the gross proceeds of his sales, and the total of all taxes collected by any such person shall be returned and remitted to the tax commissioner as hereinafter provided.

Sec. 4. The burden of proving that a sale was not at retail shall be upon the seller, unless he takes from the purchaser a certificate signed by and bearing the address of the purchaser to the effect that the property was purchased for resale. To

prevent evasion, it shall be presumed that all proceeds are subject to the tax until the contrary is clearly established.

Sec. 5. A person exercising the privilege of producing for sale, profit or commercial use, any natural resources, product or manufactured product, and engaging in the business of selling at retail any such product not otherwise exempted herein shall make returns of the gross proceeds of such retail sales and pay the tax imposed by this title.

Sec. 6. The provisions of this title shall apply not only to selling tangible personal property, but also to the furnishing of all services except professional and personal services and except those services furnished by corporations subject to the control of the public service commission and the state road commission.

Sec. 7. The provisions of this title shall not apply to:

First, Sales of gasoline, taxable under article fourteen, chapter eleven of the code of one thousand nine hundred thirty-one;

Second, Sales of gas, steam and water delivered to consumers through mains or pipes, and sales of electricity;

Third, Sales of public school books regularly adopted pursuant to section ten, article two, chapter eighteen of the code of one thousand nine hundred thirty-one;

Fourth, Sales to the state, its institutions or sub-divisions, and sales to the United States, including sales to agencies of federal, state or local governments for distribution in public welfare or relief work, or sales not taxable by this state by reason of the federal constitution or otherwise.

Sec. 8. It is the intent of this title that the tax levied hereunder shall be passed on to the consumer. The amount of the tax shall be added to the sales price, and shall constitute a part of that price and be collectible as such.

Sec. 9. A person engaged in the business of selling tangible personal property at retail shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax or that the tax imposed by this title is not to be considered an element in the price to the consumer. A person who violates this provision shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than fifty nor more than one thousand dollars, or imprisonment in the county jail for not exceeding one year, or both in the discretion of the court.

Sec. 10. To provide uniform methods of adding the average

equivalent of the tax to the selling price in each sale or transaction subject to the tax, appropriate rules and regulations, except as otherwise herein provided, may be agreed upon or adopted by competing taxpayers or associations of taxpayers, except that all collections shall be made on the basis of the total transaction at the time of sale, without regard to the value of the separate items making up the total amount of the sale. Such rules and regulations, if they do not involve price fixing, shall not be deemed illegal as in restraint of trade or commerce. It shall be the duty of the tax commissioner to cooperate in formulating such rules and regulations, and, in the event appropriate rules and regulations are not submitted to him within thirty days after this act takes effect, or within a reasonable extended period fixed by the tax commissioner, he shall himself formulate and promulgate appropriate rules and regulations to effectuate the purpose of this section.

Sec. 11. The tax commissioner may authorize a taxpayer doing business, wholly or partly on a credit basis, to make returns on the basis of cash actually received. Thereafter, the taxpayer shall make return and pay taxes on that basis until further order of the tax commissioner. This section shall not operate to relieve from the tax, credit business done during the operation of this title but realized upon in money or money's worth thereafter.

Sec. 12. Any person engaged in the business of making sales at retail who is at the same time engaged in some other kind of business, occupation, or profession, not taxable under this title, shall keep books to show separately the transactions used in determining the tax base herein taxed. In the event of such person failing to keep such separate books, there shall be levied upon him a tax based upon the entire gross proceeds of both or all of his businesses.

Sec. 13. In determining gross proceeds of sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and the seller is such that gross proceeds from a sale are not indicative of the true value of the subject matter of the sale, the tax commissioner shall prescribe uniform and equitable rules for determining the amount upon which the tax shall be levied, corresponding as nearly as possible to gross proceeds from the sale

of similar products of like quality or character where no common interest exists between the parties.

Sec. 14. The taxes levied hereunder shall be a personal obligation of the taxpayer and shall be due and payable in monthly installments, on or before the fifteenth day of the month next succeeding the month in which the tax accrued. The taxpayer shall, on or before the fifteenth day of each month, make out and mail to the tax commissioner a return for the preceding month, in the form prescribed by the tax commissioner, showing (a) the total gross proceeds of his business for that month; (b) the gross proceeds of his business upon which the tax is computed; (c) the amount of the tax for which he is liable; and (d) any further information necessary in the computation and collection of the tax which the tax commisioner may require. A remittance for the amount of the tax shall accompany the return. A monthly return shall be signed by the taxpayer or his duly authorized agent.

Sec. 15. The tax commissioner may, upon written request, authorize a taxpayer whose books and records are not kept on a monthly basis to file returns at other times than those specified in the preceding section, but in no event shall a taxpayer make less than one return a calendar month, except as provided by section sixteen.

Sec. 16. When the total tax for which a person is liable does not exceed ten dollars for any month, he may make quarterly return on or before the fifteenth day of the first month in the next succeeding quarter in lieu of monthly returns.

Sec. 17. On or before thirty days after the end of the tax year, each person liable for the payment of a tax hereunder shall make an annual return in such form as may be required by the tax commissioner, showing total gross proceeds of his business for the preceding tax year, gross proceeds upon which the tax for that year was computed, and any other information necessary in the computation or collection of the tax that the tax commissioner may require. After deducting the amount of prior payments during the tax year, the taxpayer shall transmit the return with a remittance for any remaining tax, payable by him during the preceding tax year, to the tax commissioner. The taxpayer or his duly authorized agent, shall verify the return under oath. The tax commissioner for good cause shown, may,

on written application of a taxpayer, extend the time for making his annual return.

Sec. 18. A person engaging in two or more places in the same business or businesses of like character, taxable hereunder, shall file consolidated returns covering all such business activities engaged in within this state.

Sec. 19. A person liable for the tax imposed hereunder shall keep the records, render under oath the statements, make returns, and comply with the rules and regulations that the tax commissioner may, from time to time, require. The tax commissioner may require such records, statements or returns, upon notice, from any person in order to determine whether he is liable to the tax hereunder. The tax commissioner may require preservation of records for not to exceed five years.

Sec. 20. The tax commissioner shall keep full and accurate records of all moneys received by him. He shall preserve all returns filed with him hereunder for five years.

Sec. 21. Unless, in compliance with a judicial order, or as may be required by the proper administration hereof, the tax commissioner, his agents and employees and former tax commissioners, agents and employees shall not divulge facts or information obtained in the administration hereof.

Sec. 22. The proceeds of the tax imposed by this title shall be devoted to the support of the free schools, and be expended in such manner as may be provided by law.

Sec. 23. All provisions of this title shall terminate and cease to be of effect upon the thirtieth day of June, one thousand nine hundred thirty-five. The termination thereof shall not affect the enforcement of any right, liability, or duty arising during or out of the operation hereof.

TITLE III

General Provisions

Section 1. The tax commissioner shall have the authority to promulgate and enforce reasonable rules and regulations necessary to the administration and enforcement of the provisions of this act.

Sec. 2. Except for the promulgation of rules and regulations, any power or duty conferred upon the tax commissioner by this act may be exercised under his direction by his employees or ap-

pointees; but the tax commissioner shall be responsible for their acts.

Sec. 3. Except as herein otherwise provided a person who wilfully violates any of the provisions of this act, or any lawful rule or regulation promulgated under it, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than fifty nor more than five thousand dollars.

Sec. 4. The provisions of this act shall be construed as severable and if any part is held to be unconstitutional, or for any other reason invalid, the remaining provisions shall not be affected. If the application of the tax imposed by this act to any particular taxpayer or to any period of time is held to be invalid, its application to other taxpayers and to other periods of time shall not be affected thereby.

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*CHAPTER 67

(House Bill No. 234—By Mr. Hiner)

AN ACT to amend and reenact Committee Substitute for House Bill No. 63, an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, entitled: "An act to amend and reenact chapter thirty-eight, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, entitled: 'An act to amend sections one to fifteen, inclusive, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, by substituting therefor sections one to twenty-six, inclusive, relating to tax levies', by substituting therefor sections one to twenty-five, inclusive," by substituting therefor sections one to thirty-three, inclusive.

[Passed January 10, 1934; in effect from passage. Approved by the Governor.]

SEC.
1, 2, 3. Legislative findings and declarations.
4. Definition of taxing units.
5. Classification of property for levy purposes.
6. Aggregate of taxes on the different classifications; maximum levies on each classification by the various taxing units.
7. Levies for indebtedness to be within apportionments to the various taxing units.
8. State levies for contractual indebtedness and general revenue; when board of public works to determine amount of levies and certify same to tax commissioner and county assessors; state levy for general revenue.
9. Meetings of local levying bodies.
10. Levy estimate by county court; certification to tax commissioner and publication or posting; adjourned session of court to hear objections to proposed levies; approval of estimate and levy by tax commissioner; first

*Amended by chapters fifty-one, sixty-five, sixty-eight and sixty-nine, acts of this session.

SEC.
levy for bonded indebtedness, second for indebtedness not bonded, then for current expenses.
11. Certification of levy order; duties of clerk, assessor and collecting officer; delinquent lists.
12. Levy estimate by board of education; certification and publication; adjourned session to hear objections; first levy for bonded indebtedness, second for indebtedness not bonded, then for current expenses; approval of levies by tax commissioner.
13. Certification of levy order to tax commissioner and county superintendent; reports by superintendent of levies; extension and collection of levies.
14. Levy estimate by municipal council; certification to tax commissioner and publication or posting; adjourned session to hear objections; first levy for bonded indebtedness, second for indebtedness not bonded, then for current expenses; approval of levies by tax commissioner.
15. Certification of municipal levies.
16. What order for election to increase levies to show; vote required; amount and continuation of additional levy.
17. Publication and posting of notice of election; form of ballot.
18. Tax commissioner to furnish forms of statements and attorney general to furnish forms for elections.
19. Passing on levies for contractual indebtedness from larger to lesser taxing district and from lesser to larger taxing district.
20. Levy apportioned a taxing district for current expense but not needed may be used for its debt purposes or passed on to lesser taxing district for debt purpose.

SEC.
21. Amount of levy, with consent of tax commissioner, when fiscal body required by law to levy for indebtedness, property within municipality not being subject to levy.
22. Supersedeas to levy order; rescission or reversal; return of money collected before rescission; recovery by action.
23. Statement of fiscal body when levies not sufficient to meet requirements of existing contractual indebtedness; certification and publication of levy proposed; reductions in estimates for current expenses used for contractual indebtedness purposes; when increased levy, not exceeding limitations, may be laid for contractual indebtedness.
24. Petition for review of findings of tax commissioner and levy order; notice of intention to file; intervention by others; hearing and findings by court; appeal to supreme court of appeals; if liens found excessive, money collected to be refunded; recovery by action.
25. Funds expended only for purposes for which raised.
26. Unlawful expenditures by local fiscal body.
27. When indebtedness, contracts or drafts are void.
28. Suit to recover unlawful expenditure or to cancel obligation.
29. Personal liability of official participating in unlawful expenditure.
30. Recovery of unlawful expenditure from participating official by action; costs.
31. Criminal liability of official violating provisions of article; proceeding for renewal.
32. Discount period for prompt payment of 1933 taxes; extension of period by tax commissioner.

Be it enacted by the Legislature of West Virginia:

That an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, designated Committee Substitute for House Bill No. 63, be amended and reenacted to read as follows:

ARTICLE VIII

Section 1. WHEREAS, Two former acts of the present Legislature relating to the subject matter and general object of this act have been held by the supreme court of appeals of this state to be unconstitutional for varying reasons, which holdings give rise to the question and doubt as to whether the tax limitation amendment, according to the majority interpretation of its

intent and meaning, and in consonance with a like, but differently constituted, majority interpretation of other constitutional provisions, may be made workable literally and, at the same time, permit provisions to be made for the necessary requirements of governmental expenses; and

WHEREAS, This Legislature cannot entertain the belief that the voters of this state who, with such practical unanimity, adopted the tax limitation amendment, had in mind that any possible effect or consequence thereof would be to destroy or seriously impair constitutional government in the state or any political subdivision thereof, but rather that one of its objects and purposes was to enjoin and compel a curtailment and reduction of governmental expenses, and to hold them within reasonable bounds consistent with the economical and efficient administration thereof; and

WHEREAS, It is the express purpose and object of the provisions hereinafter contained to fully conform with the spirit of said amendment and to provide ample safeguards to insure the strictest economy in the matter of governmental expenditures, to the end that proper agencies of government may not be compelled to abdicate or cease to function, but that in so functioning they shall not entail upon the public any expense which is not absolutely necessary; therefore, the Legislature of West Virginia doth find and declare:

That the provisions of this act hereinafter contained are as it verily believes fully within the spirit of said amendment and the several judicial interpretations thereof, and that by means thereof said amendment may be found to be workable in its practical application.

Sec. 2. The Legislature having carefully studied the fiscal affairs of the various counties, municipalities and other taxing districts of the state, and having had access to the official records in the office of the state tax commissioner, and having studied the various computations made by the office of the tax commissioner summarizing the levies which may be made under the tax limitation amendment, and having examined and investigated the various estimates made by the levying bodies for the maintenance and operation of constitutional county government, municipal government and the public school system, doth find:

(1) That approximately twenty per cent of the maximum potential levies within the limits prescribed by section one, article ten of the constitution of West Virginia as amended constitutes a fair average minimum requirement for the maintenance of basic and indispensable functions of government for which county courts have heretofore imposed the levies;

(2) That approximately twenty per cent of the maximum potential levies within the municipalities constitutes a fair average minimum requirement for the maintenance of municipal government;

(3) That, for the reasons hereinafter set forth, approximately thirty per cent of such maximum potential levies is required as the contribution from local taxation for the maintenance of the state free school system if a term of not less than seven months is to be provided;

(4) That the potential yield of all taxes levied within the said limitations is approximately twenty-five million dollars, without deduction for delinquencies;

(5) That the present annual requirements for interest, sinking fund, and amortization charges of contractual indebtedness of the state and other fiscal bodies existing on the eighth day of November, one thousand nine hundred thirty-two, not including state road bonds for which other provision is made, but including the requirements for bonded indebtedness and reasonable partial provision for contractual indebtedness not bonded, is approximately seven million five hundred thousand dollars;

(6) That the maintenance of constitutional local government, the maintenance of orderly municipal government, and provision for a reasonably efficient free school system are essential and indispensable to the protection of the obligations of contractual indebtedness of the state and its various subdivisions, for the reason that the ultimate security for such obligations is the value of the property of the citizens located within the governmental units which are indebted for such contractual obligations, and that if such ordinary governmental functions, including a reasonably efficient school system, be not provided, the value of such property will greatly depreciate, and, without proper governmental provision for peace, order, and security, and the proper exercise of the police powers of the state, homes and business properties in the state will be rendered uninhabitable and of little value;

(7) That if the proportions of the direct levies herein mentioned be not made available for current expenses of government, including provision for the free school system, there will be no provision from such taxes for the maintenance of schools, and in, at the least, thirty-three counties of the state constitutional government can not be maintained; and that if taxes from sources other than the direct property taxes be relied upon to provide for the current expenses of government and the maintenance of schools, the amount thereof required will be approximately fifteen million dollars, in addition to the other so-called indirect taxes heretofore provided and other requirements to be met from such other or indirect taxes; and the Legislature doth find that such further and additional indirect taxes in such amount can not be raised within the state of West Virginia;

(8) Whereas, It has recently been judicially determined that under the tax limitation amendment due provision must be made for the payment of contractual indebtedness from the levies laid thereunder, the Legislature doth further find that on a state-wide basis approximately thirty per cent of said levies is reasonably sufficient to make provision for such indebtedness, and doth further find that approximately seventy per cent of said levies is indispensably necessary for current expenses for the maintenance of indispensable functions of government within the state;

(9) Whereas, The Legislature doth further find that in some of the subdivisions of the state the indebtedness is great and cumulative from one subdivision to another, and it has been judicially determined in effect that when the validity of the contractual claims is not questioned, levies necessary for the payment thereof, when added to the levies already made for current governmental expenses, may exceed the maximums of the levies authorized by the constitutional limitation; the Legislature doth further find that the necessity for such levies laid substantially in accordance with the tax laws in force and effect at the time such indebtedness was incurred arises when the requirements of such indebtedness exceed approximately thirty per cent of the levies within said limitations, and, at the same time, approximately seventy per cent of the levies within said limitations is indispensably necessary for the

maintenance of current governmental functions; therefore, for the accomplishment of said purposes, it is enacted as follows:

Sec. 3. In order that the revenue to be derived from taxes to be assessed upon real and personal and public utility property throughout the state may be apportioned among the levying units of the state in such manner that the said apportionment shall not exceed the maximum levies that may be assessed upon each respective class of property as defined by the tax limitation amendment, and

In order, further, that the taxes to be assessed shall be levied and collected with uniformity coextensive with the territory of the taxing unit within which such taxes are to be levied and collected, without interference by one taxing unit with the right of another such unit to levy and collect taxes for its purposes and within its territorial extent, and

In order, further, that the taxing units throughout the state may be furnished with the means of providing (1) the sinking fund and interest requirements of their now existing indebtedness, and (2) the requirements of their respective current operating expenses, this act is hereby enacted.

The purpose of this article is to provide the maximum rates for the levies which may be laid by the several taxing units in the state within the limitations of the tax limitation amendment and to provide for the application of the taxes derived therefrom first to the payment of legal contractual indebtedness and then to the maintenance of indispensable governmental functions as herein provided.

Sec. 4. The taxing units of the state for the purposes of this act are declared to be (1) the state, (2) the county, for all county purposes including indebtedness other than school indebtedness, (3) present school districts for current school purposes, (4) school districts existing prior to the twenty-second day of May, one thousand nine hundred thirty-three, for school debt service purposes, (5) magisterial and other road districts for road and other debt service purposes other than county road debts, (6) other specially created taxing districts for indebtedness existing at the time of the adoption of the tax limitation amendment, (7) municipalities for municipal purposes including municipal debt service purposes.

Sec. 5. For the purpose of levies, except as provided in sec-

tion twenty-three of this article, property shall be classified as follows:

Class I. All tangible personal property employed exclusively in agriculture, including horticulture and grazing;

All products of agriculture (including livestock) while owned by the producer;

All money and all notes, bonds, bills and accounts receivable, stocks and any other intangible personal property;

Class II. All property owned, used and occupied by the owner exclusively for residential purposes;

All farms, including land used for horticulture and grazing, occupied and cultivated by their owners or bona fide tenants;

Class III. All real and personal property situated outside of municipalities, exclusive of classes I and II.

Class IV. All real and personal property situated inside of municipalities, exclusive of classes I and II.

Sec. 6. The aggregate of taxes assessed in any one year by all levying bodies shall not exceed fifty cents on each one hundred dollars' assessed valuation on class I property; one dollar on class II property; one dollar fifty cents on class III property; and two dollars on class IV property, except as hereinafter provided by section twenty-three of this article.

The following fiscal bodies of the state are hereby authorized to lay the following maximum levies within the limitations provided by the tax limitation amendment for the following purposes upon each one hundred dollars of the assessed valuation of the real, personal and public utility properties within their respective districts, namely:

For state purposes the board of public works: For bonded and other contractual indebtedness purposes on class I property two cents, on class II property four cents, and on classes III and IV property eight cents, as such classes are herein defined, and for general expense purposes for the state fund general revenue one cent on each and all classes of property.

County Courts. First for the payment of interest and sinking fund requirements in respect to bonded indebtedness of the county legally incurred or created prior to the adoption of the tax limitation amendment, and if not entirely required therefor, then for the payment of other legally incurred contractual indebtedness not bonded, created prior to the adoption of the tax

limitation amendment, on class I property two cents, on class II property four cents, and on classes III and IV property eight cents, for the payment of interest and sinking fund requirements; and first in respect to the bonded indebtedness of any district or special district within the county for which the levies are required to be laid by the county courts, and if not all required for such interest and sinking fund requirements, then for the payment of other legally contracted indebtedness not bonded, incurred or created prior to the adoption of the tax limitation amendment on class I property four and twenty-five hundredths cents, on class II property eight and five-tenths cents, and on classes III and IV property seventeen cents. And for general county current expense purposes on class I property nine and four-tenths cents, on class II property eighteen and seven-tenths cents, and on classes III and IV property thirty-seven and five-tenths cents.

Boards of Education. First for the payment of interest and sinking fund requirements in respect to the bonded indebtedness in any magisterial, independent, or other school district of the county existing prior to the twenty-second day of May, one thousand nine hundred thirty-three, legally incurred or created prior to the adoption of the tax limitation amendment and then if not entirely required therefor, for the payment of other legally incurred contractual indebtedness not bonded, created by such school districts prior to the adoption of the tax limitation amendment on class I property three cents, on class II property six cents, and on classes III and IV property twelve cents. And for general current expenses of schools on class I property fifteen and eighty-five hundredths cents, on class II property thirty-two and eight-tenths cents, and on classes III and IV property sixty-six and five-tenths cents.

Municipalities. First for the payment of interest and sinking fund requirements in respect to bonded indebtedness of the municipalities legally incurred prior to the adoption of the tax limitation amendment, and if not entirely required for such purposes, then for the payment of other legally incurred contractual debts created prior to the adoption of the tax limitation amendment on class I property three and seventy-five hundredths cents, on class II property seven and five-tenths cents, and on class IV property fifteen cents, and for general current

expense purposes on class I property eight and seventy-five hundredths cents, on class II property seventeen and five-tenths cents, and on class IV property thirty-five cents: *Provided further,* That of the taxes on class I property fifteen cents thereof, and on class II property thirty cents thereof, and on class III property forty-five cents thereof, and on class IV property sixty cents thereof may be levied and collected for the purpose of meeting the contractual indebtedness requirements of the state and other taxing districts as hereinafter provided, and for no other purpose in any event, and the levies for current governmental expense of all taxing districts, including the state, counties, magisterial districts, school districts, municipalities and other taxing districts shall not in any event exceed on class I property thirty-five cents, on class II property seventy cents, on class III property one dollar five cents, on class IV property one dollar forty cents.

Sec. 7. The levies for indebtedness of the state shall be within the apportionments of levies for state taxes as provided in section eight. The levies for county indebtedness which have heretofore been laid by the county courts other than as district levies shall be within the apportionment of levies for such indebtedness provided by section ten hereof. The levies for district indebtedness which have heretofore been laid by the county court shall be within the apportionments for such indebtedness as provided by section ten. The levies for indebtedness of school districts existing prior to the twenty-second day of May, one thousand nine hundred thirty-three, shall be within the apportionments for indebtedness made to boards of education by section twelve hereof. The levies for special taxing districts for indebtedness shall be within the apportionments to the county court or the board of education for indebtedness purposes according to the fiscal body by which the taxes for such special taxing districts are provided by law to be laid. The levies for municipalities for indebtedness purposes shall be within the apportionments made to municipalities for indebtedness purposes as provided by section fourteen herein.

Sec. 8. The state levy for contractual indebtedness existing on the eighth day of November, one thousand nine hundred thirty-two, shall be for the fiscal year beginning July first, one thousand nine hundred thirty-three, such indebtedness being Virginia debt bonds, capitol building fund notes, and when

necessary the refunding bonds authorized by chapter fifty-eight, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, on class I property two cents, on class II property four cents, and on classes III and IV property eight cents; and for state fund general revenue the board of public works shall, if it find the same to be necessary, lay a state levy other than for now existing indebtedness, not to exceed one cent on the one hundred dollars' valuation on all real, personal, and public utility properties subject to taxation within the state.

For fiscal years after the fiscal year beginning July first, one thousand nine hundred thirty-three, the state levy may be the same as herein provided for said fiscal year, except that no levy shall be laid on account of capitol building fund notes.

The board of public works shall determine the debt levy to be laid by it, if any, and the current expense levy, if any, for the fiscal year beginning July first, one thousand nine hundred thirty-three, on or before the thirtieth day of January, one thousand nine hundred thirty-four, and shall forthwith advise the state tax commissioner of its action and shall so certify to the assessor of each county. In other years the board of public works shall determine the necessity of state levies for indebtedness or current expenses on or before the fifteenth day of July of the fiscal year for which the tax is to be laid.

When no state levy is required for indebtedness the board of public works shall in any event lay a state levy for state fund general revenue of one cent on the one hundred dollars' valuation on all property taxable within the state.

Sec. 9. Each local levying body shall hold a session on the first Tuesday in August for the transaction of business generally and particularly for the business herein required, but for the fiscal year beginning July first, one thousand nine hundred thirty-three, such meeting shall be held on the first Tuesday following the first Wednesday after this act becomes effective.

Sec. 10. The county court shall, at the session provided for in section nine of this article, ascertain the fiscal condition of the county, and make an itemized statement which shall set forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year

except from the levy of taxes to be made for the year upon the county as a whole and upon any district of the county for which the levies are laid by the county court;

(2) The interest, sinking fund and amortization requirements of bonded indebtedness legally incurred upon a vote of the people, as provided by law prior to the adoption of the tax limitation amendment, required for the fiscal year owing by the county as a whole and/or owing by any district;

(3) Other contractual indebtedness not bonded, legally incurred prior to the adoption of the tax limitation amendment, owing by the county as a whole and such debts owing by any district;

(4) All other expenditures to be paid out of the receipts for the current fiscal year, whether by the county as a whole or out of any fund of any district, with proper allowance for delinquent taxes, exonerations and contingencies;

(5) The total amount necessary to be raised for each fund by the levy of taxes for the current year;

(6) The proposed county levy in cents on each one hundred dollars' assessed valuation of each class of property for the county and its subdivisions;

(7) The proposed levy in each district for district funds, if any, on each one hundred dollars' valuation of each class of property;

(8) The separate and aggregate amounts of the real, personal and public utility properties in each class in the county and in each subdivision thereof.

A copy of the statement, duly certified by the clerk of the court, shall be forwarded to the tax commissioner, and shall be published as soon thereafter as may be, for one publication in two newspapers of general circulation and of opposite politics, published in the county. If there be only one newspaper published in the county, the publication shall be made therein. If there be no newspaper published in the county, a true copy of such statement duly certified shall be posted by the clerk of the court at the front door of the courthouse, and at a public place in each magisterial district of the county, not later than the third day after adjournment of the session provided for by section nine hereof: *Provided, however,* That publication having been made for the fiscal year begin-

ning July first, one thousand nine hundred thirty-three, no publication shall be required for said fiscal year, and the county court shall cause to be posted at the front door of the courthouse the statement herein provided for not less than ten days prior to the second meeting hereinafter provided for, which posting shall constitute full and sufficient notice for said fiscal year.

The session, except for the fiscal year beginning July first, one thousand nine hundred thirty-three, shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene. For the fiscal year beginning July first, one thousand nine hundred thirty-three, the session shall stand adjourned until the second Tuesday after the meeting provided for in section nine of this article.

The court shall then hear and consider any objections made orally or in writing by the prosecuting attorney, by the tax commissioner or his representative, or by any taxpayer of the county, to the estimate and proposed levy or to any item thereof. The court shall enter of record any objections so made and the reasons and grounds therefor.

The failure of any officer or taxpayer to offer objections shall not preclude him from pursuing any legal remedy necessary to correct any levy made by any fiscal body under this article.

The court, after hearing objections, shall reconsider the proposed original estimate and proposed rates of levy, and if the objections are well taken, shall correct the estimate and levy. No such estimate and levy, however, shall be entered until the same shall have first been approved, in writing, by the tax commissioner. When the same shall have been approved by the tax commissioner, the clerk shall then enter the estimate and levy, together with the order of the court approving them and the written approval of the tax commissioner thereof, in the proper record book.

The county court shall then levy as many cents per hundred dollars' assessed valuation on each class of property in the county or its subdivisions, according to the last assessment, as will produce the amounts shown to be necessary by the statement: *Provided, however,* That the first levy to be made by the county court shall be for the bonded indebtedness of the county or any district thereof for which the court imposes

the levy, existing at the time of the adoption of the tax limitation amendment, for which purpose the county court shall levy, if necessary, for county bonded indebtedness as such, on class I property two cents, on class II property four cents, and on classes III and IV property eight cents, and for such bonded indebtedness of any district for which the levies are laid by the county court, on class I property four and twenty-five hundredths cents, on class II property eight and five-tenths cents, and on classes III and IV property seventeen cents; and that the second levy to be made by the county court shall be for other contractual indebtedness, not bonded, of the county or any district thereof, for which the county imposes the levy, existing at the time of the adoption of the tax limitation amendment, for such county indebtedness to the extent that the apportionment of two cents on class I property, four cents on class II property and eight cents on classes III and IV property has not been required for bonded indebtedness, and for such indebtedness of any district for which the levies are laid by the county court, to the extent that the apportionment of four and twenty-five hundredths cents on class I property, eight and five-tenths cents on class II property, and seventeen cents on classes III and IV property has not been required for the bonded indebtedness of such district.

After laying such indebtedness levies, the county court shall then levy as many cents per hundred dollars' assessed valuation on each class of property in the county or its subdivisions, according to the last assessment, as will produce the amounts shown to be necessary for current expenses by the statement, which said levy for current expenses, however, shall not exceed on class I property nine and four-tenths cents; on class II property eighteen and seven-tenths cents; and on classes III and IV property thirty-seven and five-tenths cents. When less than the maximum levies are imposed, the levies on each class of property shall be in the same proportions as the maximum herein authorized.

Sec. 11. When an order is made for a levy the clerk of the court, within three days, shall prepare, certify and forward copies to the tax commissioner, the state auditor, the assessor and the officer who, according to law, is required to collect the levy. He shall charge the collecting officer with the amount of the levy in the proper account book. The assessor shall imme-

diately extend the taxes in the land and personal property books. The officer who is required to collect the levy shall make out proper tax bills. County levies shall be collected by the sheriff at the same time, in the same manner, and under the same regulations as other taxes are collected. Delinquent lists for county levies shall be returned and delinquent lands sold for county levies in the same manner and at the same place and under the same regulations that lands returned delinquent for state taxes are returned and sold.

Sec. 12. Every board of education shall, at the session provided for in section nine of this article, if the laying of a levy has been authorized by the voters of the district under article nine, chapter eighteen of the code, ascertain the condition of the fiscal affairs of the district, distinguishing between elementary and high schools and the funds provided for each, and make a statement setting forth:

(1) The separate amounts due the various funds, and the amounts that will become due and collectible during the current fiscal year except from the levy of taxes to be made for the year;

(2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness legally incurred upon a vote of the people as provided by law by any school district existing prior to May twenty-second, one thousand nine hundred thirty-three, prior to the adoption of the tax limitation amendment, owing by any such district;

(3) Other contractual indebtedness not bonded, legally incurred by any such school district existing prior to May twenty-second, one thousand nine hundred thirty-three, prior to the adoption of the tax limitation amendment, owing by such district;

(4) All other expenditures to be paid out of the receipts for the current fiscal year, with proper allowance for delinquent taxes, exonerations and contingencies;

(5) The separate amount necessary for each fund and the total to be raised by the levy of taxes for the current fiscal year;

(6) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property;

(7) The separate and aggregate amounts of the assessed

valuation of real, personal, and public utility property within each class.

The secretary of the board shall forward immediately a certified copy of the statement to the tax commissioner and shall publish the statement in a manner similar to that provided in section ten of this article.

The session, except for the fiscal year beginning July first, one thousand nine hundred thirty-three, shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene and proceed in a manner similar in all respects to that provided for in section ten of this article.

For the fiscal year beginning July first, one thousand nine hundred thirty-three, the session shall stand adjourned until the second Tuesday after the meeting provided for in section nine of this article.

The board shall first lay the levy for the payment of the requirements for the fiscal year of bonded indebtedness incurred prior to the adoption of the tax limitation amendment by any magisterial, independent or other school district, which levies if required, shall be on class I property three cents, class II property six cents, and classes III and IV property twelve cents, and shall secondly lay the levy for contractual indebtedness, not bonded, incurred prior to the time of the adoption of the tax limitation amendment, to the extent that the apportionment for such indebtedness of three cents on class I property, six cents on class II property, and twelve cents on classes III and IV property has not been required for such bonded indebtedness.

The board shall not finally enter any levy until the same shall have received the approval in writing of the tax commissioner and, after receiving such approval, shall enter the statement as originally approved in its record of proceedings, together with the written approval of the tax commissioner, and shall levy as many cents on each one hundred dollars' assessed valuation of each class of property as will produce the amount necessary for defraying the current expenses for the fiscal year: *Provided, however,* That these levies for current expenses shall not exceed on class I property fifteen and eighty-five hundredths cents, on class II property thirty-two and eight-tenths cents, and on classes III and IV property sixty-six and five-tenths cents. When less than the maximum levies are imposed, the levies on each

class of property shall be in the same proportion as the maximums herein authorized.

Sec. 13. Within three days after the board of education has laid the levies, the secretary of the board shall forward to the county superintendent and to the tax commissioner certified copies of the orders laying levies and the rate of levy upon each class. Within three days thereafter the county superintendent shall report the rate of levy for each of the various classes and the total value of real, personal, and public utility property in each class in every district to the clerk of the county court, the assessor, the state superintendent and the auditor. The proper county officers shall then extend on the property books the amount of taxes levied. The sheriff shall collect and account for the taxes as required by law.

Sec. 14. The municipal council shall, at the session provided for in section nine, ascertain the fiscal condition of the corporation, and make an itemized statement which shall set forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year:

(2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness, legally incurred upon a vote of the people as provided by law, prior to the adoption of the tax limitation amendment, owing by the municipality;

(3) Other contractual indebtedness, not bonded, legally incurred prior to the adoption of the tax limitation amendment, owing by the municipality;

(4) All other expenditures to be paid out of the receipts of the municipality for the current fiscal year with proper allowance for delinquent taxes, exonerations, and contingencies;

(5) The total amount necessary to be raised by the levy of taxes for the current fiscal year;

(6) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property;

(7) The separate and aggregate assessed valuations of real, personal, and public utility property in each class in the municipality.

The recording officer of the municipality shall forward immediately a certified copy of the statement to the tax commis-

sioner, and shall publish the statement in a manner similar to that provided in section ten of this article. The session, except for the fiscal year beginning July first, one thousand nine hundred thirty-three, shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene and proceed in a manner similar in all respects to that provided for in section ten of this article. For the fiscal year beginning July first, one thousand nine hundred thirty-three, the session shall stand adjourned until the second Tuesday after the meeting provided for in section nine of this article.

The council shall first lay the levy required for the bonded indebtedness existing at the time of the adoption of the tax limitation amendment, which levy shall be, if so much therefor be required, on class I property three and seventy-five hundredths cents, on class II property seven and five-tenths cents, and on class IV property fifteen cents.

And, secondly, it shall lay the levy required for other contractual indebtedness, not bonded, existing at the time of the adoption of the tax limitation amendment, and owing by the municipality, to the extent that the said apportionment of three and seventy-five hundredths cents on class I property, seven and five-tenths cents on class II property, and fifteen cents on class IV property has not been required for bonded indebtedness.

The council shall not finally enter any levy until the same shall have been approved in writing by the state tax commissioner, and after receiving such approval shall enter the statement as finally approved in its record of proceedings, together with the written approval of the tax commissioner, and shall levy as many cents on each one hundred dollars' assessed valuation of each class of property as will produce the amount necessary to defray the interest and sinking fund charges on such bonded indebtedness. For this purpose, the levies for current municipal expense shall not exceed on class I property eight and seventy-five hundredths cents, on class II property seventeen and five-tenths cents, and on class IV property thirty-five cents.

When less than the maximum levies are imposed for any and all purposes, the levies on each class of property shall be in the same proportion as the classified levies herein authorized.

Sec. 15. Within three days after the council of a municipality has laid the levies, its recording officer shall forward

certified copies of the order laying the levies to the tax commissioner, the state auditor and the officer whose duty it is to extend the levies.

Sec. 16. A local levying body may provide for an election to increase the levies, by entering on its record of proceedings an order setting forth:

(1) The purpose for which additional funds are needed;

(2) The amount for each purpose;

(3) The total amount:

(4) The separate and aggregate assessed valuation of each class of taxable property within its jurisdiction;

(5) The proposed additional rate of levy in cents on each class of property;

(6) The proposed number of years, not to exceed three, to which the additional levy shall apply.

The local levying body shall submit to the voters within their political subdivision, the question of the additional levy at either a general or special election. If at least sixty per cent of the voters cast their ballots in favor of the additional levy, the local levying body may impose the additional levy. This levy shall not exceed fifty per cent of the rates authorized in sections ten, twelve or fourteen of this article, as the case may be.

Levies authorized by this section shall not continue for more than three years without resubmission to the voters.

Sec. 17. The local levying body shall publish notice, calling the election, at least once each week for two successive weeks before the election in two newspapers of opposite politics and of general circulation in the territory in which the election is held. If there is only one newspaper published in the county, the publication shall be made therein. The local levying body shall also post printed copies of the order at each place of voting at least ten days before the election. All the provisions of the laws concerning general elections shall apply as far as they are practicable, except as follows: A separate ballot shall be used at a levy election held in connection with any other election. The ballot shall be entitled: "Special election to authorize additional levies for the year(s).....and for the purpose of.....according to the order of the..... entered on the.....day of....."

"The additional levy shall be on class I property.....

cents; on class II property.....cents; on class III property (if any).....cents; on class IV property (if any) .....cents."

Sec. 18. The tax commissioner shall prepare and furnish forms and instructions for making the statement required in sections ten, twelve, and fourteen of this article. The attorney general shall prepare and furnish forms and instructions for the holding of any election authorized by this article.

Sec. 19. When any taxing district, embracing a lesser taxing district, does not require all or any of the levies hereby set apart for the payment of contractual indebtedness alone, then so much of said levies as are apportioned hereby to such inclusive taxing district or so much thereof as may not be required, may be extended to the next smaller taxing district included therein, to be used by such next smaller taxing district or districts, if necessary, for said purposes only, to wit: The payment of contractual indebtedness existing at the time of the adoption of the "tax limitation amendment". If such next smaller taxing district, inclusive of any other lesser taxing district, shall not require any or all of its apportionment of such debt levies, or any of the apportionment to the next larger taxing district and not used by it, then all or such part as remains of such apportionment or accumulations of apportionments, may be passed on to and utilized by the next smaller taxing district, and so on, for such indebtedness purposes only. Likewise, when all of any lesser taxing districts of the same class within a larger inclusive taxing district do not require the apportionments made to such lesser taxing districts for such indebtedness, or when a part of such apportionment remains in each lesser taxing district of the same class, the maximum uniform remainder of such apportionment for such indebtedness shall be relegated to the larger inclusive taxing district, and may be utilized by such larger inclusive taxing district for such indebtedness purposes, or if not required, may be passed on to the next lesser taxing district, as provided herein for such original apportionments for indebtedness levies: ***Provided, however,*** That no lesser taxing district shall utilize any of the apportionment to any larger taxing district until the approval thereof in writing by the tax commissioner shall first be had. Where, in any case, in passing from the larger to the smaller or

the smaller to the larger taxing district, two levying bodies may be within the class entitled to receive the benefit of the debt levies not utilized by the next larger taxing district, the tax commissioner shall determine which of said levying bodies shall have the benefit of said available levies or may determine the manner in which such available levies may be apportioned between the two or more levying bodies entitled thereto.

Sec. 20. When the levies apportioned to, or in any way becoming available to any tax levying body for debt purposes alone, shall be insufficient to meet the requirements for such indebtedness, then if there remain any part of the amount authorized to be levied and apportioned to such taxing body for current expense purposes and not required for such current expense purposes, such remaining part shall be laid by such fiscal body in addition to its laying of the levies hereby expressly apportioned to it for said debt purposes and applied to the payment of its said contractual indebtedness existing at the time of the adoption of the "tax limitation amendment". When any of the levies apportioned for current expenses to any larger taxing district are not all required by such taxing district for current expense and are not required for indebtedness of such taxing district, then, with the consent and approval in writing, of the tax commissioner, as provided in the next preceding section, such lesser taxing district may likewise utilize, for debt purposes only, the unused portion thereof.

Sec. 21. In any case in which the county court, the board of education, or other fiscal body is required by law to lay the levies for the payment of any indebtedness of any taxing district, for which indebtedness the property situated within any incorporated municipality is not subject to such levy, such county court, board of education, or other fiscal body may lay a levy of twelve and one-half cents on class I property and twenty-five cents on class II property for such indebtedness purposes only: *Provided,* That the consent and approval in writing of the tax commissioner be had. The estimates and levies under this section shall be made at the same time, and in the same manner as other levies in this article provided for are required to be made, and copies of such estimates and proposed levies shall be forwarded to the tax commissioner at the same time and in the same manner as other estimates and levies.

Sec. 22. Within forty days after an order for a levy the circuit court of the county, or the judge in vacation, may allow a writ of supersedeas on the petition of at least twenty-four persons interested in reversing the order. The levying body, without awaiting the final decision, may rescind the order, and impose a new levy. If the court, on the hearing, finds that the order is contrary to law and reverses the order, the levying body shall impose a levy according to law. If money is collected under any order which is afterward rescinded or reversed, the collecting officer shall, upon demand, refund any payment to the person from whom it was collected. If the collecting officer fail to repay the amount, he and his sureties shall be jointly and severally liable for the amount and the costs of recovery. Recovery may be had by summons before a justice or on motion in the circuit court.

Sec. 23. When the entire apportionment of levies for the payment of such contractual indebtedness existing at the time of the adoption of the "tax limitation amendment", together with the application to such indebtedness of such part, if any, of the levies allocated for current expenses and not required therefor and applied to such indebtedness as hereinabove provided, are not sufficient to meet the current requirements of principal and/or interest upon legally existing contractual indebtedness, existing at the time of the adoption of the "tax limitation amendment" and remaining unpaid, then the levying body shall prepare a statement showing in detail:

(1) The items of expenditure upon which the estimate of current expense is based;

(2) A detailed itemized statement of:

(a) The bonded indebtedness, if any there be, existing prior to the adoption of the "tax limitation amendment", in whole or in part not provided for by the levies hereinbefore authorized;

(b) Other contractual indebtedness, not bonded, if any there be, legally incurred prior to the adoption of the "tax limitation amendment", in whole or in part not provided for by the levies hereinbefore authorized.

(3) The requirements of such bonded indebtedness not provided for by the levies hereinbefore authorized;

(a) The requirements of such other contractual indebtedness, not bonded, not provided for by the levies hereinbefore authorized.

(4) The total assessed valuation of all real, personal, and public utility property subject to taxation within the taxing district;

(5) The rate of levy in cents on each one hundred dollars' assessed valuation necessary to produce the amount required (a) for such bonded indebtedness, and (b) for such other contractual indebtedness not bonded, and not provided for by the levies hereinbefore authorized.

The recording officer of the fiscal body shall forthwith forward a certified copy of this statement to the state tax commissioner in the same manner and at the same time as required in sections eleven, thirteen and fifteen of this article for the regular levies imposed by the levying body, and notice of this proposed levy shall be published at the same time and in the same manner as required for other levies proposed by the fiscal body. The tax commissioner upon receipt of such estimate shall proceed to carefully examine and analyze the estimate for current expense and determine what items, if any, may be reduced or eliminated therefrom. If the tax commissioner find that any of such items, in whole or in part, may be eliminated or reduced without impairing the governmental functions of such fiscal body, he shall require such fiscal body to so eliminate or reduce such estimate until such estimate shall constitute only so much as may in the opinion of the tax commissioner be indispensable to the orderly discharge of the governmental functions of such fiscal body; and such proportion of the levies for current expense as are represented by such reductions may be applied by said fiscal body to the increase of the levies of such fiscal body for contractual indebtedness. The tax commissioner shall also carefully examine the itemized list of contractual obligations for the payment of which the levy under this section is proposed to be made, and shall ascertain whether such obligations are in fact contractual; whether the same were created prior to the adoption of the "tax limitation amendment", and whether or not, except for the levy proposed under this section, the obligation thereof will be impaired. The tax commissioner shall make a statement of his findings in writing, and if such findings of the tax commissioner show that the levies for current expense of such fiscal body are no more than are indispensable to the orderly discharge of the governmental functions of such fiscal body, and that except for the levies proposed to

be laid under this section, the obligation of valid contracts incurred prior to the adoption of the "tax limitation amendment" will be impaired, the fiscal body may then with the approval of the tax commissioner lay such a levy, uniform on all classes of property, which, together with the other levies provided for in this article, shall not exceed any constitutional limitations applicable thereto in effect immediately prior to the time of the adoption of the "tax limitation amendment", at the same time and in the same manner as other levies in this article provided for, and the proceeds thereof when collected, together with the other levies for such contractual indebtedness herein provided for shall be held and kept separate and apart from all other funds of said fiscal body and shall be used solely for the purpose of paying such indebtedness.

Sec. 24. Any taxpayer or other person legally interested in the levy provided for by section twenty-three hereof, if aggrieved by the findings of the tax commissioner and his approval of such levy, and by the laying of such levy by the fiscal body, may have a review of the findings of the tax commissioner and the laying of such levy by the circuit court of the county in which the greater part of such taxpayer's or other person's property affected by such levy is situated, by presenting to such circuit court, either in term or to the judge thereof in vacation, within ten days after the entry of the order laying such levy shall have been made by such fiscal body, his petition for such review. Such taxpayer or other person shall give at least five days notice in writing of his intention to file such petition to the tax commissioner, to the prosecuting attorney of the county of the circuit court of the county in which said petition will be presented, and to the presiding officer of the fiscal body laying the levy. Any other person legally interested in the laying or in the disaffirmance of the laying of the levy provided for in the preceding section, may, by petition in writing, intervene in said hearing and be made a party thereto with any and all rights of any other party therein and with any and all rights of any litigant in a chancery cause, insofar as the principles thereof be applicable, including the right of appeal as hereinafter provided for. The circuit court or the judge thereof in vacation shall, insofar as applicable, consider the petition as a bill in equity, and the court or judge shall forthwith, either in term or in vacation, proceed to consider such petition, the estimates and

levies, and the findings of the tax commissioner, and may hear and consider evidence on behalf of such taxpayer or other person, the fiscal body laying the levy, and any other person interested in the laying of such levy, relating to the necessity and propriety of laying such levies under said section twenty-three, which evidence on the motion of any party appearing therein shall be made a part of the record. Upon such hearing the court or judge may affirm or disaffirm the findings of the tax commissioner and the laying of the levy, or may make such modification of such findings and such levies as to the court or judge may appear proper. Whereupon, the levies shall be laid in accordance with the findings of the court or judge as though such findings had been made by the tax commissioner, under the provisions of the said section twenty-three hereof. An appeal to the supreme court of appeals of West Virginia from the findings of the circuit court may be had by any party in interest appearing in the hearing, in like manner, so far as applicable, as in an equity cause, by petition for appeal to said supreme court presented to the supreme court or to any judge thereof, or filed in the office of the clerk of the supreme court within two weeks after the entry of the final order of the circuit court therein. Pending final determination of such judicial review, the levies made under section twenty-three shall be laid and the taxes therefrom collected; and if the final determination be that the levies under section twenty-three be in excess of the amounts required for such indebtedness, such excess shall be refunded by the collecting officer on demand to the person from whom it was collected as hereinafter provided, or if the final finding be that the levies for current expense of such fiscal body be excessive, the excess thereof shall be transferred from the current expense revenues to the revenues of such indebtedness, if required therefor, and, if not required therefor, the collecting officer shall, upon demand, refund any such excess payment to the person from whom it was collected. If the collecting officer fail to repay the amount, he and his sureties shall be jointly and severally liable for the amount and the costs of recovery. Recovery may be had by summons before a justice or on motion, before the circuit court.

Sec. 25. Boards or officers expending funds derived from the levying of taxes shall expend the funds only for the purposes for which they were raised.

Sec. 26. A local fiscal body shall not expend money or incur obligations:

(1) In an unauthorized manner;

(2) For an unauthorized purpose;

(3) In excess of the amount allocated to the fund in the levy order;

(4) In excess of the funds available for current expenses.

Sec. 27. Any indebtedness created, contract made, or order or draft issued in violation of sections twenty-five and/or twenty-six of this article shall be void.

Sec. 28. Whenever a fiscal body expends money or incurs obligations in violation of sections twenty-five and/or twenty-six of this article, suit shall be instituted by the prosecuting attorney of the county, or the attorney general of the state, in a court of competent jurisdiction to recover the money expended or to cancel the obligation, or both.

Sec. 29. A person who in his official capacity wilfully participates in the violation of sections twenty-five and/or twenty-six of this article shall be personally liable, jointly and severally, for the amount illegally expended.

Sec. 30. A person who in his official capacity wilfully participates in an illegal expenditure may be proceeded against for the recovery of the amount illegally expended. The political subdivision concerned, a taxpayer of the subdivision, the state tax commissioner or a person prejudiced may bring the proceeding.

All moneys recovered in these proceedings shall be paid into the treasury of the proper fiscal body and credited to the proper fund.

If the plaintiff prevail, he shall recover against the defendant, the costs of the proceedings, including a reasonable attorney's fee to be fixed by the trial court and included in the taxation of costs.

Sec. 31. A person who in his official capacity wilfully violates the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined not more than five hundred dollars, or confined in jail not more than one year, or both. Upon conviction he shall also forfeit his office: *Provided, however,* That no liability shall arise under the provisions of this section so far as obligations may have been incurred or may be incurred prior to the time tax levies may be made under the pro-

visions of this article by fiscal bodies having for their purpose the maintenance and operation of free schools or other governmental functions for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four.

The state, a taxpayer, or the tax commissioner may institute and prosecute to final judgment any proceeding for the removal of a member of a local fiscal body who has wilfully or negligently violated any of the provisions of this article.

Upon the petition of the state, a taxpayer, or the tax commissioner, the court, or in vacation the judge, shall set a time for hearing the petition. An attested copy of the petition and the charges contained therein, shall be served upon the defendants at least twenty days prior to the date of hearing. No other pleading or notice of the proceedings shall be necessary.

Sec. 32. The discounts allowed for prompt payment of the first half of taxes for the fiscal year beginning July first, one thousand nine hundred thirty-three, as provided by law, shall be extended and allowed by the collecting officer, if the first half of the tax payment be made on or before March fifteenth, one thousand nine hundred thirty-four: *Provided, however,* That the tax commissioner may, in his discretion, uniformly extend such discount period to not later than April first, one thousand nine hundred thirty-four, by giving proper notice thereof, in writing, to the collecting officers of the several counties.

Sec. 33. If any section, paragraph, sentence, clause, word and/or application of any part hereof be held unconstitutional, the same shall not affect the validity of the remaining portions.

All existing provisions of law inconsistent with this act are hereby repealed.

CHAPTER 68

(House Bill No. 313—By Mr. Hiner)

AN ACT to amend and reenact section twenty-three of an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, known and designated as house bill number two hundred thirty-four.

[Passed February 14, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
23. Statement of fiscal body when levies not sufficient to meet requirements of existing contractual indebtedness; certification and publication of levy proposed; reductions in estimates for current expenses used for contractual indebtedness purposes; amount of increased levies, not exceeding limitations, which may be laid for contractual indebtedness.

Be it enacted by the Legislature of West Virginia:

That section twenty-three of an act of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, known and designated as house bill number two hundred thirty-four, be amended and reenacted so as to read as follows:

Section 23. When the entire apportionment of levies for the payment of such contractual indebtedness existing at the time of the adoption of the "tax limitation amendment", together with the application to such indebtedness of such part, if any, of the levies allocated for current expenses and not required therefor and applied to such indebtedness as hereinabove provided, are not sufficient to meet the current requirements of principal and/or interest upon legally existing contractual indebtedness, existing at the time of the adoption of the "tax limitation amendment" and remaining unpaid, then the levying body shall prepare a statement showing in detail:

(1) The items of expenditure upon which the estimate of current expense is based;

(2) A detailed itemized statement of:

(a) The bonded indebtedness, if any there be, existing prior to the adoption of the "tax limitation amendment", in whole or in part, not provided for by the levies hereinbefore authorized;

(b) Other contractual indebtedness, not bonded, if any there be, legally incurred prior to the adoption of the "tax limitation

amendment", in whole or in part, not provided for by the levies hereinbefore authorized;

(3) The requirements of such bonded indebtedness not provided for by the levies hereinbefore authorized;

(a) The requirements of such other contractual indebtedness, not bonded, not provided for by the levies hereinbefore authorized;

(4) The separate and aggregate amounts of the real, personal, and public utility properties in each class subject to taxation within the taxing district;

(5) The rates of levy in cents on each one hundred dollars' assessed valuation of each class of property necessary to produce the amount required (a) for such bonded indebtedness and (b) for such other contractual indebtedness not bonded, and not provided for by the levies hereinbefore authorized, and which rates of levies shall be in the proportion of one cent on class I property, two cents on class II property, and four cents on classes III and/or IV property.

The recording officer of the fiscal body shall forthwith forward a certified copy of this statement to the state tax commissioner in the same manner and at the same time as required in sections eleven, thirteen and fifteen of this article for the regular levies imposed by the levying body, and notice of this proposed levy shall be published at the same time and in the same manner as required for other levies proposed by the fiscal body. The tax commissioner upon receipt of such estimate shall proceed to carefully examine and analyze the estimate for current expense and determine what items, if any, may be reduced or eliminated therefrom. If the tax commissioner find that any of such items, in whole or in part, may be eliminated or reduced without impairing the governmental functions of such fiscal body, he shall require such fiscal body to so eliminate or reduce such estimate until such estimate shall constitute only so much as may in the opinion of the tax commissioner be indispensable to the orderly discharge of the governmental functions of such fiscal body; and such proportion of the levies for current expense as are represented by such reductions may be applied by said fiscal body to the increase of the levies of such fiscal body for contractual indebtedness. The tax commissioner shall also carefully examine the itemized list of contractual obliga-

tions for the payment of which the levy under this section is proposed to be made, and shall ascertain whether such obligations are in fact contractual; whether the same were created prior to the adoption of the "tax limitation amendment", and whether or not, except for the levy proposed under this section, the obligation thereof will be impaired. The tax commissioner shall make a statement of his findings in writing, and if such findings of the tax commissioner show that the levies for current expense of such fiscal body are no more than are indispensable to the orderly discharge of the governmental functions of such fiscal body, and that except for the levies proposed to be laid under this section, the obligation of valid contracts incurred prior to the adoption of the "tax limitation amendment" will be impaired, the fiscal body may then with the approval of the tax commissioner lay such a levy on the several classes of property in proportion to one cent on class I property, two cents on class II property, and four cents on classes III and/or IV properties, which, together with the other levies provided for in this article, shall not exceed any constitutional limitations applicable thereto in effect immediately prior to the time of the adoption of the "tax limitation amendment", at the same time and in the same manner as other levies in this article provided for, and the proceeds thereof when collected, together with the other levies for such contractual indebtedness herein provided for, shall be held and kept separate and apart from all other funds of said fiscal body and shall be used solely for the purpose of paying such indebtedness.

CHAPTER 69

(House Bill No. 374—By Mr. Chipley)

AN ACT to amend and reenact sections ten and twelve, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by an act of the Legislature, known as house bill number two hundred thirty-four, second extraordinary session, one thousand nine hundred thirty-three, relating to tax levies.

[Passed March 24, 1934; in effect from passage. Approved by the Governor.]

SEC.
10. Levy estimate by county court; certification and publication; adjourned session to hear objections; approval by tax commissioner; first levy for bonded indebtedness, second for contractual indebtedness not bonded, then for current expenses; twenty-five per cent increase of county levy and reduction of school levy in county having less than six million dollars total valuation of property.

SEC.
12. Levy estimate by board of education; certification and publication; adjourned session to hear objections; approval by tax commissioner; first levy for bonded indebtedness, second for contractual indebtedness not bonded, then for current expenses; reduction in school levy in county having less than six million dollars total valuation of property; revenues lost through reduction not to be replaced from state treasury.

Be it enacted by the Legislature of West Virginia:

That sections ten and twelve, article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by an act of the Legislature, known as house bill number two hundred thirty-four, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 10. The county court shall, at the session provided for in section nine of this article, ascertain the fiscal condition of the county, and make an itemized statement which shall set forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year upon the county as a whole and upon any district of the county for which the levies are laid by the county court;

(2) The interest, sinking fund and amortization requirements of bonded indebtedness legally incurred upon a vote of the people, as provided by law prior to the adoption of the tax limitation amendment, required for the fiscal year owing by the county as a whole and/or owing by any district;

(3) Other contractual indebtedness not bonded, legally incurred prior to the adoption of the tax limitation amendment, owing by the county as a whole and such debts owing by any district;

(4) All other expenditures to be paid out of the receipts for the current fiscal year, whether by the county as a whole or out of any fund of any district, with proper allowance for delinquent taxes, exonerations and contingencies;

(5) The total amount necessary to be raised for each fund by the levy of taxes for the current year;

(6) The proposed county levy in cents on each one hundred dollars' assessed valuation of each class of property for the county and its subdivisions;

(7) The proposed levy in each district for district funds, if any, on each one hundred dollars' valuation of each class of property;

(8) The separate and aggregate amounts of the real, personal and public utility properties in each class in the county and in each subdivision thereof.

A copy of the statement, duly certified by the clerk of the court, shall be forwarded to the tax commissioner, and shall be published as soon thereafter as may be, for one publication in two newspapers of general circulation and of opposite politics, published in the county. If there be only one newspaper published in the county, the publication shall be made therein. If there be no newspaper published in the county, a true copy of such statement duly certified shall be posted by the clerk of the court at the front door of the courthouse, and at a public place in each magisterial district of the county, not later than the third day after adjournment of the session provided for by section nine hereof: *Provided, however,* That publication having been made for the fiscal year beginning July first, one thousand nine hundred thirty-three, no publication shall be required for said fiscal year, and the county court shall cause to be posted at the front door of the courthouse the statement herein provided for not less than ten days prior to the second meeting hereinafter provided for, which posting shall constitute full and sufficient notice for said fiscal year.

The session, except for the fiscal year beginning July first, one thousand nine hundred thirty-three, shall then stand ad-

journed until the third Tuesday in August, at which time it shall reconvene. For the fiscal year beginning July first, one thousand nine hundred thirty-three, the session shall stand adjourned until the second Tuesday after the meeting provided for in section nine of this article.

The court shall then hear and consider any objections made orally or in writing by the prosecuting attorney, by the tax commissioner or his representative, or by any taxpayer of the county, to the estimate and proposed levy or to any item thereof. The court shall enter of record any objections so made and the reasons and grounds therefor.

The failure of any officer or taxpayer to offer objections shall not preclude him from pursuing any legal remedy necessary to correct any levy made by any fiscal body under this article.

The court, after hearing objections, shall reconsider the proposed original estimate and proposed rates of levy, and if the objections are well taken, shall correct the estimate and levy. No such estimate and levy, however, shall be entered until the same shall have first been approved, in writing, by the tax commissioner. When the same shall have been approved by the tax commissioner, the clerk shall then enter the estimate and levy, together with the order of the court approving them and the written approval of the tax commissioner thereof, in the proper record book.

The county court shall then levy as many cents per hundred dollars' assessed valuation on each class of property in the county or its subdivisions, according to the last assessment, as will produce the amounts shown to be necessary by the statement: *Provided, however,* That the first levy to be made by the county court shall be for the bonded indebtedness of the county or any district thereof for which the court imposes the levy, existing at the time of the adoption of the tax limitation amendment, for which purpose the county court shall levy, if necessary, for county bonded indebtedness as such, on class I property two cents, on class II property four cents, and on classes III and IV property eight cents, and for such bonded indebtedness of any district for which the levies are laid by the county court, on class I property four and twenty-five hundredths cents, on class II property eight and five-tenths cents, and on classes III and IV property seventeen cents; and

that the second levy to be made by the county court shall be for other contractual indebtedness, not bonded, of the county or any district thereof, for which the county imposes the levy, existing at the time of the adoption of the tax limitation amendment, for such county indebtedness to the extent that the apportionment of two cents on class I property, four cents on class II property and eight cents on classes III and IV property has not been required for bonded indebtedness, and for such indebtedness of any district for which the levies are laid by the county court, to the extent that the apportionment of four and twenty-five hundredths cents on class I property, eight and five-tenths cents on class II property, and seventeen cents on classes III and IV property has not been required for the bonded indebtedness of such district.

After laying such indebtedness levies, the county court shall then levy as many cents per hundred dollars' assessed valuation on each class of property in the county or its subdivisions, according to the last assessment, as will produce the amounts shown to be necessary for current expenses by the statement, which said levy for current expenses, however, shall not exceed on class I property nine and four-tenths cents; on class II property eighteen and seven-tenths cents; and on classes III and IV property thirty-seven and five-tenths cents: *Provided, however,* That in any county where the valuation of all classes of property for any year is less than six million dollars, the county court may, after having first obtained the written consent of the tax commissioner, increase the levy for county purposes not to exceed twenty-five per cent of the rate herein provided for, and the amount of any such increase shall be deducted from the levies for school purposes authorized by section twelve of this article. When less than the maximum levies are imposed, the levies on each class of property shall be in the same proportions as the maximum herein authorized.

Sec. 12. Every board of education shall, at the session provided for in section nine of this article, if the laying of a levy has been authorized by the voters of the district under article nine, chapter eighteen of the code, ascertain the condition of the fiscal affairs of the district, distinguishing between elemen-

tary and high schools and the funds provided for each, and make a statement setting forth:

(1) the separate amounts due the various funds and the amounts that will become due and collectible during the current fiscal year except from the levy of taxes to be made for the year;

(2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness legally incurred upon a vote of the people as provided by the law by any school district existing prior to May twenty-second, one thousand nine hundred thirty-three, prior to the adoption of the tax limitation amendment, owing by any such district;

(3) Other contractual indebtedness not bonded, legally incurred by any such school district existing prior to May twenty-second, one thousand nine hundred thirty-three, prior to the adoption of the tax limitation amendment, owing by such district;

(4) All other expenditures to be paid out of the receipts for the current fiscal year, with proper allowances for delinquent taxes, exonerations and contingencies;

(5) The separate amount necessary for each fund and the total to be raised by the levy of taxes for the current fiscal year;

(6) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property;

(7) The separate and aggregate amounts of the assessed valuation of real, personal, and public utility property within each class.

The secretary of the board shall forward immediately a certified copy of the statement to the tax commissioner and shall publish the statement in a manner similar to that provided in section ten of this article.

The session, except for the fiscal year beginning July first, one thousand nine hundred thirty-three, shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene and proceed in a manner similar in all respects to that provided for in section ten of this article.

For the fiscal year beginning July first, one thousand nine hundred thirty-three, the session shall stand adjourned until

the second Tuesday after the meeting provided for in section nine of this article.

The board shall first lay the levy for the payment of the requirements for the fiscal year of bonded indebtedness incurred prior to the adoption of the tax limitation amendment by any magisterial, independent or other school district, which levies if required, shall be on class I property three cents, class II property six cents, and classes III and IV property twelve cents, and shall secondly lay the levy for contractual indebtedness, not bonded, incurred prior to the time of the adoption of the tax limitation amendment, to the extent that the apportionment for such indebtedness of three cents on class I property, six cents on class II property, and twelve cents on classes III and IV property has not been required for such bonded indebtedness.

The board shall not finally enter any levy until the same shall have received the approval in writing of the tax commissioner and, after receiving such approval, shall enter the statement as originally approved in its record of proceedings, together with the written approval of the tax commissioner, and shall levy as many cents on each one hundred dollars' assessed valuation of each class of property as will produce the amount necessary for defraying the current expenses for the fiscal year: *Provided, however,* That these levies for current expenses shall not exceed on class I property fifteen and eighty-five hundredths cents, on class II property thirty-two and eight-tenths cents, and on classes III and IV property sixty-six and five-tenths cents: *Provided further,* That in cases where the levy for county purposes is increased under the provisions of section ten of this article, the levies herein provided for school purposes shall be reduced to the extent of any increase for county purposes, and the revenues lost to the schools by the foregoing reductions of school levies, shall not be replaced from the state treasury through the equalization fund or in any other manner. When less than the maximum levies are imposed, the levies on each class of property shall be in the same proportion as the maximums herein authorized.

CHAPTER 70

(Senate Bill No. 19—By Mr. Hodges)

AN ACT to amend and reenact section fourteen, article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the offenses of abduction of females, of kidnapping or concealing children, and penalties; and adding thereto section fourteen-(a), section fourteen-(b), section fourteen-(c), section fourteen-(d), and section fourteen-(e), relating to the offenses of kidnapping and of threats to kidnap, accessories, venue of the offenses, and penalties, so as more effectually to punish kidnapping.

[Passed December 14, 1933; in effect from passage. Approved by the Governor.]

SEC.
14. Penalty for taking away, or detaining against her will, a female person with intent to marry or defile her; penalty for taking away a female child under sixteen years of age for purpose of prostitution.
14-(a). Penalty for enticing away, or otherwise kidnaping any person; discretion of jury as to penalty; when kidnaped person returned alive and uninjured after ransom paid; without ransom paid.
14-(b). Venue of offense.
14-(c). Penalty for threats to kidnap or demand ransom.
14-(d). One aiding or abetting guilty as principal; venue.
14-(e). Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article two, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to the offenses of abduction of females, of kidnapping or concealing children, and penalties, is amended and reenacted; and section fourteen-(a), section fourteen-(b), section fourteen-(c), section fourteen -(d), and section fourteen-(e), relating to the offenses of kidnapping and of threats to kidnap, accessories, venue of the offenses, and penalties, are added thereto, so as more effectually to punish kidnapping.

ARTICLE II.

Section 14. If any person take away, or detain against her will, a female person, with intent to marry or defile her, or to cause her to be married or defiled by another person; or take away from any person having lawful charge of her a female child under the age of sixteen years, for the purpose of prostitution or concubinage, he shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than

three nor more than ten years. And if any person, other than the father or mother, illegally, or for any unlawful, improper or immoral purpose other than the purposes stated in section fourteen-(a) of this article, seize, take or secrete a child under sixteen years of age, from the person or persons having lawful charge of such child, he shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than five years, or, in the discretion of the court, be confined in jail not exceeding one year and be fined not exceeding one thousand dollars.

Sec. 14-(a). If any person, by force, threat, duress, fraud or enticement take, confine, conceal, or decoy, inveigle or entice away, or transport into or out of this state or within this state, or otherwise kidnap any other person, for the purpose or with the intent of taking, receiving, demanding or extorting from such person, or from any other person or persons, any ransom, money or other thing, or any concession or advantage of any sort, or for the purpose or with the intent of shielding or protecting himself or others from bodily harm or of evading capture or arrest after he or they have committed a crime, he shall be guilty of a felony, and, upon conviction, shall be punished with death: *Provided,* That the jury may, in their discretion, find that he be punished by confinement in the penitentiary, and if the jury so find, he shall be punished by confinement in the penitentiary during his life: *Provided further,* That, in all cases where the person against whom the offense is committed is returned, or is permitted to return, alive, without serious bodily harm having been inflicted upon him, but after ransom, money or other thing, or any concession or advantage of any sort has been paid or yielded, the punishment shall be confinement in the penitentiary for any term of years not less than twenty: *Provided further,* That in all cases where the person against whom the offense is committed is returned, or is permitted to return, alive, without serious bodily harm having been inflicted upon him, but without ransom, money or other thing, or any concession or advantage of any sort having been paid or yielded, the punishment shall be confinement in the penitentiary for any term of years not less than ten.

Sec. 14-(b). In the case of every offense committed in violation of the provisions of section fourteen and section fourteen-(a) of this article, regardless of whether the offense originated

within or without this state, the venue of the offense shall lie in the county where the person was taken, or induced to go away or otherwise kidnapped, in the county where such person was held or detained, or in the county through which such person was conducted or transported.

Sec. 14-(c). If any person, with intent to extort from any other person any ransom, money or other thing, or any concession or advantage of any sort, shall, by speech, writing, printing, drawing or any other method or means of communication, directly or indirectly threaten to take away forcibly or by stealth or otherwise kidnap any person, or shall directly or indirectly demand, orally or in writing, or by any other method or means of communication, any ransom, money or other thing, or any concession or advantage of any sort, on a threat to take away forcibly or by stealth or otherwise kidnap any person, he shall be guilty of a felony, and, upon conviction, shall be punished with confinement in the penitentiary for any term of years not less than five.

Sec. 14-(d). If any person in any way knowingly aid or abet any other person in the commission of any offense described in section fourteen, section fourteen-(a), or section fourteen-(c) of this article, either as accessory before or as accessory after the fact, such person so aiding and abetting shall be guilty as a principal in the commission of such offense and shall be punished in the same manner and to the same extent as is provided in said sections for the person who committed the offense. The venue of any offense committed in violation of the provisions of this section shall be as provided in section seven of article eleven of this chapter.

Sec. 14-(e). If any part or parts of section fourteen, section fourteen-(a), section fourteen-(b), section fourteen-(c) and section fourteen-(d), as herein amended or enacted, shall be held unconstitutional, such holding shall not affect the validity of the remaining portions of this act.

All existing provisions of law inconsistent with this act are hereby repealed.

CHAPTER 71

(Senate Bill No. 22—By Mr. Hodges, by request)

AN ACT creating a judicial council for the continuous study of organization, rules and methods of procedure and practice, of the judicial system of the state; prescribing the duties and powers of such council; providing for the manner of appointment and terms of office of the members of such council; and constituting the faculty of the college of law of West Virginia university a bureau of research on legal problems and legal aspects of industrial problems.

[Passed March 23, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Judicial council created; duties; number, qualifications, appointment and political affiliation of members.
2. Recommendation of appointees by executive council of West Virginia bar association; terms of first members appointed; terms of subsequent appointees; time and place of first meeting.
3. Powers and duties of council.
4. Council may organize bureau of statistics relating to civil and criminal litigation; reports to bureau, when requested, by judges, sheriffs and others; semi-annual statements by circuit court clerks and justices of the peace to council on forms furnished by it.
5. Recommendation of council to supreme court of appeals; annual report, recommendations and proposals for legislation to governor.
6. Faculty of college of law of West Virginia university to constitute a bureau of research on legal problems, etc; reports by.
7. Members of council to serve without compensation.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created a judicial council for the continuous study of organization, rules and methods of procedure and practice of the judicial system of the state. It shall be composed of one judge of the Supreme Court of Appeals, three circuit judges, and four practicing attorneys and one member of the faculty of the college of law of West Virginia university, who shall be appointed by the governor. Not more than two judges and two attorneys shall be members of any one political party.

Sec. 2. The executive council of the West Virginia bar association may recommend to the governor at least one name for each position or vacancy to be filled from the respective class or classes of persons eligible to serve on said council, which recommendation the governor shall consider before making any appointment to said council.

Three members shall be appointed to said council for a period of two years, one of whom shall be a judge, another a practicing attorney, and the third, a member of the faculty

of the college of law of West Virginia university; three members shall be appointed for a period of four years, one of whom shall be a judge and two of whom shall be practicing attorneys, and three members shall be appointed for a period of six years, two of whom shall be judges and one a practicing attorney. All appointments made thereafter shall be for a period of six years, except that in a case of vacancy the appointment shall be made to fill the unexpired term. The president of the Supreme Court of Appeals shall designate the time and place of the first meeting.

Sec. 3. The judicial council shall from time to time:

First: Meet at the call of the chairman who shall be selected by the council from its members;

Second: Survey the conditions of business in the several courts of the state with a view of improving the administration of justice, and submit such suggestions to the courts as it may deem advisable;

Third: Report to the governor and to the legislature at the convening of each regular session, such recommendations as it may deem proper;

Fourth: Hold public hearings, administer oaths and require the attendance of witnesses and the production of books and documents. The circuit courts shall have power to enforce obedience to summonses issued by the council and compel the giving of testimony.

Sec. 4. The council shall have the power to organize a bureau of statistics for the purposes of gathering information relating to civil and criminal litigation. Judges, prosecuting attorneys, sheriffs, and attorney general, clerks of the circuit and other courts of record, justices of the peace, superior officers of penal institutions and asylums and other county and municipal officers, boards and commissions, shall render such council such reports as it may request on matters in the scope of its powers. The clerks of the circuit courts and justices of the peace of the state shall prepare statements semi-annually showing the cases filed and their disposition and such other information regarding litigation in their respective courts as may be required under a method of arrangement and upon forms to be furnished them by the said judicial council, which statement shall be forwarded to the judicial council.

Sec. 5. The judicial council of West Virginia shall propose

to the Supreme Court of Appeals such changes in the practice and procedure of the state as it shall deem expedient. It shall also file with the governor an annual report of its proceedings and recommendations and results thereof, together with such proposals for legislation as it may deem necessary for making the administration of justice more efficient.

Sec. 6. The faculty of the college of law of West Virginia university shall constitute a bureau of research on legal problems and the legal aspects of industrial problems, insofar as funds may be conveniently made available by West Virginia university for work in the summer time, and for diminishing the teaching load of those members engaged on said work during the school year. Insofar as it may be possible, without interfering with the teaching schedule of the college of law, the faculty or members thereof designated by the dean, shall prepare reports on matters within the scope of the powers of investigation by said council.

Sec. 7. All members of the council shall serve without compensation.

CHAPTER 72

(Senate Bill No. 84—By Mr. Hodges, by request)

AN ACT to provide for submission to the voters of the state of an amendment to the constitution of the state, amending section six, article thirteen of the constitution.

[Passed January 25, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
1. Submitting to voters at general election in 1934 the question of adoption of an amendment to section six, article thirteen of the constitution; proposed amendment.
2. Amendment known as "Land book assessment amendment".
3. Form of ballot.
4. Form of certificates of commissioner of election; canvass of returns by county court and certificates.
5. Proclamation of result by governor.
6. Publication of proposed amendment by governor.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen of the constitution be proposed for amendment; relating to assessments on the land books.

Section 1. The question of the ratification or rejection of an amendment of the constitution of West Virginia, proposed

in accordance with the provisions of section two, article fourteen of said constitution, shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred thirty-four, which proposed amendment is as follows:

That section six, article thirteen of said constitution of West Virginia be amended to read as follows:

Sec. 6. It shall be the duty of every owner of land, or of an undivided interest therein, to have such land, or such undivided interest therein, entered on the land books of the county in which it, or a part of it, is situated, and to cause himself to be charged with taxes legally levied thereon and pay the same. When, for any five successive years, the owner of any tract of land, or undivided interest therein, shall not have been charged on such land books with state, county and district taxes thereon, then, by operation hereof, the land, or undivided interest therein, shall be forfeited, and title vested in the state. But if, for any one or more of such five years, the owner of such land, or of any undivided interest therein, shall have been charged with state, county and district taxes on any part of such land, such part thereof, or undivided interest therein, shall not be forfeited for such cause. And any owner of land so forfeited, or of any interest therein, at the time of the forfeiture thereof, who shall then be an infant, married woman, or insane person, may, until the expiration of three years after the removal of such disability, have the land, or such interest, charged on such land books, with all state and other taxes that shall be, and but for the forfeiture would be, chargeable on the land, or interest therein, for the year one thousand eight hundred sixty-three, and every year thereafter, with interest at the rate of ten per centum per annum, and pay all taxes and interest thereon for such years, and thereby redeem the land or interest therein: *Provided,* Such right to redeem shall in no case extend beyond twenty years from the time such land was forfeited.

Sec. 2. For convenience in referring to said proposed amendment and in the preparation of the form of ballot hereinafter provided for, said proposed amendment is hereby designated as follows: To be known as "Land Book Assessment Amendment".

Sec. 3. For the purpose of enabling the voters of the state to vote on the question of said proposed amendment to the constitution, at said general election to be held in the year one thousand nine hundred thirty-four, the board of ballot commissioners of each county is hereby required to prepare separate ballots from that of the ballot to be voted at said election, and print thereon the following:

Ballot of Constitutional Land Book Assessment Amendment amending section six of article thirteen of the constitution.

☐ For ratification of land book assessment amendment.

☐ Against ratification of land book assessment amendment.

The said election on the proposed amendment at each place of voting shall be superintended, conducted and returned, and the result thereof ascertained, by the same officers and in the same manner as the election of officers to be voted for at said election; and all of the provisions of the law relating to general elections, including all duties to be performed by any officer or board, as far as applicable and not inconsistent with anything herein contained, shall apply to the election held under the provisions of this act, except when it is herein otherwise provided. The ballots cast on the question of said proposed amendment shall be counted as other ballots cast at said election.

Sec. 4. As soon as the result is ascertained the commissioners, or a majority of them, and the canvassers (if there be any) or a majority of them, at each place of voting, shall make out and sign two certificates thereof in the following form or to the following effect: We, the undersigned, who acted as commissioners (or canvassers, as the case may be), of the election held at .... in the district of ....., in the county of ....., on the ..... day of ....., one thousand nine hundred thirty-four, upon the question of the ratification or rejection of the proposed constitutional amendment to section six, article thirteen, do hereby certify that the result of said election is as follows:

Amending section six of article thirteen:

For ratification of land book assessment amendment ..... votes.

Against ratification of land book assessment amendment ..... votes.

Given under our hands this ..... day of ....., one thousand nine hundred thirty-four. The said two certificates shall correspond with each other in all respects, and contain the full and true returns of said election at each place voting on said question. The said commissioners, or any of them, (or said canvassers, or one of them, as the case may be) shall within four days, excluding Sundays, after that on which said election was held, deliver one of said certificates to the clerk of the county court of his county, together with the ballots, and the other to the clerk of the circuit court of the county.

The said certificates, together with the ballots cast on the question of said proposed amendment shall be laid before the commissioners of the county court at the courthouse at the same time the ballots, poll books and the certificates of the election for the members of the legislature are laid before them. And as soon as the result of said election in the county upon the question of such ratification or rejection is ascertained, two certificates of such result shall be made out and signed by said commissioners, as a board of canvassers, in the form or to the following effect:

We, the board of canvassers of the county of ....., having carefully and impartially examined the returns of the election held in said county, in each district thereof, on the ..... day of November, one thousand nine hundred thirty-four, do certify that the results of the election in said county, on the question of the ratification or rejection of the proposed amendment to section six of article thirteen is as follows:

For ratification of land book assessment amendment ..... votes.

Against ratification of land book assessment amendment ..... votes.

Given under our hand this ..... day of ....., one thousand nine hundred thirty-four.

One of the certificates shall be filed in the office of the clerk of the county court, and the other forwarded by mail to the secretary of state who shall file and preserve the same until the day on which the result of said election in the state is to be ascertained, as hereinafter stated.

Sec. 5. On the twenty-fifth day after the election is held, or as soon thereafter as practicable, the said certificates shall be laid before the governor, whose duty it shall be to ascertain therefrom the result of said election in the state, and declare the same by proclamation published in one or more newspapers printed at the seat of government. If a majority of the votes cast at said election upon said question be for the ratification of said amendment, the proposed amendment, so ratified, shall be of force and effect from and after the time of such ratification, as part of the constitution of the state.

Sec. 6. The governor shall cause the said proposed amendment, with the proper designation for the same as hereinbefore adopted, to be published one time at least three months before such election, in some newspaper in every county in which a newspaper is printed, at a price to be agreed upon in advance, in writing, and the cost of such advertising shall be in the first instance, if found necessary by him, paid out of the governor's contingent fund and be afterwards repaid to such fund by appropriation of the legislature.

CHAPTER 73

(Senate Bill No. 95—By Mr. Millender)

AN ACT to amend and reenact section ten, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to election officers.

[Passed March 17, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
10. Qualifications of election officials, including deputy sheriffs.

SEC.

Be it enacted by the Legislature of West Virginia:

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

Section 10. No person shall be eligible for appointment as a member, or clerk, of any election board who is not a qualified voter in that magisterial district; or who has anything of value bet or wagered on the result; or who is a candidate to be voted for at the ensuing election; or who is addicted to drunkenness; or who is not of good character and standing; or who has in

his employment, or, as agent or superintendent, has under his control or management, ten or more employees who are voters entitled to vote in the precinct; or anyone who has served or acted in the capacity of deputy sheriff within six months prior to the date of holding any such primary or general election.

CHAPTER 74

(Senate Bill No. 99—By Mr. Fleming)

AN ACT to amend article eleven, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter eighteen, acts of the Legislature, regular session, one thousand nine hundred thirty-three, by amending and reenacting section eighteen and adding thereto section twenty-one, relating to liens on crops for advances for cultivation or cropping of land and their protection and providing exceptions.

[Passed February 8, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.

18. Lien for money, etc., advanced for cultivation or cropping of land; what written agreement for advances, to be recorded, to show; lien of recorded agreement on crops; statement of lienor to sheriff holding writ of attachment or fieri facies against crop; contest of validity of claim for advances.
21. Procedure for transfer of crop lien.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter thirty-eight of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted by adding thereto section twenty-one and that section eighteen, as last amended by chapter eighteen, acts of the Legislature, regular session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 18. If any person makes advances, either in money or supplies, or other thing of value, to anyone who is engaged in, or is about to engage in, the cultivation or cropping of land, the person so making such advances shall have a lien on the crops which may be made or seeded, or fruit and/or other crops maturing during the year upon the lands in or about the cultivation or cropping of which the advances so made have been or were intended to be expended, to the extent of such advances; but the person making such advances shall not have the benefit of the liens given in this section, unless there

is an agreement, in writing, signed by both parties, in which there is specified the amount advanced, or a limit to be fixed beyond which any advances, made from time to time during the year, shall not go, and a description of the land cultivated or cropped, or to be cultivated or cropped, sufficient to identify it, and such agreement be filed in the office of the clerk of the county court of the county in which such land so cultivated or cropped or to be cultivated or cropped, lies, in a well-bound book to be known as "crop lien book," and alphabetically indexed therein, by such clerk, setting forth the date of the lien, a brief description of the land so cultivated or cropped, or to be cultivated or cropped, sufficient to identify the same as stated in the writing, the name of the lienor and the lienee, the amount advanced or the limit thereof, and the crops affected; and from the time such lien is so filed it shall have the same force and effect as a duly recorded trust deed, and shall be valid as to purchasers without notice from, and the creditors of, the parties or party obtaining such advances; and in the event of a sale, under a trust deed or mortgage, of the land upon which any such crop has been so seeded and/or may be growing, and before such crop has been severed, such sale shall be made subject to such crop lien: *Provided,* That whenever the crops are subject to a lien of a fieri facias or attachment, whether a levy be actually made or not, it shall be the duty of the person claiming a lien under this section, upon the request of the sheriff, or any party in interest, to render to the sheriff of the county wherein the crops are grown, a complete and itemized statement, under oath, of the claims for advances, showing the nature of the claims, the dates of advancement and the respective amounts. And in case the person claiming the advances fails to render to the sheriff of such county the verified itemized statement above provided for within ten days after request has been made, he shall forever lose the benefit of the lien on the crops for advances granted him under this section: *Provided further,* That if the execution creditor or attachment creditor desires to contest the validity of the claims for advances, he may cause the clerk of the circuit court of the county in which such crops are grown to summon the person claiming such lien, to appear before such court and show to the satisfaction of the court that such money, supplies and other things of value were advanced for the purpose of, and were actually used in and about, the

cultivation or production of the crops upon which the lien is claimed. For the services of the clerk in recording a crop lien under this section, he shall receive a fee of fifty cents.

Sec. 21. Whenever any debt secured by the lien provided for in section eighteen of this article has been assigned, transferred or endorsed to another in whole or in part by the original lienee thereof, such payee, assignee, transferee, or endorsee may cause a memorandum or statement of the assignment to such assignee, transferee, or endorsee to be entered on the margin of the page in the book where such encumbrance securing the same is recorded, which memorandum or statement shall be signed by the assignor, transferer or endorser, his duly authorized agent or attorney, and when so signed and the signature thereto attested by the clerk in whose office such encumbrance is recorded, the same shall operate as a notice of such assignment or transfer. And where such transfer by the lienee is so entered on the margin of the crop lien book, subsequent transfers thereof may likewise be entered in the same manner and with like effect.

CHAPTER 75

(Com. Sub. for House Bill No. 6—Originating in the Senate Committee on Immigration and Agriculture)

AN ACT to amend and reenact section one, article eight, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the organization of county farm bureaus and the employment of county agricultural agents.

[Passed March 2, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
1. Organization and by-laws of farm bureaus; procedure for appointment of county agent; state, in conjunction with federal agencies, to pay salary and expense of county agent.

Be it enacted by the Legislature of West Virginia:

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

Section 1. Not fewer than one hundred and fifty farmers of any county may unite to form, and thereafter maintain in such county, a farm bureau. Every such farm bureau shall adopt by-laws and annually choose an executive committee for its government and control, to consist of not less than one member

from each magisterial district of the county. Any farm bureau in existence when this act takes effect shall continue as such, upon complying with the provisions of this paragraph.

Such farm bureau may, on or before the first day of July of each year, file with the county court a written memorandum of understanding or agreement with the extension division of the college of agriculture of West Virginia University, in which the said extension division agrees to provide the salary of a county agent or agents for such county for the next succeeding fiscal year.

If such agreement is so filed the county court of such county may, in its discretion, annually, on or before the first day of July, employ such county agent or agents as may be nominated by said extension division and approved in writing by at least two-thirds of all the members of the executive committee of such farm bureau. The salary and expense of such county agent or agents shall be paid by the state out of such appropriations as are made by the Legislature, in conjunction with such federal agencies as do now, or may hereafter, provide funds for such purpose.

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

CHAPTER 76

(Senate Bill No. 116—By Mr. Abbot)

AN ACT to amend article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter thirty-three, acts of the first extraordinary session, one thousand nine hundred thirty-three, by adding section twenty-four to provide for the reporting of all incomes in excess of six hundred dollars.

[Passed March 14, 1934; in effect from passage. Approved by the Governor.]

SEC.
24. Tax commissioner may require report of payment from any person paying during calendar year six hundred dollars or more to another within state as salary, etc.; duplicate copy of record of payment or return under federal income tax law; reports privileged; penalties for violations of provisions of section.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter eleven of the code of West Vir-

ginia, one thousand nine hundred thirty-one, as amended by chapter thirty-three, acts of the first extraordinary session, one thousand nine hundred thirty-three, be amended by adding thereto section twenty-four, to read as follows:

Section 24. In order to aid in the more effective administration of sub-section (i), section two, of this article, the tax commissioner, under such reasonable rules and regulations as are necessary, may require a person who pays during the calendar year to another person within this state, six hundred dollars or more, as salary, compensation for personal services, or for fixed or determinable gain, profit, or income, to report every such payment and the name and address, if known, of the recipient.

A duplicate copy of the record of payment, or a duplicate of a return made to the federal government under the federal income tax law, shall be deemed a compliance with the requirements of this section, as to all items included in such record or return.

No officer or employee of the state shall make known in any manner not provided by law, the amounts of payment reported under the provisions of this section, or permit any such report to be seen or examined except as provided by law.

A person who fails or refuses to make a return required by the tax commissioner or a person who prints or publishes any information concerning payments reported under the provisions of this section, except as provided by law, shall be guilty of a misdemeanor.

A person who violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned not more than ninety days, or both.

CHAPTER 77

(House Bill No. 46—By Mr. Noll, by request)

AN ACT to amend and reenact section two, article two, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, relating to cooperation with the federal government in the establishment of public employment offices.

[Passed January 26, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.		SEC.	
2.	State department of labor designated as agency to cooperate with federal employment service under Wagner-Peyser act; state treasurer authorized to receive federal appropriations; appropriation of five thousand dollars for each of fiscal years ending June 30, 1934, and June 30, 1935, from state treasury to carry out provisions of act.		

Be it enacted by the Legislature of West Virginia:

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

Section 2. The commissioner of labor may accept cooperation from the federal government in the establishment and maintenance within the state of such employment agency.

The state of West Virginia hereby accepts the provisions and requirements of federal act public number thirty, seventy-third congress, known as the Wagner-Peyser act, and the state department of labor is hereby designated as the state agency to cooperate with the United States employment service, in accordance with the terms and conditions expressed in the said act. The treasurer of West Virginia is hereby authorized and empowered to receive the grants of money appropriated under said act, and for the purpose of carrying out the provisions of this act the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated for each of the fiscal years ending June thirtieth, one thousand nine hundred thirty-four, and June thirtieth, one thousand nine hundred thirty-five, out of any moneys in the treasury not otherwise appropriated.

CHAPTER 78

(Com. Sub. for House Bill No. 53—Originating in the House Committee on the Judiciary)

AN ACT to amend and reenact sections one, two and five, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to assessors, their deputies, assistants and employees and payment of their compensation.

[Passed February 8, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Each county to elect one assessor for a term of four years; present assessors to continue in office for term to which elected; assessor must be resident of county; properly equipped assessor's office, at county seat, open throughout year.
2. Selection and salaries of deputy assessors and assistants.
3. Salaries of assessors; commission on capitation taxes collected.

Be it enacted by the Legislature of West Virginia:

That sections one, two and five, article two, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be and they are hereby amended and reenacted so as to read as follows:

Section 1. Each county in this state shall constitute one assessment district and shall elect one assessor, whose term of office shall be four years. The assessors now in office shall serve until the expiration of the term for which they were elected, and their successors shall be elected at the general election of one thousand nine hundred thirty-six and every four years thereafter. No person shall be eligible to the office of assessor who is not a resident of the county at the time of his election. The assessor's office, properly equipped at the county seat, shall be kept open throughout the year.

Sec. 2. The assessor in every county shall select his deputies, assistants and other employees in the same manner as is provided for the selection of deputies, assistants and employees of sheriffs and clerks of courts, and their salaries shall be fixed in the manner provided by section seven, article seven, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one.

Sec. 5. The annual salary of the assessor in each county shall be as follows: Barbour county, one thousand eight hundred dollars; Berkeley county, one thousand eight hundred dollars; Boone county, one thousand eight hundred dollars; Braxton

county, one thousand six hundred twenty dollars; Brooke county, one thousand six hundred twenty dollars; Cabell county, two thousand eight hundred eighty dollars; Calhoun county, one thousand two hundred dollars; Clay county, one thousand four hundred forty dollars; Doddridge county, one thousand four hundred forty dollars; Fayette county, two thousand eight hundred dollars; Gilmer county, one thousand six hundred twenty dollars; Grant county, one thousand dollars; Greenbrier county, one thousand six hundred twenty dollars; Hampshire county, one thousand four hundred forty dollars; Hancock county, one thousand eight hundred seventy dollars; Hardy county, one thousand three hundred fifty dollars; Harrison county, three thousand two hundred dollars; Jackson county, one thousand three hundred fifty dollars; Jefferson county, one thousand eight hundred dollars; Kanawha county, four thousand dollars; Lewis county, two thousand two hundred ninety-five dollars; Lincoln county, one thousand eight hundred dollars; Logan county, two thousand five hundred fifty dollars; Marion county, two thousand five hundred fifty dollars; Marshall county, two thousand forty dollars; Mason county, one thousand eight hundred dollars; Mercer county, two thousand eight hundred eighty dollars; Mineral county, one thousand eight hundred dollars; Mingo county, two thousand three hundred eighty dollars; Monongalia county, two thousand forty dollars; Monroe county, one thousand three hundred fifty dollars; McDowell county, two thousand eight hundred eighty dollars; Morgan county, one thousand two hundred dollars; Nicholas county, one thousand six hundred twenty dollars; Ohio county, two thousand eight hundred eighty dollars; Pendleton county, one thousand three hundred fifty dollars; Pleasants county, one thousand two hundred dollars; Pocahontas county, one thousand two hundred dollars; Preston county, two thousand two hundred ten dollars; Putnam county, one thousand eight hundred dollars; Raleigh county, two thousand five hundred fifty dollars; Randolph county, two thousand forty dollars; Ritchie county, one thousand four hundred forty dollars; Roane county, one thousand six hundred twenty dollars; Summers county, one thousand three hundred fifty dollars; Taylor county, one thousand six hundred twenty dollars; Tucker county, one thousand four hundred forty dollars; Tyler county, one thousand seven hundred ten dollars; Upshur county, one thousand eight hundred seventy

dollars; Wayne county, two thousand two hundred ten dollars; Webster county, one thousand three hundred fifty dollars; Wetzel county, two thousand two hundred ten dollars; Wirt county, one thousand one hundred dollars; Wood county, one thousand seven hundred eighty-five dollars; Wyoming county, one thousand five hundred thirty dollars.

In addition to the above salary, each assessor shall receive a commission of ten per cent on all state school, road and municipal capitation taxes collected by him.

The salaries of assessors and their deputies, assistants and employees shall be paid out of the county fund at the time and in the manner now provided by law for paying other county officers.

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

CHAPTER 79

(House Bill No. 95—By Mr. Peters, by request)

AN ACT to amend and reenact section twenty, chapter sixty, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-three, entitled, "An act to provide for the appointment and promotion of members of paid fire departments in cities and municipalities, to provide for the creation and maintenance of a civil service commission for the purpose, to establish rules and procedure therefor; to regulate the manner in which demotions and discharge of employees of paid fire departments shall be made, and the rights and limitations of said employees in that respect; to provide for other matters relating to the duties and power of said civil service commission, defining its power, limiting its authority, etc., and to provide penalties for the violation of this bill", by providing that the provisions of said act shall not apply to the municipalities of Bluefield, Huntington, Parkersburg and Kenova.

[Passed January 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
20.	Municipalities of Bluefield, Huntington, Parkersburg and Kenova excluded from provisions of act and civil service commission created for city of Bluefield abolished.		

Be it enacted by the Legislature of West Virginia:

That section twenty, chapter sixty, acts of the Legislature of

West Virginia, regular session, one thousand nine hundred thirty-three, be amended and reenacted so as to read as follows:

Section 20. The provisions of this act shall not apply to the municipalities of Bluefield, Huntington, Parkersburg and Kenova, and the civil service commission created for the city of Bluefield under an act of the Legislature, regular session, one thousand nine hundred thirty-three, is hereby abolished.

CHAPTER 80

(House Bill No. 97—By Mr. Beacom, by request)

AN ACT to repeal section eighteen, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, relating to advertisement of liquors.

[Passed February 20, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Repealing law prohibiting advertisement of liquors.

Be it enacted by the Legislature of West Virginia:

Section 1. That section eighteen, article one, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, relating to advertisement of liquors, be and the same is hereby repealed.

CHAPTER 81

(House Bill No. 99—By Mr. Norton)

AN ACT to amend and reenact section eight, article three, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the collection, deposit and account of sinking funds.

[Passed March 6, 1934; in effect from passage. Approved by the Governor.]

SEC.
8. Interest and sinking funds of political subdivisions to be forwarded to sinking fund commission for deposit to credit of state; additional remittances to meet interest due; remittance by collecting officer of taxes of political subdivisions collected for sinking fund purposes; application of and receipt for remittance; state interest and sinking fund.

Be it enacted by the Legislature of West Virginia:

That section eight, article three, chapter thirteen of the code

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

Section 8. All interest and sinking funds on hand July first of each year and belonging to the counties, districts, school districts, independent school districts or municipalities of the state, shall be, by the treasurer or collector thereof, not later than the following December, forwarded to the state sinking fund commission, to be deposited in the state treasury to the credit of the state.

Whenever the amount deposited to the credit of the state for any political division is not sufficient to meet the interest falling due, it shall be the duty of the treasurer or collector of such political division, upon being notified of the fact by the state sinking fund commission, to remit a sufficient amount of interest and sinking funds that may be in his hands to meet the interest then due.

Any taxes to provide a sinking fund or for the payment of interest on bonds issued by any political division of the state, which shall be collected by any state officer, shall be paid by such officer to the state sinking fund commission, to be at once applied to the payment of the debt aforesaid of the county, district, school district, independent school district or municipality, and the fact of such application of such fund shall be reported by the auditor to the treasurer or collector of such political division, which report shall be a receipt for the amount therein named.

The state auditor and the state treasurer shall carry an account to be known as the state interest and sinking fund. All of such deposits shall be carried as a part of said fund.

CHAPTER 82

(House Bill No. 102—By Mr. Summerfield, by request)

AN ACT to regulate the practice of barbering and beauty culture; to provide for the examination and registration of barbers, beauticians and apprentices, and the licensing of schools of barbering and beauty culture and fixing the fees thereof; to establish a state committee of barbers and beauticians and define its powers and duties, to provide for the promulgation

of sanitary regulations for barbers and beauticians, barber and beauty shops and schools of barbering and beauty culture, to provide for physical examinations and certificates of health of barbers and beauticians and apprentices, to regulate barber and beauty shops and schools of barbering and beauty culture, and to provide penalties for the violation of the provisions hereof.

[Passed February 27, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.
1. State committee of barbers and beauticians created as division of state department of health; unlawful to practice barbering or beauty culture without certificate of registration.
2. Definitions of barbering, manicuring and beauty culture.
3. Number and qualifications of members; terms; commissioner of health as chairman of committee to approve and enforce rules and regulations; secretary; limitation on per diem and expenses of members; powers and duties of committee as to examinations, rules, etc.; appointment, qualifications, duties and salaries of inspectors.
4. Filing and publication of general regulations; penalty for violation; collection, deposit and expenditures of moneys received by committee.
5. Qualifications of applicants for registration; fee; character of examination; registration certificate and fee; when examination and fee not required.
6. Application and fee for renewal or restoration of certificate of registration; blood test.
7. Application, qualifications, fee and certificate of registration for apprentices.
8. Display of certificate of registration.
9. Shops to be managed by registered barbers or beauty culturists; only one apprentice in any shop; separation of shops from remainder of building in dwelling houses, etc.
10. Qualifications, examination and registration of applicants to operate school of barbering or beauty culture; qualifications of instructors in school; fee for school; display of license.
11. Health certificates required before certificate of registration issued or renewed.
12. Issuance, display and enforcement of rules and regulations of committee.
13. Grounds for cancellation, or refusal to issue or renew certificate of registration.
14. Penalty for violation of provisions of this article.
15. Provisions of article one, chapter thirty, code, to apply to committee.
16. Appropriation from treasury from collections for authorized expenditures; surplus to credit of department of health.
17. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

That a new article, regulating the practice of barbering and beauty culture, is hereby added to chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, to be known as article twelve to read as follows:

Section 1. There is hereby created as a division of the state department of public health, and under its jurisdiction, the state committee of barbers and beauticians. The word "committee", as used hereafter in this bill, shall refer to and shall mean the state committee of barbers and beauticians hereby created.

It shall be unlawful for any person to practice, or offer to

practice, barbering or beauty culture in this state without first obtaining a certificate of registration for such purpose from the committee. All applicants shall be required to submit to an examination, both physical and practical, as hereinafter provided.

Sec. 2. For the purpose of this article "barbering" shall mean any one or any combination of the following acts, when done on the human body for pay or reward, and not for the treatment of disease, to-wit: shaving, shaping and trimming the beard, cutting, singeing, shampooing or dyeing the hair, or applying tonics thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations.

Manicuring and beauty culture shall mean any one of, or any combination of the foregoing, or of curling, permanent waving, arranging, dressing, coloring, bleaching or tinting the hair, except that such acts shall not be deemed barbering or beauty culture when done by duly licensed physicians, surgeons, nurses or morticians in the proper discharge of their professional duties.

Sec. 3. The committee shall consist of the commissioner of health, ex officio, and four other members to be appointed by the governor, by and with the consent of the senate, and subject to removal by the governor at his will and pleasure. Of the four members thus appointed, one shall be an employing barber, one an employee barber, one shall be an employing beautician, and one shall be an employee beautician. One of the four so appointed shall be a member of the colored race. Each member of the committee so appointed shall have been engaged within this state in the practice of barbering or beauty culture, as the case may be, for a period of eight years immediately prior to his appointment, and not more than two of the four members of the committee so appointed shall belong to the same political party.

Within sixty days after this act becomes effective, the governor shall appoint one member to said committee for a term of four years, one member for a term of three years, one member for a term of two years, and one member for a term of one year, and on or before the expiration of the terms of appointment as hereinabove provided, and each year thereafter, the governor shall appoint one member of the commit-

tee to serve for four years. Any member of the committee so appointed shall be eligible for reappointment.

The commissioner of health shall be ex officio chairman of the committee, and the enforcement of all rules and regulations promulgated by the committee pertaining to sanitary conditions of barber and beauty shops and pertaining to the registration and qualification of barbers and beauty culturists shall be under his personal supervision and direction; but no order, rule, or regulation promulgated by the committee shall be in force and effect unless and until approved by the commissioner of health. The said committee shall designate one of its members, or some other person, to act as secretary of the committee, and it shall be the duty of said secretary to keep the records of the committee and perform all other duties prescribed by the committee.

Each member of the committee, except the chairman, shall receive as compensation a per diem of ten dollars for each day said member is actually in attendance upon the sessions of the committee, plus an allowance for expenses which shall not exceed four dollars for each day of such attendance, but such compensation for each member, exclusive of the allowance for expenses, shall not exceed the sum of three hundred dollars in any calendar year.

The committee shall examine all applicants for certificates of registration and issue said certificates to those entitled thereto; collect examination and registration fees; promulgate rules and regulations governing the operation of barber shops, beauty shops, and schools of barbering and beauty culture, including the prescribing of curriculums and standards of instruction for such schools; promulgate rules and regulations for the physical examination of barbers, beauticians and apprentices, and fix the standard form of report of such examination; establish and enforce sanitary regulations in barber shops, beauty shops, and schools of barbering and beauty culture; enforce all such rules and regulations as are herein authorized; and to do all other things necessary to effectuate the purposes of this act in the interest and protection of the public health.

The commissioner of health shall appoint not to exceed six inspectors, who shall be qualified barbers and beauticians of this state, as herein provided, and it shall be their duty to

make frequent inspections of all barber and beauty shops, schools of barbering and beauty culture in this state, and report all violations to the commissioner of health. The salaries of such inspectors shall be fixed by the commissioner of health, and such inspectors may, in the discretion of the commissioner of health, be employed for full time work, but the salary of each full time inspector shall not exceed one hundred dollars per month, plus such allowance for expenses as may be approved by the committee.

Sec. 4. Every general regulation adopted by the committee shall state the day on which it takes effect, and a copy thereof, duly signed by the commissioner of health, shall be filed in the office of the secretary of state, and shall be published in such manner as the committee may determine. Any violation of any regulation so promulgated, when said regulation is reasonable and not inconsistent with law, shall be cause or grounds for canceling and revoking the certificate of registration issued such violator and/or for refusal to renew or reissue the same.

The expenditures of the committee shall not in any year exceed the amount of fees collected by the committee for that year. All money collected and received by the committee under the provision of this act shall belong to the state and the committee or its secretary shall immediately turn same into the state treasury of the state and record shall be made thereof; and the expenditures herein provided for, when authorized by the committee, shall be paid out by warrant on the treasurer of the state in form and manner provided by law.

Sec. 5. An applicant for registration shall present satisfactory evidence that he or she is at least eighteen years of age, of good moral character and temperate habits, has completed at least the eighth grade of grammar school, or the equivalent thereof, and has graduated from a school of barbering or beauty culture approved by the state committee of barbers and beauty culturists or has served as an apprentice for at least twenty-four months, and shall transmit with his application an examination fee of twenty dollars. The examination shall be of such character as to determine the qualifications and fitness of the applicant to practice barbering and beauty culture as defined by this article, and shall cover such subjects

as the committee may deem proper. If the applicant successfully passes such examination and is otherwise duly qualified, and presents the proper certificate of health, the committee shall register the applicant as a duly qualified barber or beauty culturist, and shall issue to the applicant a certificate of registration authorizing the applicant to practice barbering or beauty culture in this state: *Provided, however,* That an applicant who has been engaged in the practice of barbering or beauty culture in this state at least one year prior to the passage of this bill shall not be required to pass said examination nor pay such examination fee. The committee shall charge for every certificate of registration (or duplicate thereof) issued by it a fee of five dollars.

Sec. 6. Every registered barber or beauty culturist who desires to continue in active practice or service shall, annually on or before the first day of January, renew his certificate of registration and pay an annual renewal fee of five dollars. A registered barber or beauty culturist whose certificate of registration has expired may have his certificate of registration restored only upon payment of the required renewal fee. All applicants or renewals made by barbers or beauticians shall submit to the Wassermann blood test and shall submit the report thereon with a certificate of health from a licensed physician to the committee.

Sec. 7. No person shall in this state serve as an apprentice of a barber or beauty culturist without first obtaining from the committee of barbers and beauty culturists a certificate of registration as apprentice. An applicant for registration as apprentice shall present satisfactory evidence that he is at least sixteen years of age, of good moral character and temperate habits, and has completed at least the eighth grade of grammar school or the equivalent thereof. If the applicant is otherwise qualified and presents the proper certificate of health, upon the payment of a fee of two dollars and fifty cents the committee shall register the applicant as an apprentice barber or beauty culturist, and shall issue to the applicant a certificate as such, which certificate shall be renewed annually by filing a certificate of health with the committee and paying a renewal fee of two dollars and fifty cents. An apprentice may perform any or all the acts constituting barbering or

beauty culture under the immediate personal supervision of a registered barber or beauty culturist, but not otherwise.

Sec. 8. Every person practicing barbering or beauty culture and every apprentice shall display his certificate of registration in a conspicuous place in the shop wherein he practices or is employed and whenever required shall exhibit such certificate to the state committee of barbers and beauty culturists or its authorized representative.

Sec. 9. Every barber or beauty shop in this state shall be operated under the supervision and management of a barber or beauty culturist who has been registered in this state. Not more than one apprentice shall be employed in a barber or beauty shop in the state. No person shall operate a barber or beauty shop in a dwelling house or in a place where food stuffs are handled or sold unless the shop is separated by partitions extending from floor to ceiling.

Sec. 10. No person shall operate a school of barbering or beauty culture in this state without first obtaining a license to do so from the committee, and no license for such a school shall be issued to any person unless he or she is registered within this state as a duly qualified barber or beauty culturist. All applicants for license to operate a school of barbering or beauty culture shall submit to an examination by the committee. After passing said examination a permit shall be issued to such applicant to open such school. All instructors in any such school of barbering or beauty culture shall first qualify by passing an examination submitted by the committee. Every instructor in such a school, located within this state, shall be a duly registered barber or beauty culturist.

The license fee for each school of barbering and for each school of beauty culture shall be twenty-five dollars annually, to be paid in such manner as the committee may prescribe, on or before January first of each year. The license shall be prominently displayed in the school, and a suitable sign shall be kept on the front of the school which shall plainly indicate that a school of barbering and/or beauty culture is operated therein.

Sec. 11. No person shall practice barbering or beauty culture or serve as an apprentice in this state while having an infectious, contagious or communicable disease. No person shall be registered as a barber, beautician or apprentice until

he or she shall have obtained a certificate of health from a licensed physician under article three of this chapter certifying said person to be free of all infectious, contagious and communicable diseases; which certificate shall be filed with the state committee of barbers and beauticians within ten days after the examination of the person is made by the physician, and photograph of the applicant must accompany the application with such certificate. The certificate shall be in such form as the committee may prescribe. A like certificate must be filed with the committee before any certificate is renewed, and the examination must have been made within thirty days prior to the beginning of the renewal period. The committee shall be empowered to compel any registered barber, beautician or apprentice to submit to a physical examination and file a certificate of health at any time.

Sec. 12. The state committee of barbers and beauticians shall prescribe such rules and regulations in regard to sanitation and cleanliness in barber and beauty shops and schools of barbering and beauty culture in the state as it may deem proper and necessary, and shall have power to enforce compliance therewith. Such rules and regulations shall be kept posted in a conspicuous place in every barber and beauty shop and school of barbering and beauty culture in the state.

Sec. 13. The committee may refuse to issue a certificate of registration to any applicant, or may refuse to renew, or may suspend or revoke the same for any holder thereof, for any of the following causes: (1) conviction of the commission of a felony, as shown by a certified copy of the record of the court of conviction; (2) obtaining or attempting to obtain a certificate of registration to practice barbering and/or beauty culture in this state by false pretences, fraudulent misrepresentation, or bribery by the use of money or other consideration; (3) gross incompetency; (4) the continued practice of barbering and/or beauty culture by a person knowing himself or herself to be afflicted with a contagious or infectious disease; (5) the use knowingly of any false or deceptive statements in advertising; (6) habitual drunkenness, or habitual addiction to the use of morphine, cocaine or other habit-forming drugs.

Sec. 14. Any violation of the provisions of this article shall constitute a misdemeanor punishable upon conviction, by a

fine of not less than ten dollars nor more than one hundred dollars, and, at the discretion of the court, by imprisonment in the county jail for not more than sixty days. Justices of the peace shall have concurrent jurisdiction with circuit and criminal courts for the enforcement of this article and the rules and regulations promulgated by the state committee of barbers and beauticians.

Sec. 15. Unless otherwise specially provided herein, the provisions of article one, chapter thirty of the code of West Virginia, shall apply to the state committee of barbers and beauticians.

Sec. 16. There is hereby appropriated out of the treasury, payable only out of the collections provided for by this article, such moneys as are authorized by this article to be spent to carry out the provisions of this article. All surplus funds from the collections provided in this article accruing within any fiscal year shall, at the close of the fiscal year, be, and the same are hereby transferred to the credit of the funds appropriated for the state department of health, and shall become available in the manner provided by law for expenditure by that department.

Sec. 17. The various provisions of this act shall be construed as separable and several, and should any of the provisions or parts thereof be construed or held to be unconstitutional, or for any other reason invalid, the remaining provisions of this act shall not be thereby affected. All acts and parts of acts in conflict with the provisions of this act, or any part thereof, are hereby repealed. Any ordinances of any municipalities in this state now in effect and having for their purpose the regulation of the practice of barbering or beauty culture, which are in conflict with the provisions of this act, or any part thereof, shall be null and void and of no effect on and after the date this act goes into effect.

CHAPTER 83

(House Bill No. 105—By Mr. Lilly)

AN ACT to amend and reenact section one, article five, chapter twenty-six of the code of West Virginia, one thousand nine hundred thirty-one, relating to Hopemont and Rutherford sanitariums.

[Passed January 6, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. The two state tuberculosis sanitariums at Hopemont and Beckley continued; known as Hopemont Sanitarium and Pine Crest Sanitarium, respectively; management and control; qualifications of chief executive officer of each.

Be it enacted by the Legislature of West Virginia:

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

Section 1. The two state tuberculosis sanitariums, heretofore established, one at Hopemont and the other at Beckley, for the care and treatment of persons afflicted with tuberculosis, shall be continued and shall be known as the Hopemont sanitarium and Pine Crest sanitarium, respectively, and shall be managed, directed and controlled as prescribed in article one, chapter twenty-five, and in section eight, article one, chapter sixteen of the code. The chief executive officer of each of such sanitariums shall be the superintendent, who shall be a legally qualified physician of at least six years' experience in the practice of his profession and who shall be a person of good exeeutive ability.

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

CHAPTER 84

(House Bill No. 108—By Mr. Peery)

AN ACT to amend and reenact section thirty-six, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, relating to a tie vote in elections.

[Passed January 10, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Breaking tie vote in election by governor or board of canvassers; when board of canvassers fail, governor to break tie.

Be it enacted by the Legislature of West Virginia:

That section thirty-six, article five, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, be and it is hereby amended and reenacted so as to read as follows:

Section 36. Whenever the governor is, or the board of canvassers of a county are, to declare the result of an election, and it appears to him or them that two or more of the persons voted for have received the highest and an equal number of votes for the same office, so that the election to the office is not decided by the returns, he, or they, being required to declare the result, shall decide the tie by the election of one of such persons, but in the event the board of canvassers shall have failed to decide the tie within thirty days after such tie shall have been found by them to exist, upon application to the governor by any one of such persons so voted for, he shall break the tie by the selection of one of such persons and shall certify his choice to such board of canvassers, who shall forthwith reconvene as a board of canvassers and declare such person duly elected for the office for which such person was a candidate.

CHAPTER 85

(House Bill No. 122—By Mr. Gates)

AN ACT to provide for the establishment of a central mailing office in the capitol building.

[Passed February 16, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Central mailing office in capitol building established, for mail of all departments, etc., except legislative.
2. Governor, with consent of senate, to appoint mail clerk and also to appoint other necessary employees and fix salaries.
3. Duties of mail clerk.
4. Use of mail office by departments, etc.; after establishment, services of clerks and messengers employed by departments to handle or distribute mail dispensed with.
5. For remainder of present biennial period, expense to be allocated from department appropriations for current general expense; mail clerk, with approval of state purchasing department, to draw warrants for expenses for salaries, etc.; after July 1, 1935, appropriation to be included in budget bill.

Be it enacted by the Legislature of West Virginia:

Section 1. There is hereby created and established a central mailing office, hereinafter called "mail office", in the capitol building, through which the mail of all state departments, boards, bureaus and commissions, except the legislative department, shall be metered or stamped and dispatched. The mail office shall be located as conveniently as possible to the offices of the various departments.

Sec. 2. It shall be the duty of the governor of this state, as soon as may be after this act becomes effective, to appoint, by and with the consent of the senate, a mail clerk and the governor may appoint such other employes as may be necessary to carry out the provisions of this act, and shall fix their salaries or compensations. Such mail clerk and other employes shall hold office during the will and pleasure of the governor. The mail clerk shall be a capable man, experienced in the handling of United States mail.

Sec. 3. The mail clerk shall have general charge and supervision of the mail office, and shall be responsible for its efficient administration. He shall be required to:

(a) Enter into bond for the faithful discharge of his duties, the form and sufficiency of the bond to be approved by the attorney-general.

(b) Keep proper books of accounts of the receipts and disbursements of the mail office.

(c) Render to the governor a report each month, showing the expenses of the mail office for the preceding month, and shall render such other reports as the governor may require.

(d) Keep the mail office open during regular business hours.

(e) Provide rules and regulations for the efficient and prompt dispatch of the mail.

Sec. 4. After the establishment of the mail office, as provided for herein, all state departments, boards, bureaus and commissions having their offices in the capitol building shall dispatch all mail through the mail office, and the heads of all such state departments, boards, bureaus and commissions are specifically required to dispense with the services of all clerks and messengers theretofore employed by them for the handling and distribution of the mail.

Sec. 5. For the remainder of the biennial period, all expenses of the mail office, including salaries, postal supplies and equipment, shall be allocated from the general current expense accounts of the various departments operating through said mail office, as shown by the auditor's records. The mail clerk is authorized upon the approval of the state purchasing department to draw his warrants upon the auditor, payable out of the general current expense accounts above mentioned, for any bills for salaries, stamps, postal supplies and other proper items of expense.

For the fiscal year beginning July first, one thousand nine hundred thirty-five, and thereafter, all expenses incident to the administration of the mail office shall be appropriated out of the treasury in accordance with the provisions of the "Budget Amendment" to the state constitution.

CHAPTER 86

(Com. Sub. for House Bill No. 142—Originating in the Senate Committee on the Judiciary)

AN ACT to encourage state and national industrial recovery by cooperating with the national government in fostering fair competition and for other purposes.

[Passed February 21, 1934; in effect from passage. Approved by the Governor.]

SEC.

1. Legislative findings and declnrations.
2. Governor may consent to utilizntion of state and local officers and employees by the President of the United States to effectuate policies of the national industrial recovery act.
3. Those not engaged in interstate or foreign commerce must also comply with provisions of codes of fair competition, etc., issued under national act.
4. Federal codes of fair competition considered as state standards and violation deemed use of unfair methods.
5. Penalty for violation of provisions of federal code of fair competition approved or prescribed by the President in nny transaction in state not affecting interstate or foreign commerce.
6. Suits in circuit courts to restrnin or prevent violation of provisions of codes of fair competition.
7. Exemptions from anti-trust laws of state, or court order or decree issued under such laws.
8. Provisions concerning contracts let by state or political subdivisions.
9. When aet ceases to be in effect.
10. Provisions of act sepnrnble.
11. Act declared to be nn urgent emergency nct.
12. Act may be cited as "State industrial recovery act"; no existing statute of state modified or repealed by this nct.

Be it enacted by the Legislature of West Virginia:

Section 1. A state-wide emergency productive of widespread unemployment and disorganization of industry, which burdens commerce, affects the public welfare, and undermines the standards of living of the people of this state is hereby declared to exist, and it is hereby recognized that such an emergency exists throughout the nation. It is hereby declared to be the policy of this state to provide for the general welfare by cooperating with and assisting the national government in promoting the organization of industry for the purpose of cooperative action among trade groups; to induce and maintain united action of labor and management under adequate governmental sanctions and supervision; to eliminate unfair competitive practices; to promote the fullest possible utilization of the present productive capacity of industry; to avoid undue restriction of production (except as may be temporarily required); to increase the consumption of industrial and agricultural products by increasing purchasing power; to reduce and relieve unemployment; to improve standards of labor, and otherwise to rehabilitate industry and conserve natural resources and otherwise as an-

nounced in the act of Congress entitled: "An Act to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes" approved June sixteen, one thousand nine hundred thirty-three, and commonly known as the "National Industrial Recovery Act".

Sec. 2. To effectuate the policy of this act, the Governor is hereby authorized to consent to the President of the United States utilizing state and local officers and employees in effectuating the policies of the national industrial recovery act in accordance with the provisions of section two-(a) of that act.

Sec. 3. No person, natural or artificial, shall refrain from complying with the provisions of any code of fair competition, agreement or license, approved, prescribed, or issued under the terms of the national industrial recovery act on the ground that he is not engaged in transactions in, or affecting "interstate or foreign commerce" as defined in paragraph (d), section seven, title I of the national industrial recovery act.

Sec. 4. The terms and conditions of any code of fair competition, agreement, or license approved, prescribed, or issued under the terms of the national industrial recovery act for any trade or industry or subdivision thereof, shall be considered as the standards of fair competition for such trade or industry or subdivision thereof in all its transactions within this state. The violation of such standards by any person engaged in such trade or industry or subdivision thereof within this state shall be deemed the use of unfair methods of competition.

Sec. 5. When a code of fair competition has been approved or prescribed by the President under the national industrial recovery act, any violation of any provision thereof in any transaction within this state not in or affecting "interstate or foreign commerce" within the definition of paragraph (d), section seven, title I of the national industrial recovery act, shall be a misdemeanor and upon conviction thereof an offender shall be fined not more than five hundred dollars for each offense, and each day such violation continues shall be deemed a separate offense.

Sec. 6. Any person subject to and complying with the terms and conditions of any code of fair competition, agreement, or license, approved, prescribed, or issued under the terms of the national industrial recovery act for any trade or industry or

sub-division thereof within this state, or any prosecuting attorney of this state may institute a suit to prevent and restrain any violation of any provision thereof in any transaction within this state not in, or affecting "interstate or foreign commerce" within the definition of paragraph (d), section seven, title I of the national industrial recovery act. The circuit courts of this state are hereby invested with jurisdiction to entertain such suits.

Sec. 7. While this act is in effect, (or in the case of a license while paragraph (a) of section four of title I of the national industrial recovery act is in effect), and for sixty days thereafter, any code of fair competition, agreement, or license approved, prescribed, or issued under the terms of the national industrial recovery act, and any action complying with the provisions thereof (including the acts of any person or persons interested in any trade or industry or subdivision thereof in meeting, conferring or agreeing upon any code of fair competition or agreement) taken during such period, shall be exempt from the provisions of the anti-trust laws of this state, or any court order or decree issued thereunder, whether or not such trade or industry or subdivision thereof is engaged in transactions in or affecting "interstate or foreign commerce" as defined in paragraph (d), section seven, title I of the national industrial recovery act.

Sec. 8. In furtherance of the purposes and policies of this act and of the national industrial recovery act, any department of this state and the governing body of any subdivision, municipal corporation or district and any public officer or person charged with the letting of contracts for (1) the construction, alteration or repair of public works or (2) the purchasing of materials or supplies for public use, shall let such contracts only to those persons, natural or artificial, who agree in and by the terms of such contracts to use or supply only articles, materials and supplies mined, produced, manufactured or supplied by a person who is a party or subject to a code of fair competition, agreement, or license, approved, prescribed, or issued under the terms of the national industrial recovery act in every case where a code of fair competition, agreement, or license has been approved, prescribed, or issued under the terms of the national

industrial recovery act for the trade or industry or subdivision thereof mining, producing, manufacturing or supplying such articles, materials or supplies. Any practices in violation of such terms of such contracts shall be deemed the use of unfair methods of competition within the meaning of this act.

Sec. 9. This act shall cease to be in effect on June sixteenth, one thousand nine hundred thirty-five, or sooner if, as provided in paragraph (c), section two, title I of the national industrial recovery act, the President shall, by proclamation or the Congress by joint resolution, declare that the national emergency recognized by the national industrial recovery act has ended.

Sec. 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of this act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Sec. 11. This act is hereby declared to be an urgent emergency measure necessary for the immediate preservation of the general welfare of the people of the state.

Sec. 12. This act may be known and cited as the "State Industrial Recovery Act": *Provided,* That nothing in this act shall be construed by any public official or any court to alter, modify or repeal any existing statute of the state of West Virginia.

CHAPTER 87

(House Bill No. 147—By Mr. Beacom, by request)

AN ACT to regulate the business of buying and selling articles commonly known as junk, including old or scrap brass, old or scrap copper, rags, rope, old or scrap paper, old or scrap rubber, old or scrap iron and steel and all other old or scrap ferrous or non-ferrous metals, defining the terms "junk", "junk dealers", "junk dealer's agents", "non-resident junk dealers" and "non-resident junk dealer's agents", "itinerant junk collector"; requiring a license and the payment of a fee therefor, and fixing the qualifications of persons who engage in the business of "junk dealers" or "junk dealer's agents" to engage in the business of "junk dealer", and/or

"junk dealer's agents", and providing penalties for violations of the provisions thereof.

[Passed January 19, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.
1. Definitions.
2. State license to junk dealers; residence qualification.
3. Officers or agents of corporation or firm engaging in business of junk dealer must be eligible for license.
4. License fees; restrictions on transportation of junk from state by non-resident junk dealer.
5. Junk dealer to certify names of agents to clerk of county court and give certificate of authority to agent; form of permits; qualifications of applicant for license; fee not divisible or license transferable; void licenses.
6. Restrictions on sale, etc., of copper trolley wire, etc.; record of purchase; bill of sale or receipt from seller; what record of purchase to show; statement to sheriff before transportation from state.
7. Penalty for violation of provisions of act; arrest without warrant when permit number not displayed on transporting vehicle; confiscation and sale of vehicle; when junk may be transported or sold without license; jurisdiction of justices of peace; provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. The term "junk" as used in this act shall mean old or scrap copper, old or scrap brass, old or scrap batteries, old or scrap paper, old or scrap rubber, old or scrap iron and steel and other old or scrap ferrous or non-ferrous metals.

The term "junk dealers" shall include all persons, firms, or corporations engaged in the business of buying or selling "junk" as hereinabove defined.

The term "junk dealer's agents" shall include all persons, firms or corporations who buy or sell "junk" as hereinbefore defined for or on behalf of a "junk dealer" as hereinabove defined, but the term "junk dealer's agent" shall not be construed to include any persons regularly employed upon a salary by a regularly licensed "junk dealer" engaged in such business within the state of West Virginia.

The term "itinerant junk collector" shall include only such persons who gather junk from house to house with the aid of a cart or vehicle, who have no fixed place of business.

The term "non-resident junk dealer" or "non-resident junk dealer's agent" shall include all persons, firms or corporations who act as "junk dealers" or "junk dealer's agents" who are non-residents of the state of West Virginia, and all firms so engaged whose members are non-residents of West Virginia and all corporations which have not been admitted to hold property and transact business in the state of West Virginia.

Sec. 2. No person within the state of West Virginia shall engage in the business of "junk dealer", "junk dealer's agent"

or "itinerant junk collector" without a state license therefor, which license shall be obtained and issued in the same manner as licenses are obtained or issued under the provisions of chapter eleven, article twelve of the code of West Virginia, one thousand nine hundred thirty-one: *Provided, however,* That no resident license shall be issued to any "junk dealer", "junk dealer's agent" and "itinerant junk collector" who has not been a resident of the state of West Virginia for a period of at least one year prior to the application for such license.

Sec. 3. No corporation or firm shall engage in the business of "junk dealer" or "junk dealer's agent" in the state of West Virginia unless the officers or agents of such corporation or firm who engage in the business of "junk dealer" or "junk dealer's agent" in behalf of such corporation or firm shall be eligible to be duly licensed as resident "junk dealers" or "junk dealer's agents" in accordance with the provisions of this act.

Sec. 4. The fee for a resident "junk dealer's" license shall be twenty-five dollars; on every "junk dealer's agent" license, ten dollars; on every non-resident "junk dealer" or his agent who buys or solicits for the purchase of "junk" within the state, one hundred fifty dollars: *Provided, however,* That any "non-resident junk dealer" may purchase "junk" from any resident "junk dealer" without complying with the provisions of this section of this act, but if said "non-resident junk dealer" comes into the state in any motor vehicle or horse drawn vehicle the said "non-resident junk dealer" shall not be permitted to transport from the state in said vehicle or horse-drawn wagon, "junk" purchased from resident "junk dealers", unless there is a compliance with this section; on every "itinerant junk collector," one dollar.

Sec. 5. Every resident "junk dealer" shall certify to the clerk of the county court issuing the license, the name or names of the agents for whom he desires a license certificate and shall give to each agent so engaged by him, a certificate of authority, which certificate the agent shall at all times keep with his license and no such "junk dealer's agent's" license shall be valid and effective without such certificate of authority. The clerk of the county court who issues the licenses under the provisions of this act shall give to each license certificate a numerical designated permit, and such permit so given shall be plainly written or printed as "Dealer's Permit No.....", "Agent's

Permit No.....", "Itinerant Collector's Permit No.....", "Non-Resident Permit No.....", as the case may be, upon both sides of all trucks or other vehicles used in the collecting and transporting of "junk". But the clerk shall not issue a "junk dealer's agent's" license until the applicant therefor shall first have presented a certificate from a duly licensed "junk dealer" showing such authorization, and no license shall be issued to a "junk dealer's agent" or "itinerant junk collector" unless they shall file with the clerk an affidavit setting out that such applicant has not been convicted of a felony; that he has not been convicted of a misdemeanor in connection with the junk business within a five-year period prior to the time of his application, and that in the event the application is for a "resident dealer's" license that he has resided in the state for a period of one year next preceding the date of his application, which said certificate and affidavit shall be filed by the clerk issuing the license in his office.

The license fee herein provided shall not be divisible, and all licenses issued under the provision hereof shall expire on the thirtieth day of June of each year. No license issued hereunder shall be transferable.

No one who has been convicted of a felony shall be licensed as a "junk dealer", "junk dealer's agent" or "itinerant junk collector", and no one convicted of a misdemeanor in connection with the junk business within a five-year period prior to the passage of this act shall be licensed as a "junk dealer", "junk dealer's agent" or "itinerant junk collector".

No person, firm or corporation engaged in the junk business shall engage a person as a "junk dealer's agent" who is ineligible to receive a resident "junk dealer's" or "junk dealer's agent's" license.

Any license issued upon false affidavit or any improper license issued hereunder shall be ipso facto void.

Sec. 6. It shall be unlawful for any person or persons, firm or corporation, to barter, purchase, exchange, buy or accept from any person whatsoever, except plumbers, the owner or owners of buildings from which the material is taken, coal companies, industrial, manufacturing and public utility companies, or the authorized agents of such companies, lawful owners and licensed "junk dealers", copper trolley wire, alumi-

num wire, brass bearings or fittings or lead, shipped or delivered from points within this state. Every "junk dealer" purchasing any of the items hereinbefore mentioned from the aforesaid persons, firms or corporations, shall accurately list such purchase in a permanent record showing kind and character of "junk" purchased, date of purchase and from whom purchased, which shall be open to the inspection of all law enforcement officers.

It shall be unlawful for any "junk dealer" to purchase any of the items hereinbefore mentioned, except from the persons, firms or corporations named aforesaid, without securing from the seller a bill of sale, receipt or other proof of lawful ownership, which shall be retained by such purchaser or dealer, and the said purchaser or dealer shall list in a record book the full name and address of the seller, a complete description of the kind and character of the "junk" or material purchased, the hour and day purchased, and the license number of any automobile or truck which may be used in making delivery of such "junk" or material, which record shall be open to the inspection of all law enforcement officers, and be preserved for a period of not less than one year.

Every "non-resident junk dealer" or "non-resident junk dealer's agent" or "itinerant junk collector", before transporting from the state any of the items hereinbefore mentioned, shall file with the sheriff of the county where such purchase was made, a complete description of the property he proposes to transport from the state, showing the date of purchase, the names of the buyer and seller, the party to whom it is to be consigned, and the license number of any automobile or truck which may be employed in transporting such "junk" or materials hereinbefore mentioned, and shall leave such "junk" material in the county where purchased for not less than five days after reporting to the sheriff, before removing from the county.

Sec. 7. Any person, firm or corporation who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars and not more than five hundred dollars, and upon a second conviction for any offense under this act, in addition to the fine, the license of the person, firm or corporation so convicted of a second offense shall be revoked and no fur-

ther license shall be granted to the said person, firm or corporation so convicted, and it shall be the duty of any law enforcement officer to arrest, without a warrant, any person in charge of any vehicle used in the transportation of "junk" which does not have displayed thereon the permit number of the "junk dealer" or "junk dealer's agent" for whom such "junk" is being transported. The arresting officer shall hold in his possession any vehicle operated without a license until any fine imposed upon the driver or owner of the vehicle is paid and a proper license is obtained; upon failure to pay the fine and secure the license within ten days from conviction, the sheriff of the county in which said vehicle is held shall confiscate the same, and the sheriff shall give notice to the owner of the vehicle by publication in a newspaper of general circulation at least ten days prior to the date of sale that the said vehicle will be sold at public auction to the highest bidder, and out of the funds derived the sheriff shall pay first to the justice of the peace the costs and fine, and secondly shall pay to the state of West Virginia a sufficient sum of money to secure a proper license, and any sums of money remaining in his hands shall be promptly transmitted to the owner of the truck by registered mail or otherwise. A report of said sale shall be made by the sheriff to the justice of the peace, who shall record the same in his docket where the records of the conviction and the fine are kept.

Any person, firm or corporation engaged in any business other than the junk business shall have the right to convey "junk" which may have accumulated in connection with their business by vehicle or otherwise for the purpose of disposal or sale without complying with the provisions of this act, or may purchase and transport "junk" used in the operation of their business: *Provided, however,* That this section shall not apply to vehicles used by common carriers in the transportation of "junk" as an incident to the business of such common carriers.

Justices of the peace shall have jurisdiction over offenses under this act.

All acts and parts of acts inconsistent herewith are hereby repealed. The provisions of this act shall be considered as

separable, and if any part thereof shall be declared unconstitutional and void the same shall not affect the other portions of said act when so declared.

CHAPTER 88

(House Bill No. 190—By Mr. Curl)

AN ACT to amend and reenact section two, article one, chapter thirty-nine of the code of West Virginia, one thousand nine hundred thirty-one, specifying what instruments are recordable.

[Passed February 21, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
2.	Recordation of deeds, etc., by clerk of county court, when properly acknowledged; instrument securing payment of debt not recordable unless it		sets forth name and residence of beneficial owner of debt secured; when issue of negotiable notes or bonds need not show beneficial owners.

Be it enacted by the Legislature of West Virginia:

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

Section 2. The clerk of the county court of any county in which any deed, contract, power of attorney, or other writing is to be, or may be, recorded, shall admit the same to record in his office, as to any person whose name is signed thereto, when it shall have been acknowledged by him, or proved by two witnesses as to him, before such clerk of the county court.

But notwithstanding such acknowledgment or proof, such clerk shall not admit to record any contract, deed, deed of trust, mortgage or other instrument that secures the payment of any debt, unless such contract, deed, deed of trust, mortgage, or other instrument sets forth therein who, at the time of the execution and delivery thereof, is the beneficial owner of the debt secured thereby, and where he resides: *Provided, however,* That in the case of a mortgage or a deed of trust securing an issue of negotiable notes or bonds exceeding five in number and payable to bearer, it shall not be necessary that the mortgage or deed of trust show who are the beneficial owners of such notes or bonds, but in such case such mortgage or deed of trust shall show the

name and address of the person or corporation with or by whom the notes or bonds have been, or are to be, first negotiated.

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

CHAPTER 89

(House Bill No. 191—By Mr. Curl)

AN ACT to amend article four, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered seventy-one, relating to allegations of pleadings or proofs in any action, suit or proceeding in a court of record in this state for collection of any bonds, notes or other evidence of debt subject to assessment for taxation; to provide that any judgment or decree rendered contrary to the provisions hereof be void; to provide that as a part of any judgment or decree rendered in said action, suit or proceeding the court may order that the taxes, interest and penalties due and owing shall be paid out of first collection on said judgment or decree; and to provide that the title to real estate sold by virtue of a deed of trust, mortgage, or vendor's lien, shall not be drawn in question by failure of the owner of the debt secured thereby to list the same for taxation.

[Passed February 22, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.		SEC.	
71.	What the pleadings or proof in an action for collection of a bond, note or other evidence of debt must show before judgment may be entered; when judgment not valid; collection of unpaid taxes out of first collection on judgment; when title to real estate, or action pending or instituted prior to July 2, 1934, not affected; provisions of act separable.		

Be it enacted by the Legislature of West Virginia:

That article four, chapter fifty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be numbered seventy-one, to read as follows:

Section 71. In every action at law, proceeding or suit in equity, instituted on and after July second, one thousand nine hundred thirty-four, in a court of record in this state, for the collection of any bonds, notes, or other evidences of debt, the plaintiff or claimant shall be required to allege in his plead-

ings, or to prove by affidavit or otherwise at any time before final judgment or decree is entered:

(1) That such bonds, notes or other evidence of debt have been assessed for taxation for each and every tax year on the first day of which he was the owner of same, not exceeding five years prior to that in which the action, suit or proceeding was instituted and not in any event, for any period beginning earlier than the first day of January, one thousand nine hundred thirty-three, or

(2) That such bonds, notes, or other evidence of debt constituted a part of the capital employed in the business of such plaintiff or claimant and were assessed or taxed as such, or otherwise assessed or taxed as prescribed by law, or

(3) That the plaintiff or claimant has not paid, or is unable to pay, the taxes and interest and penalties, if any, on such bonds, notes or other evidences of debt, but is willing for the same to be paid out of his first recovery thereon, or

(4) That such bonds, notes or other evidence of debt sued upon are not taxable under the law in the hands of the plaintiff or claimant, or are otherwise exempt from taxation; and no judgment or decree of a court of record rendered in an action, suit or proceeding instituted on and after the date aforesaid, shall be valid unless the allegation herein required was made, or unless the proof herein required was adduced before final judgment or decree was entered.

When in any such action at law, suit in equity or proceeding, it is ascertained that there are unpaid taxes, including interest and penalties, if any, on the evidence or evidences of debt sought to be enforced, and the plaintiff or claimant makes it appear to the court that he has not paid, or is unable to pay, said taxes, including interest and penalties, if any, but is willing for the same to be paid out of his first recovery thereon, the court may order, as a part of any judgment or decree in said action, suit or proceeding, that the taxes, including interest and penalties, if any, that are due and owing, shall be paid to the proper officer out of the first collection on said judgment or decree.

But the title to real estate heretofore or hereafter sold by virtue of a deed of trust, mortgage or vendor's lien, shall not be drawn in question upon the ground that the holder of the notes or bonds or evidences of debt secured by such deed of trust,

mortgage or vendor's lien, did not list the same for taxation; and this act shall not affect in any manner any action, suit or proceeding pending or instituted in any court of this state prior to July second, one thousand nine hundred thirty-four.

If any paragraph, sentence, clause or phrase of this act shall for any reason be held invalid, the validity of the remaining phrases, clauses, sentences and paragraphs of this act shall not be affected thereby.

All acts or parts of acts inconsistent with the provisions of this act are hereby repealed as of the day this act becomes effective.

CHAPTER 90

(House Bill No. 206—By Mr. Peters)

AN ACT to amend and reenact section three, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, relating to the appointment of special commissioners of account, and to the completion of matters in the hands of regular commissioners of account when they shall have resigned or been removed.

[Passed March 15, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.		SEC.	
3.	Appointment of special commissioners of account; completion of matters referred to a commissioner, who subsequently resigns or is removed.		

Be it enacted by the Legislature of West Virginia:

That section three, article three, chapter forty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 3. When, from any cause, none of the commissioners of account can act as to any matter or matters which may be passed on under the provisions of this chapter, such court or clerk, as is mentioned in section one of this article, may appoint some other person to act as to such matter or matters, and such person shall have the powers and compensation and perform the duties of a commissioner of accounts. And when any commissioner of accounts resigns, or is removed, the county court may provide for the completion of the matters previously referred to such commissioner.

CHAPTER 91

(House Bill No. 232—By Mr. Minear, by request)

AN ACT to amend and reenact section ten, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, relating to official bonds.

[Passed February 8, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.
10. Bonds of designated county officials; penalties of bonds.

Be it enacted by the Legislature of West Virginia:

That section ten, article two, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 10. Every commissioner of a county court and every clerk of a circuit court shall give bond with good security, to be approved by the circuit court, or the judge thereof in vacation; and every sheriff, surveyor of lands, clerk of a county court, assessor, county superintendent of schools, notary public, justice of the peace and constable shall give bond with good security, to be approved, unless otherwise provided by law, by the county court of the county in which such officer is to act. The penalty of the bond of each commissioner of a county court shall be not less than five thousand dollars nor more than ten thousand dollars, the amount to be fixed by the circuit court of the county, or the judge thereof in vacation, by order entered of record on the proper order books of both the county and circuit courts; of the clerk of the circuit court, not less than three thousand nor more than twenty-five thousand dollars; of the sheriff, not less than twenty-five thousand dollars nor more than the aggregate amount of all state, county, district, school, municipal and other moneys which will probably come into his hands during any one year of his term of office; of the surveyor of lands, not less than one thousand nor more than three thousand dollars; of the clerk of the county court, not less than three thousand nor more than ten thousand dollars; of the assessor, not less than two thousand nor more than five thousand dollars; of the county superintendent of schools, not less than one thousand nor more than three thousand dollars; of a notary public, not less than two hundred and fifty nor more

than one thousand dollars; of a justice of the peace and of a constable, not less than two thousand nor more than ten thousand dollars: *Provided, however,* That the bond herein required to be given by a notary public may be given before the clerk of the county court, in the vacation of said court, and approved by it at its next regular session.

CHAPTER 92

(House Bill No. 233—By Mr. Hiner)

AN ACT to amend by adding section twenty to article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to the preservation of historical documents at West Virginia university.

[Passed January 25, 1934; in effect from passage. Approved by the Governor.]

SEC.
20. Custodians of official books, original papers, etc., except state historian and archivist, may turn same over to division of documents, West Virginia University, as custodian; receipt and inventory; certified copies.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding section twenty, so as to read as follows:

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Section 20. Any state, county or other official, except the state historian and archivist, who is the lawful custodian thereof may turn over to the division of documents, West Virginia university, with its consent, as custodian, for permanent preservation and record any official books, records, documents, original papers, or files, or any printed books, records, documents, or reports, not in current use in his office. The division of documents, West Virginia university, is authorized to act as custodian and to receive gifts of historical material from any person or institution.

The division of documents, West Virginia university, shall give a written receipt to any official from whom property is received and shall record in an annual report to the board of governors a complete list of all property received.

After request of any person entitled thereto, the division of documents shall furnish a certified copy of any record, docu-

ment, or paper in its possession, upon the payment by the applicant of the cost of transcription. Such copy shall be certified by the head of the division of documents before a notary public, and when so certified shall be entitled to the same weight as evidence as though certified by the official by whom such record, document, or paper was deposited with the division of documents.

CHAPTER 93

(House Bill No. 251—By Mr. Marsh, of Ohio)

AN ACT to define certain terms used herein; to declare the necessity of creation of bodies corporate and politic, to be known as housing authorities to engage in slum clearance and low-cost housing projects; to provide for the appointment, qualification and removal of housing authority commissioners, and the creation and organization of housing authorities; to define the powers of housing authorities and provide for the exercise of such powers, including the right of eminent domain; to provide for the incurring of indebtedness and the issuing and securing of bonds, notes and other evidences of indebtedness, the execution of agreements, the keeping of books and records and the making of reports; to provide that no indebtedness of an authority shall constitute a debt or obligation of a municipality or the state; to provide for the making of grants and the lending of money to housing authority by the city, and the repayment of such loans; to exempt the property of the authority and its securities and interest thereon from taxes; to authorize banks, bankers, trust companies or other persons carrying on a banking business to give security for the repayment of sums deposited by housing authorities; to provide for dissolution of housing authorities and the disposition of their property; to provide for conflict with other existing laws and for the invalidity of any provisions of this act and to declare an emergency.

[Passed March 16, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Definitions.
2. Legislative declaration of necessity for creation of housing authority corporations.
3. Certification by council to mayor of necessity for, and appointment by mayor of housing authority; terms, removal or suspension of members.
4. No commissioner or employee of

SEC.
an authority to acquire any interest in property included in or material furnished for, a project; prior ownership to be disclosed and entered in minutes of the authority.
5. Organization, officers and employees of the authority.
6. Commissioner to receive necessary expenditures made by him, but no compensation for services.
7. Authority a body corporate; powers; investigations or examinations may be conducted by the authority, its counsel, or committee appointed by the authority.
8. Power to acquire lands, etc., by purchase or by right of eminent domain.
9. Projects of the authority subject to ordinances etc., of locality in which situated; restrictions on acquisition or disposal of property by the authority; not required to offer securities to

SEC.
or turn over sinking fund to state sinking fund commission.
10. Amount and nature of indebtedness incurred by the authority; rights of creditors solely against the authority as a corporate body.
11. Agreement by the authority providing for suspension and control of project in connection with the borrowing of funds.
12. Forms of books and records of the authority; accounts; report to mayor.
13. Loans or sales by city to the authority.
14. Property, bonds, etc., of authority exempt from taxation.
15. Security for funds of the authority deposited in bank.
16. Conditions on which the authority may be dissolved; notice to creditors of dissolution.
17. Inconsistent acts repealed.
18. Provisions of act separable.
19. Act declared to be an emergency.

Be it enacted by the Legislature of West Virginia:

Section 1. The following terms, wherever used or referred to in this act, shall have the following respective meanings, unless in any case a different meaning clearly appears from the context:

(a) "Authority" or "housing authority" shall mean a corporate body organized in accordance with the provisions of this act for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(b) "Mayor" shall mean the chief executive of the city, whether the official designation of his office be mayor, city manager or otherwise.

(c) "Council" shall mean the chief legislative body of the city.

(d) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of this act.

(e) "Government" shall include the state and federal governments and any subdivisions, agency or instrumentality, corporate or otherwise, of either of them.

(f) The "state" shall mean the state of West Virginia.

(g) "National recovery act" shall mean the act of Congress of the United States of America approved June sixteenth, one thousand nine hundred thirty-three, entitled "An act to encourage national industry, to foster fair competition, and to provide for construction of certain useful public works, and

for other purposes", and any acts amendatory thereof or supplemental thereto.

(h) "Slum clearance" shall include the removal of housing conditions which shall be considered by the housing authority of the city in which such conditions exist to be unsanitary or substandard or a menace to public health, and shall also include such other activities as may, at any time, be embraced within said term as used in the national recovery act.

(i) "Low-cost housing" shall include any housing accommodations which are or are to be rented at not in excess of a maximum rate per room, or maximum average rate per room, which shall be specified or provided by the housing authority of the city in which such housing accommodations are or are to be located, or the Legislature, or a duly constituted agency of the state, or of the United States of America.

(j) "Project" shall include all lands, buildings, and improvements, acquired, owned, leased, managed or operated by a housing authority, and all buildings and improvements constructed, reconstructed or repaired by a housing authority, designed to provide housing accommodations, or stores, offices and community facilities appurtenant thereto, which are planned as a unit, whether or not acquired or constructed at one time, and which ordinarily are contiguous or adjacent to one another. The term "project" may also be applied to the planning of buildings and improvements, the acquisition of property, the demolition of existing structures, the clearing of land, the construction, reconstruction and repair of improvements and all other work in connection therewith.

(k) "Community facilities" shall include lands, buildings and equipment for recreation or social assembly, for educational, health or welfare activities and other necessary utilities primarily for use and benefit of the occupants of housing accommodations to be constructed and operated hereunder.

Sec. 2. It is hereby declared as a matter of legislative determination that in order to promote and protect the health, safety, morals and welfare of the public, it is necessary in the public interest to provide for the creation of public corporate bodies to be known as housing authorities, and to confer upon and vest in said housing authorities all powers necessary or appropriate in order that they may engage in low-cost housing and slum clearance projects; and that the powers herein conferred

upon the housing authorities, including the power to acquire property, to remove unsanitary or substandard conditions, to construct and operate housing accommodations and to borrow, expend and repay moneys for the purpose herein set forth, are public objects essential to the public interest.

Sec. 3. Whenever the council in any city shall have determined that there is need for the creation of an authority therein, it shall cause notice of such determination to be given to the mayor, and as soon as possible thereafter an authority shall be created by the appointment of five commissioners who shall constitute the authority, such commissioners to be appointed by the mayor for initial terms of one, two, three, four and five years respectively; a certificate stating that such appointment has been made shall be filed in the office of the county clerk and shall be conclusive evidence of the due and proper creation of the authority. At the expiration of the term of each commissioner and of each succeeding commissioner, or in the event of a vacancy, the mayor shall appoint a commissioner who shall hold office in the case of a vacancy for the unexpired term, or in case of succession, for a term of five years or until his successor shall have been appointed and qualified. The mayor may remove a member of the authority for official misconduct, neglect of duty or incompetence, but only after the member shall have been given a copy of the charges against him and an opportunity to be heard in person or by counsel in his own defense. Pending the determination of charges against a member, the mayor may suspend him from office.

Sec. 4. No commissioner or employe of an authority shall acquire any interest direct or indirect in any project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any member or employe of any authority owns or controls an interest direct or indirect in any property included in any project, which was acquired prior to his appointment or employment, he shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority.

Sec. 5. As soon as possible after the creation of an authority the commissioners shall organize for the transaction of business by choosing from among their number a chairman and a vice-

chairman and by adopting by-laws and rules and regulations suitable to the purposes of this act. Three commissioners shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof. The commissioners shall, from time to time, select and appoint such officers and employes, including engineering, architectural and legal assistants, as they may require for the performance of their duties, and shall prescribe the duties and compensation of each officer and employe.

Sec. 6. No commissioner shall receive any compensation whether in form of salary, per diem allowances or otherwise, for or in connection with his services as such commissioner. Each commissioner shall, however, be entitled to reimbursement, to the extent of appropriations or other funds available therefor, for any necessary expenditures in connection with the performance of his genereal duties or in connection with the construction or operation of any project. The authority may allocate such expenses among its projects in such manner as it may consider proper.

Sec. 7. An authority shall constitute a body both corporate and politic, exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this act, including the following powers in addition to others herein granted:

To investigate into living and housing conditions in the city and into the means and methods of improving such conditions; to determine where unsanitary or substandard housing conditions exist; to study and make recommendations concerning the city plan in relation to the problems of clearing, replanning and reconstruction of areas in which unsanitary or substandard conditions exist, and the providing of housing accommodations for persons of low income, and to cooperate with any city or regional planning agency, to prepare, carry out and operate projects; to provide for the construction, reconstruction, improvement, alteration or repair of any project or any part thereof; to take over by purchase, lease or otherwise any project undertaken by any government; to act as agent for the federal government in connection with the acquisition, construction, operation and/or management of a project or any part thereof; to arrange with the city or with a government for the furnishing, planning, replanning, opening or closing of streets, roads, road-

ways, alleys or other places or facilities, or for the acquisition by the city or by the city, state or federal government or any agency, instrumentality or subdivision thereof, including, specifically, the federal emergency administration of public works and the public works emergency housing corporation, of property, options or property rights or for the furnishing of property or services in connection with a project; to lease or rent any of the housing or other accommodations of any of the lands, buildings, structures or facilities embraced in any project, and to establish and revise the rents or charge therefor; to enter upon any building or property in order to conduct investigations or to make surveys or soundings; to purchase, lease, obtain options upon, acquire by eminent domain or otherwise, sell, exchange, transfer, assign or mortgage any property real or personal or any interest therein; to acquire any property real or personal or any interest therein from any person, firm, corporation, or the city, state or federal government or any agency, instrumentality or subdivision thereof, including, specifically, the federal emergency administration of public works and the public works emergency housing corporation, by gift, grant, bequest or devise; to own, hold, clear and improve property; in its discretion, to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable; to borrow money upon its bonds, notes, debentures or other evidences of indebtedness, and to secure the same by mortgages upon property held or to be held by it or by pledge of its revenues, or in any other manner; to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement in property or securities in which savings bank may legally invest funds subject to their control; to sue and be sued; to have a seal, and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; to make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with this act, to carry into effect the powers and purposes of the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to issue subpoenas requiring the attendance of witnesses or the production of books and papers

and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the authority, or excused from attendance; and to do all things necessary or convenient to carry out the powers given in this act. Any of the investigations or examinations provided for in this act may be conducted by the authority or by a committee appointed by it, consisting of one or more members thereof, or by counsel, or by an officer or employe specifically authorized by the authority to conduct it. Any member of the authority, its counsel, or any person designated by it to conduct an investigation or examination, shall have power to administer oaths, take affidavits and issue subpoenas or commissions.

Sec. 8. Whenever it shall be deemed necessary by an authority in connection with the exercise of its powers herein conferred to take or acquire any lands, structures or buildings or other rights, either in fee or as easements for any housing or slum clearance project, such authority may purchase the same directly or through its agents from the owner or owners thereof, or failing to agree with the owner or owners thereof, such authority may exercise the power of eminent domain in the manner provided for condemnation proceedings, in chapter seventy-four, acts of the Legislature of West Virginia, regular session, one thousand nine hundred seven, and chapter twenty-three, acts of one thousand nine hundred fifteen.

Sec. 9. All projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the project is situated. No provisions with respect to the acquisition, operation or disposition of property by public bodies shall be applicable to an authority unless the Legislature shall specifically so state. No authority shall be required to offer its securities to the state sinking fund commission at any time, nor shall any authority be required to turn over any surplus or sinking funds to the state sinking fund commission.

Sec. 10. Subject to the restrictions set forth in this act, the authority may incur any indebtedness and issue any obligations and give any security therefor which it may deem necessary or advisable in connection with any project undertaken by it hereunder. No statutory limitation with respect to the nature or amount of indebtedness which may be incurred by munici-

palities or other public bodies shall apply to indebtedness of an authority, unless the Legislature shall specifically so provide. No indebtedness of any nature of an authority shall constitute a debt or obligation of a municipality or the state or any other subdivision or agency or instrumentality thereof, or a charge against any property of such municipality, the state, or other subdivision, agency or instrumentality thereof. No obligation incurred by the authority shall give any right against any commissioner of such authority, but a commissioner shall be liable only for his own malfeasance. The rights of creditors of an authority shall be solely against such authority as a corporate body and shall be satisfied only out of property held by it in its corporate capacity, and the enforcement of such rights shall be subject to all the provisions of this act.

Sec. 11. An authority may, in connection with the borrowing of funds, or otherwise, enter into any agreement with the federal government or any agency or subdivision thereof, including, specifically, the federal emergency administration of public works and the public works emergency housing corporation, providing for supervision and control of the authority or of any project, and containing such other covenants, terms and conditions as the authority may deem advisable.

Sec. 12. An authority shall keep its books and records in such form as may be prescribed by, or as shall be satisfactory to, the mayor, and such books and records shall be open for inspection at any hour during any business day by any representative of the mayor or council. The accounts of the authority shall be kept in such manner that they shall show at all times the income from and all sums chargeable against each project. The authority shall, on or before January thirty-one in each year after the year of its creation, make a report to the mayor and the council, in such form and setting forth such information with respect to its financial condition and its activities during the preceding calendar year and during the entire period from its creation as the mayor or the council shall require. Each authority shall make such further reports as may from time to time be required by the mayor or the council.

Sec. 13. Any city in which an authority shall exist may, by resolution of the council, lend to such authority a sum or sums of money not exceeding at any time twenty thousand dollars in

the aggregate. All sums so advanced shall constitute an indebtedness of the authority and shall be repaid out of any funds which the authority may have available for such purposes at any time. The city is also authorized to sell, convey or lease any of its interest in any property, or to grant easements, licenses, or any other rights or privileges therein or with respect thereto, to the authority, irrespective of the purposes for which such property or such interest therein may have been acquired. The city is authorized to sell any such property, property rights, or interest therein, to the authority at private sale without advertisement or competitive bidding and, in a case of property, property rights, or interest therein, devoted or dedicated to a public use, the city is authorized to make grants to the housing authority on such terms and under such conditions as it may deem advisable. The authority is authorized to acquire and accept any such property, property rights, or interest therein as it may deem necessary or desirable in the development of a project pursuant to this act.

Sec. 14. The authority shall be exempt from the payment of any taxes or fees to the state or any subdivision thereof, or to any officer or employe of the state or any subdivision thereof. The property of an authority shall be exempt from all local and municipal taxes. Bonds, notes, debentures and other evidences of indebtedness of an authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes.

Sec. 15. In order to protect funds deposited by an authority, all banks, bankers, trust companies or other persons carrying on a banking business, organized under the laws of the state, are authorized to give to the authority an undertaking with such sureties as shall be approved by the authority, faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon, or in lieu of the said sureties, to deposit with the authority as collateral such securities and in such amounts as may be agreed upon with the authority pursuant to a collateral deposit agreement in form and terms satisfactory to the authority. The collateral to be deposited shall consist of securities in which savings banks may legally invest funds within their control.

Sec. 16. Whenever the authority desires to discontinue its operations, it shall make application to the mayor for permission to dissolve. Permission to dissolve shall be given only upon a showing satisfactory to the mayor that all projects undertaken by the authority have been completed, or abandoned with the approval of the mayor, that provision satisfactory to a majority of its creditors, holding a majority in amount of claims, has been made, and that the continued existence of the authority would not serve the public interest. Notice of such application for permission to dissolve shall be given to all creditors of the authority in such manner as the mayor shall approve. If the application to dissolve shall be granted, the mayor shall designate an agent to take possession of the authority to dispose of all its property in the manner authorized herein, and, after paying or making provisions for the debts and liabilities of the authority and the expenses of dissolution, to pay the balance remaining, if any, into the general funds of the city.

Sec. 17. All acts or parts of acts, inconsistent with this act or with any provision of this act be and the same are herewith repealed to the extent of such inconsistency.

Sec. 18. The provisions of this act are severable, and if any shall be held unconstitutional the decision of the court shall not affect or impair any of the remaining provisions hereof. It is hereby declared as a legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Sec. 19. This act is hereby declared to be an emergency law and necessary for the immediate preservation of health, morals, safety and public welfare.

CHAPTER 94

(House Bill No. 263—By Mr. Hiner)

AN ACT to amend article one, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be numbered section twelve, relating to mandamus to compel political subdivisions to levy to satisfy judgments.

[Passed January 26, 1934; in effect from passage. Approved by the Governor.]

SEC.
12. When levy, ordered by court under a writ of mandamus to satisfy a judgment against a political subdivision, may be distributed over a period of not to exceed ten years, with legal interest on installments.

Be it enacted by the Legislature of West Virginia:

That article one, chapter fifty-three of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto section twelve, to read as follows:

ARTICLE I.

Section 12. Wherever a writ of mandamus, issued to enforce the laying of a levy to satisfy a judgment against a political subdivision of the state, would produce a disturbance in the administration of the financial affairs of the political subdivision not necessary to the protection and enforcement of the right of the creditor, the court may order that the levy be distributed equally over a period of years not to exceed ten, and shall allow the creditor, interest, not in excess of the legal rate, upon the installments.

CHAPTER 95

(House Bill No. 273—By Mr. Hiner)

AN ACT to amend and reenact section ten, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, relating to county or school orders receivable for taxes and fees.

[Passed January 26, 1934; in effect from passage. Approved by the Governor.]

SEC.
10. When tax collecting officer to receive county or school draft in payment of taxes; procedure when amount of the draft greater than the taxes; when officer not required to accept draft.

Be it enacted by the Legislature of West Virginia:

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

Section 10. Every officer charged with the collection of taxes for any fiscal year and officers' fees shall receive in payment thereof, at par, any county or school order or draft issued in payment of any claim arising during said fiscal year for which were levied the taxes for the payment of which such draft is offered drawn on such officer pursuant to law, to the amount that such taxes are levied for the same fund against which such draft or order is drawn, if such draft be then due and payable, and if the person offering the same in payment be the person entitled thereto at the time it is so offered.

And if the amount due on such order or draft be more than the amount to be collected for the fund against which the draft is drawn from the person so offering the same in payment the officer shall pay the balance due thereon if he have in his hands any money applicable to such payment; and if not he shall endorse thereon the amount of taxes or fees held by him against such person for which the draft is acceptable and that he has no money in his hands applicable to the payment of the balance thereof, and thereupon the holder of such order shall have the right to have issued to him new orders; one for the amount of the taxes endorsed on the original order, and the other for the remainder of such original order, and such original order shall

be cancelled. No such officer shall be required to accept in payment in whole or in part of any taxes for any fund any order or draft drawn in any year preceding the fiscal year for which said taxes were levied and are being collected.

CHAPTER 96

(House Bill No. 341—By Mr. Hiner)

AN ACT to amend and reenact section twenty-one, article five, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, relating to certified copies of birth and death records, by providing same to the veterans' division of the department of public welfare, without charge.

[Passed March 6, 1934; in effect from passage. Approved by the Governor.]

SEC.
21. Fees of state registrar for certified copies of birth and death records and search of records; legal effect of copy; certificate, without fee to federal bureau of census and to parent or guardian, for school or employment purposes; certified copies upon written request, without fee, to division of veterans' affairs, department of public welfare.

Be it enacted by the Legislature of West Virginia:

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

Section 21. The state registrar shall, upon request, supply to any applicant a certified copy of the record of any birth or death registered under the provisions of this article, for the making and certification of which he shall be entitled to a fee of fifty cents, to be paid by the applicant: *Provided,* That such copy shall not state that any child was either legitimate or illegitimate. Any such copy of the record of a birth or death, when properly certified by the state registrar, shall be prima facie evidence, in all courts and places, of the facts therein stated. For any search of the files and records when no certified copy is made, the state registrar shall be entitled to a fee of fifty cents for each hour or fractional part of an hour of time of search, said fee to be paid by the applicant. The state registrar shall keep a true and correct account of all fees by him received under the provisions of this article and turn the same over to the state treasurer: *Provided,* That the state registrar shall, upon the request of any parent

or guardian, supply without fee a certificate limited to a statement as to the date of birth of any child when the same shall be necessary for admission to school, or for the purpose of securing employment: *Provided,* That the United States bureau of census may obtain, without expense to the state, transcripts or certified copies of births and deaths without payment of the fees herein prescribed: *Provided further,* That certified copies of birth and death certificates may, upon his written request, be furnished to the chief of the division of veterans' affairs of the department of public welfare without charge, for use in assisting veterans, their widows, children or other dependents, in presenting claims to the federal government, but an accurate record shall be made of all such certificates so furnished.

CHAPTER 97

(House Bill No. 231—By Mr. Poling)

AN ACT to authorize the county court of Barbour county, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping a county jail and sheriff's residence; to issue such bonds or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction of such county jail and sheriff's residence, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 16, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. County court of Barbour county authorized to borrow money from federal governmental agency to construct, etc., jail and sheriff's residence; issue of bonds or other evidences of indebtedness.
2. Court empowered to do all things necessary to carry out provisions of act and provide for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Barbour county, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping and maintaining a county jail and sheriff's residence.

Said county court is authorized to issue bonds or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and do any and all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip and maintain said county jail or sheriff's residence.

Sec. 2. The county court of Barbour county is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 98

(House Bill No. 219—By Mr. Reed)

AN ACT to authorize the board of education and the county court of Clay county, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping a central heating plant; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction of such heating plant, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 18, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. The county court and board of education of Clay county authorized to borrow money from federal governmental agency to construct, etc., a central heating plant; issue of bonds or other evidences of indebtedness.

SEC.
2. Court and board empowered to do all things necessary to carry out provisions of act and provide for repayment of loan; native stone to be used in construction of plant; cost not to exceed five thousand dollars.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education and the county court of Clay county, West Virginia, are hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose

of constructing, equipping and maintaining a central heating plant. Said county court and said board of education are authorized to issue bonds, or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and do any and all things required by said public works administration or other federal governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip and maintain said central heating plant.

Sec. 2. The county court of Clay county and the Clay county school board are hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board and court provide for the repayment of said loan and/or amortization of said bonds: *Provided, however,* That native stone shall be used in the construction of said plant, and the cost of said plant shall not exceed five thousand dollars.

CHAPTER 99

(House Bill No. 220—By Mr. Reed)

AN ACT to authorize the county court of Clay county, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping a county jail; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction of such jail, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 18, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County court of Clay county authorized to borrow money from federal governmental agency to construct, etc., a county jail; issue of bonds or other evidences of indebtedness.

SEC.
2. Court empowered to do all things necessary to carry out provisions of act and provide for repayment of loan; native stone to be used in construction of walls; cost not to exceed ten thousand dollars.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Clay county, West Virginia,

is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping and maintaining a county jail. Said county court is authorized to issue bonds, or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and do any and all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip and maintain said jail.

Sec. 2. The county court of Clay county is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds: *Provided, however,* That native stone shall be used for the construction of the walls of said jail, and that the total cost of said jail shall not exceed the sum of ten thousand dollars.

CHAPTER 100

(House Bill No. 382—By Mr. Summerfield)

AN ACT to authorize the county court of Fayette county, West Virginia, to enter into contract and to borrow money from any United States agency or other agency or person for the erection, construction, repair of, or addition to the courthouse or jail of Fayette county, or both, and to issue bonds therefor at not to exceed six per cent per annum interest and to pledge a sufficient amount of the revenue of said county within the constitutional and other limitations provided by law, as well as the property of said county to pay the interest on and the principal of said bonds, within a period not to exceed ten years.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Fayette county authorized to enter into contract for and borrow not to exceed forty thousand dollars for the		erection, etc., of courthouse and /or jail; bond issue or other obligations; pledge of county revenues; court authorized to do all

SEC.
things necessary to carry out provisions of act.
2. Repayment of cost of erection, etc., from levies; sinking fund.
SEC.
3. Act provides additional and alternative method; act to be liberally construed.
4. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Fayette county is hereby authorized and empowered to enter into contract and to borrow from any United States agency or other agency or person, money in a sum not to exceed forty thousand dollars for the erection, construction, repair of or addition to the courthouse or jail of Fayette county, or both, and to issue bonds or other obligations therefor at a rate of interest not to exceed six per cent per annum and to pledge the revenue of Fayette county or sufficient thereof within the constitutional and other limitations provided by law, as well as the property of said county for the payment of the interest on and the principal of said bonds within a period not to exceed ten years. Said court is further authorized and empowered to do and perform any and all acts and make all such contracts as may be necessary to effectuate the general purposes of this act.

Sec. 2. The cost of the erection, construction, repair of, or addition to the said courthouse or jail, or both, in said Fayette county, whether in the form of bonds or otherwise, shall be paid out of the levies now or which may hereafter be provided for by general law to be levied by said county court in and for said county sufficient to pay off said bonds or other liens thereon and of each of them, and to pay the coupons attached thereto, if any, or the interest thereon until payment in full of the principal and interest of said bonds shall have been made, and shall set apart a sufficient sinking fund out of its levies and funds so collected each year sufficient to pay off and discharge any debts created by or bonds issued under the authority hereof and the interest thereon within the time herein designated.

Sec. 3. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby, and shall be regarded as supplementary and additional powers to those conferred by general law, and this act being necessary for the welfare and public requirements of the said county of Fayette shall be liberally construed so as to effectuate the purposes thereof.

Sec. 4. If any of the sections or provisions or parts of this act are for any reason declared illegal or invalid, it is the intention that the remaining sections and provisions or parts thereof shall remain in full force and effect.

CHAPTER 101

(House Bill No. 218—By Mr. Van Sickler)

AN ACT to authorize the county court of Greenbrier county, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping a courthouse or county jail, or both; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction of such courthouse or jail, or both, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 16, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. County court of Greenbrier county authorized to borrow money from federal governmental agency to construct, etc., courthouse and/or jail; issue of bonds or other evidences of indebtedness.
2. Court empowered to do all things necessary to carry out provisions of act and provide for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Greenbrier county, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping and maintaining a courthouse, county jail, or both. Said county court is authorized to issue bonds, or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and do any and all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip and maintain said courthouse or county jail, or both.

Sec. 2. The county court of Greenbrier county is hereby em-

powered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 102

(House Bill No. 129—By Mr. Thomas)

AN ACT to authorize and empower the county court of Kanawha county, West Virginia, to convey property, and to enter into a contract and/or lease with the United States government, or other federal agency authorized to make or enter into such contract and/or lease, for the building, construction, equipping, leasing and renting of a county infirmary, workhouse, and other improvements necessary for the use and benefit of the poor, and to provide for the payment for such by the said county court of Kanawha county, West Virginia.

[Passed December 20, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County court of Kanawha county authorized to convey property to, and contract with federal governmental agency for the erection of a county infirmary; yearly rentals paid by court.
2. Court authorized to do all things necessary to carry out provisions of act.
3. Annual levies by court to pay rentals.
4. Act to be liberally construed.
5. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Kanawha county, West Virginia, be and is hereby authorized and empowered to convey to the United States government and/or other federal agency, any property owned by it, which it may see fit to convey for the purposes hereinafter expressed, and to contract with the said United States government or other federal agency, to the end that said government or agency, through its or any of their agencies duly created by law, may build upon said property an infirmary, workhouse, and other improvements necessary for the use and benefit of the poor. In consideration of which, the said county court shall pay to the United States government or other federal agency, yearly rentals for a period of years, but which said yearly rentals shall not exceed for any one year the

constitutional limitation, as provided by law for the county of Kanawha, although the aggregate amount contracted for may exceed said debt limitation.

Sec. 2. That the county court of Kanawha county be and is hereby authorized by its officers, pursuant to the authority of such corporation duly given, to sign such agreements, contracts of sale and/or purchase, leases and any and all other agreements or contracts necessary and required, and to deliver the same to the United States government, the emergency administration of public works, or its subsidiary organizations, or other federal agency, as may be necessary and proper to effect the building and construction of such project.

Sec. 3. The said county court shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid, in the manner and form as provided by law.

Sec. 4. Sections one and two, inclusive, of this act, being necessary for the health, welfare and convenience of the poor and indigent persons of Kanawha county, the act shall be liberally construed to effectuate the purposes thereof.

Sec. 5. The provisions of this act are separable, and are in matters of mutual inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions or parts thereof are for any reason illegal or invalid, it is the intention that the remaining sections and provisions or parts thereof shall remain in full force and effect.

CHAPTER 103

(House Bill No. 211—By Mr. Holt, by request)

AN ACT to authorize the county court of Lewis county, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping a county jail; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construc-

tion of such jail, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 11, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. County court of Lewis county authorized to borrow money from federal governmental agency to construct, etc., a county jail; issue of bonds or other evidences of indebtedness.
2. Court authorized to do all things necessary to carry out provisions of act and provide for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Lewis county, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping and maintaining a county jail. Said county court is authorized to issue bonds, or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and do any and all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip and maintain said jail.

Sec. 2. The county court of Lewis county is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 104

(House Bill No. 212—By Mr. Holt, by request)

AN ACT to authorize the county court of Lewis county, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping a heating plant; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency; and to

promulgate such ordinances as may be necessary for the construction of such plant, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 11, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. County court of Lewis county authorized to borrow money from federal governmental agency to construct, etc., a heating plant; issue of bonds or other evidences of indebtedness.
2. Court authorized to do all things necessary to carry out provisions of act and provide for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Lewis county, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping and maintaining a heating plant. Said county court is authorized to issue bonds or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and do any and all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip and maintain said heating plant.

Sec. 2. The county court of Lewis county is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 105

(House Bill No. 260—By Mr. Tallman)

AN ACT to authorize and empower the county court of Mason county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of a courthouse and/or jail, with an option to pur-

chase same, and to provide for payment of a yearly rental for such by said court.

[Passed January 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County court of Mason county authorized to convey property to, and contract with federal governmental agency for the construction, etc., of a courthouse and/or jail; yearly lease, or rentals, not exceeding thirty years, with right of purchase; amount of rentals.
2. Annual levies by court to pay rentals.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Mason county, West Virginia, be and it is hereby authorized and empowered to convey to the United States government or any federal agency, any lot, lots, parcel of land owned by it which the said court may see fit to convey for the purpose hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, construct, equip and/or furnish upon said property a courthouse and/or jail, and to contract with said government or any federal agency for the yearly lease or rental of said courthouse and/or jail, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said courthouse and/or jail and land on which the same is or are situated, and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said county court of Mason county shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said courthouse and/or jail if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said courthouse and/or jail, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said county court of Mason county shall levy and collect annually an amount sufficient to pay said rentals

for that particular year for the purpose aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and maintenance of orderly government of the people of Mason county, it shall be liberally construed to effectuate the purpose thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 106

(Senate Bill No. 103—By Mr. White, of Mingo)

AN ACT to authorize and empower the county court of Mingo county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the remodeling of the court house and jail of said county, or the construction of a new jail, and/or the erection, construction and equipment of additions to said court house and/or jail, in an amount not to exceed two hundred thousand dollars, and for the leasing and renting of said building or buildings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said court.

[Passed February 8, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court of Mingo county authorized to convey land to, and make contract with, federal governmental agency, for construction, etc., of court house and/or jail, in an amount not to exceed two hundred thousand dollars; option to purchase; authorized to do all things necessary to carry out provisions of act.
2. Annual levies by court for rentals.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Mingo county, West Vir-

ginia, is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it, and upon which the court house and jail of said county are situated, or which are owned by said county, which the said court may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of its agencies, or agents, thereunto duly authorized, may remodel said court house and/or jail or construct a new jail and/or build, erect, construct, equip and/or furnish upon said property additions to said court house and/or jail and/or build, erect, construct, equip and/or furnish upon said property, additions to said court house and/or jail, at a cost not to exceed two hundred thousand dollars; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to repurchase said building or buildings, if and as remodeled with the additions thereto, and the land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are remodeled or built and/or additions thereto are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said court shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the administration of justice in said county and the welfare and convenience of its

citizens, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 107

(House Bill No. 317—By Mr. Harmon)

AN ACT to authorize the county court of Putnam county, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of purchasing and equipping a county infirmary; to issue such bonds or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the purchasing and equipping of the infirmary, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed February 15, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court of Putnam county authorized to borrow money from federal governmental agency to construct, etc., county infirmary; loan not to exceed twenty thousand dollars; issue of bonds or other evidences of indebtedness.
2. Court authorized to do all things necessary to carry out provisions of act and to provide for repayment of loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Putnam county, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping and maintaining a county infirmary: *Provided*, That the amount shall not exceed twenty thousand dollars. Said county court is authorized to issue bonds or other evidences of indebtedness as may be required by said public works administration

or other federal governmental agency, and do any and all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip and maintain said infirmary.

Sec. 2. The county court of Putnam county is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 108

(Senate Bill No. 21—By Mr. Mitchell)

AN ACT to authorize and empower the county court of Raleigh county, West Virginia to convey property and to enter into a contract and/or lease with the United States government or other federal agency authorized to make or enter into such contract and/or lease for the building, construction, equipment, leasing and renting of a court house, and/or jail, and to provide for the payment for such by the said county court of Raleigh county, West Virginia.

[Passed December 8, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Raleigh county authorized to convey land to and borrow money from federal governmental agency to construct courthouse and/or jail; yearly rentals.	2.	Annual levies to pay rentals; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Raleigh county, West Virginia be and is hereby authorized and empowered to convey to the United States government and/or other federal agency, any property owned by it which it may see fit to convey for the purposes hereinafter expressed, and to contract with said United States government or other federal agency to the end that said government or agency, through its or any of their agencies duly created by law, may build upon said property a court house and/or jail to be used by said county court for court house and/or jail purposes, in consideration of

which the said county court shall pay to the said United States government or other federal agency yearly rentals for a period of years, which said rentals in aggregate shall not exceed the total amount expended by the United States government or other federal agency on said project, but which said yearly rentals shall not exceed for any one year the constitutional debt limitation as provided by law for the county of Raleigh, although the aggregate amount contracted for may exceed said debt limitation.

Sec. 2. The said county court shall levy and collect annually each year an amount sufficient to pay said rent or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

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

CHAPTER 109

(House Bill No. 117—By Mr. Haynes)

AN ACT to authorize and empower the county court of Summers county, West Virginia, to convey property and to enter into a contract and/or lease with the United States government or other federal agency authorized to make or enter into such contract and/or lease for the building, construction, equipment, leasing and renting of a memorial building to soldiers and sailors, and to provide for the payment for such by the said county court of Summers county, West Virginia.

[Passed December 14, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County court of Summers county authorized to convey land to, and borrow money from, federal governmental agency to construct memorial building to sailors and soldiers; yearly rentals.
2. Levies by court to pay rentals; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the county court of Summers county, West Virginia, be and the same is hereby authorized and empowered to convey to the United States government and/or other federal agency any property owned by it, which it may see fit to convey for the purposes hereinafter expressed and to contract with

said United States government or other federal agency to the end that said government or agency, through its or any of their agencies duly created by law, may build upon said property a memorial building to be used by said county and the citizens thereof as a memorial to soldiers and sailors; in consideration of which the said county court shall pay to the United States government or other federal agency yearly rentals for a period of years, which said rentals in aggregate shall not exceed the total amount expended by the United States government or other federal agency on said project, but which said yearly rentals shall not exceed for any one year the constitutional debt limitation, as provided by law, for the county of Summers, although the aggregate amount contracted for may exceed said debt limitation.

Sec. 2. The said county court shall levy and collect annually, each year, an amount sufficient to pay said rent or rentals for that particular year, for the purposes aforesaid in the manner and form as is provided by law.

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

*CHAPTER 110

(House Bill No. 136—By Mr. Lantz)

AN ACT to authorize the county court of Wetzel county, West Virginia, to borrow funds from the reconstruction finance corporation or other federal governmental agency authorized to make loans for the purpose of constructing, equipping, maintaining and operating a hospital in or near the town of New Martinsville, Wetzel county, West Virginia, upon a self-liquidating basis, and from the proceeds of said loan or loans to acquire property in or near said town for hospital purposes and to execute a lien, or liens, to secure said loan, or loans, upon the real estate so acquired and upon the buildings erected thereon and equipment provided therein for such hospital purposes, including the right to lease said property to any association for

*Repealed by Chapter 111, acts of this session.

hospital purposes and to maintain the control over the operation of the same during the life of said loan or loans.

[Passed December 21, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County court of Wetzel county authorized to borrow not to exceed fifty thousand dollars from federal governmental agency to construct, etc., hospital in or near New Martinsville; period and use of loan; lien for loan; operation or lease of hospital; lien on hospital property only; board of visitors and managers; use of hospital revenues.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Wetzel county is hereby authorized to borrow money not exceeding fifty thousand dollars from the reconstruction finance corporation or other federal agency authorized to loan money, for the sole purpose of constructing, equipping, maintaining and operating a hospital in or near the town of New Martinsville in said county upon a self-liquidating basis. Said loan is to extend over a period of twenty years. Said county court is authorized from the proceeds of such loan, or loans, to acquire and hold property in or near said town in said county for said hospital purposes during the life of said loan, and is further authorized for the purpose of securing said loan, or loans, to give a lien, or liens, on the real estate on which said hospital is erected and upon the building or buildings erected thereon, the equipment therein contained, and to do any and all things required by said reconstruction finance corporation or other federal governmental agency from which a loan is obtained, or necessary and proper to obtain said loan, or loans, to secure the same and to construct, equip, maintain and operate said hospital and to lease the same to any association organized for hospital purposes and to do anything further to carry out the provisions of this act. But the mortgage on said property and buildings shall be to secure the repayment of said loan to such governmental agency as may make the same and shall contain a limited liability clause to the effect that the liability for the loan is limited solely to the property acquired and constructed for hospital purposes. Said county court is authorized to appoint a board of visitors of nineteen members to control and manage and operate said hospital, and shall provide that the revenues derived from said operation or said leasing be devoted after payment of expenses of operation to the repayment of said loan or loans.

CHAPTER 111

(House Bill No. 271—By Mr. Lantz)

AN ACT to authorize the county court of Wetzel county, West Virginia, a municipal corporation, to provide, construct, operate, erect, improve, equip and maintain a hospital in Wetzel county, West Virginia; to authorize the issuance of revenue bonds of the county payable solely from the earnings of such hospital to pay the cost thereof; to authorize the county court of Wetzel county to borrow funds from the reconstruction finance corporation or other federal governmental agency, and to pledge or sell said revenue bonds to secure the same; to provide for the execution of a lien, or liens, to secure said revenue bonds, upon the real estate acquired and upon the buildings erected thereon and the equipment provided therein for such hospital; providing for the collection of fees and charges for the payment of such bonds and for the cost of maintenance, operation and repairs thereof, including the right to lease said property to any association for hospital purposes and to maintain control over the operation of the same during the life of said revenue bonds; setting forth the conditions upon which said hospital shall become the property of the county and/or the board of visitors thereof; fixing certain powers and duties of the county court of Wetzel county in regard thereto; declaring that no debt of said Wetzel county shall be incurred in the exercising of any powers granted hereby; providing for condemnation; and to repeal house bill number one hundred thirty-six, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, authorizing the county court of Wetzel county, West Virginia, to borrow funds from federal agencies to erect a county hospital.

[Passed February 7, 1934; In effect from passage. Became a law without the approval of the Governor.]

SEC.

1. County court of Wetzel county authorized to construct hospital to be paid for from proceeds of revenue bonds; powers of court as to employees and construction.
2. Condemnation of necessary property; payment for condemned property; bond to property owner for payment.
3. Payment of cost from proceeds of revenue bonds; character, interest rate on, maturity, redemption and form of bonds; further provisions as to bonds; sale of or loans upon bonds; use of proceeds of bonds for construction and maintenance

SEC.
of hospital; additional bonds; when proceeds of bonds exceed cost; temporary bonds.
4. Lien to secure payment of bonds.
5. County court or board of visitors to maintain hospital.
6. Fees and charges to be sufficient to maintain hospital and pay off bonds; special fund; when trustee of funds may be designated.
7. Lease of hospital by county court.
8. Hospital to be property of county after bonds paid; use of fees and charges.
9. Hospital a self-liquidating project; court authorized to do all things necessary to carry out purposes of act.
10. Number and powers of board of visitors appointed by court.
11. Act supplemental and additional to existing law; limitations on construction of another county hospital.
12. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

That house bill number one hundred thirty-six, passed by the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, and relating to the authorization of the county court of Wetzel county, West Virginia, to borrow funds from federal agencies to erect a county hospital, be and the same is hereby repealed, and the following is enacted in lieu therefor:

Section 1. The county court of Wetzel county, West Virginia, a municipal corporation, is hereby authorized to provide, construct, erect, improve, equip, maintain and operate a hospital in Wetzel county, West Virginia, but the cost of construction, erection, equipment, improvement and maintenance shall be solely by means of or with the proceeds of the revenue bonds hereinafter authorized. The county court of Wetzel county shall have power and authority to employ engineering, architectural and construction experts, and such other employes as may be necessary in its judgment, and fix their compensation, all of whom shall do such work as the county court of Wetzel county shall direct, and all of which shall be included as part of the cost of the construction and equipment thereof.

Sec. 2. Whenever it shall be necessary, the county court of Wetzel county may condemn any interest, right or privilege, land or improvement, in Wetzel county, West Virginia, which in its opinion may be necessary, in the manner provided by law for the acquisition by this county of property for public purposes. The county court of Wetzel county shall be under no obligation to accept and pay for any property condemned and shall in no event pay for the same except from the funds provided hereinafter, and in any proceedings to condemn, such orders shall be made by the court having jurisdiction of the suit or proceedings as may be just to the county and to the

owner of the property to be condemned, and a bond or other security may be required by the court securing such owner against any loss or damage to be sustained by reason of the failure of the county to accept and pay for the property, but such bond or security shall impose no liability or debt on or of the county as contemplated by the provisions of the constitution of the state in relation to the county debt.

Sec. 3. The county court of Wetzel county may pay the cost as defined by sections one to eleven, inclusive, of this act, of such hospital, out of the proceeds of such revenue bonds of the county as are hereinafter set forth. The said county court of Wetzel county is authorized to issue revenue bonds of the county, by a resolution of the county court of such county which shall recite an estimate by said county court of such cost, the principal and interest of which bonds shall be payable solely from the special fund herein provided for such payment. All such bonds shall have and are hereby declared to have all the qualities of negotiable instruments under the law merchant. Such bonds shall bear interest, at not more than six per cent per annum, and shall mature in not more than thirty years from their date or dates, and may be made redeemable at the option of the county, to be exercised by the county court, at such price and under such terms and conditions as the county court may fix prior to the issuance of such bonds. The county court shall determine the form of such bonds, including coupons to be attached thereto to evidence the right of interest payments, which bonds shall be signed by the president of the county court, under the seal of the county court of Wetzel county attested by the clerk of the county court, and the coupons attached thereto shall bear the facsimile signature of the president of the county court. In case any of the officials whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The county court shall fix the denominations of such bonds, the principal and interest of which shall be payable at the office of the clerk of the county court of Wetzel county, West Virginia, at New Martinsville, West Virginia, either in lawful money or in gold coin of the United States of America, of or equal to the

then current standard of weight and fineness, as may be determined by said county court. Such bonds shall be exempt from taxation by the state of West Virginia, or any county, school district or municipality therein. The county court may provide for the registration of such bonds in the name of the owner as to principal alone and as to both principal and interest under such terms and conditions as the county court may determine. The county court of Wetzel county is authorized to enter into such agreements and/or contracts as it may determine to be for the best interests of the county with the reconstruction finance corporation, the public works administration or other federal governmental agencies authorized to purchase said bonds or to make loans upon the same, for the purpose of selling and/or pledging said revenue bonds to secure and/or borrow funds from the said federal governmental agency, in any event not to exceed the sum of fifty thousand dollars, however. Said revenue bonds shall not be negotiated, pledged or sold at a price lower than a price which computed to maturity upon the standard tables of bond values will show a net return of not more than six per cent per annum to the holder or purchaser upon the amount paid, pledged or advanced therefor.

The proceeds of such bonds or the loan secured thereby shall be used solely for the payment of the costs of such hospital and the maintenance thereof, and shall be checked out by the president of the county court and the clerk of the county court and under such further restrictions, if any, as the county court or the federal governmental agency may provide. If the proceeds of such bonds, by error or otherwise, shall be less than the cost of such hospital, additional bonds may in like manner be issued to provide the amount of such deficit, and shall be deemed to be of the issue and shall be entitled to payment from the same fund, without preference or priority of the bonds first issued for the said hospital. If the proceeds of the bonds issued for such hospital shall exceed the cost thereof, the surplus shall be paid unto the fund hereinafter provided for payment of the principal and interest of said bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but not exceeding the price, if any, at which such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

Prior to the preparation of definitive bonds, the county court may under like restrictions issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions and things than those proceedings, conditions and things which are specified and required by this act or by the constitution of the state.

Sec. 4. For the purpose of securing the revenue bonds, and the loan created thereby, the county court of Wetzel county is authorized and empowered to give a lien, or liens, on the real estate on which said hospital is erected, upon the building or buildings erected thereon, and the equipment therein contained, for the benefit of and to secure the federal governmental agency advancing the money on said revenue bonds.

Sec. 5. The county court of Wetzel county, or the board of visitors to be designated by it as hereinafter provided for, shall properly maintain, repair, operate, manage and control the fiscal affairs of such hospital, for the welfare of the inmates, employes and county in general, and may make and enter into all contracts or agreements necessary and incidental to the performance of its duties and the execution of its powers under this act.

Sec. 6. Fees and charges shall be fixed, charged and collected in connection with the use or occupancy of, or service to be thereby rendered and furnished by such hospital, and shall be so fixed or adjusted in respect to the aggregate of fees and charges from the said hospital for which a single issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing, operating and insuring such hospital. The fees and charges from the hospital for which a single issue of bonds is issued, except such part thereof as may be necessary to pay such cost of maintaining, repairing, operating and insuring any period in which such cost is not otherwise provided for (during which period the fees and charges may be reduced accordingly), shall be transmitted each month to the county court of Wetzel county and be placed in a special fund which is hereby pledged to and charged with the payment of the principal of such bonds and the interest thereon, and to the redemption of a repurchase of

such bonds, such special fund to be a fund for all such bonds without distinction or priority of one over another. The money in such special fund, less a reserve for payment of interest, if not used by the county court of Wetzel county within a reasonable time for the purchase of bonds for cancellation at a price not exceeding the market price and not exceeding the redemption price, shall be applied to the redemption of bonds by law at the redemption price then applicable: *Provided, however,* That at the option of said reconstruction finance corporation or other guaranteed agency, such moneys as may be transmitted and paid to a trustee designated and named by the said reconstruction finance corporation in its agreement and contract with the county court of Wetzel county, for the payment of the principal of such bonds and the interest thereon, under such terms and conditions as may be agreed upon.

Sec. 7. The circuit court of Wetzel county shall have the power, unless otherwise so stipulated against by any agreement or contract entered into with any federal governmental agency which shall agree to buy or lend funds on the revenue bonds herein provided for, to lease the said hospital, property and equipment to any association for hospital purposes, maintaining control, however, over the operation of the same during the life of the revenue bonds, and only, however, upon such terms as will be satisfactory and sufficient to retire the revenue bonds, including both principal and interest thereon, in manner and form as provided herein by this act.

Sec. 8. When the particular bonds for the hospital and the interest on such bonds shall have been paid, or a sufficient amount has been provided for their payment and shall continue to be held for that purpose, the said hospital shall thereafter be unqualifiedly the property of Wetzel county, and thereafter the fees and charges collected for the use or occupancy of, or service rendered and furnished by such hospital shall be paid into the county treasury or any depository hereafter provided for by the county court of Wetzel county, and used and expended for the benefit of the institution where and by virtue of which it was collected.

Sec. 9. Nothing in these sections dealing with such hospital shall be so understood or interpreted as to authorize or permit the incurring of a county debt of any kind or nature as contemplated by the constitution of this state in relation to the

county debt. The hospital herein shall be of the character described as a self-liquidating project under the laws of the United States relating to the reconstruction finance corporation.

The county court of Wetzel county is authorized and empowered to enter into the necessary contracts and agreements to carry out the purposes hereof with the reconstruction finance corporation of the United States, or with any other public agency similar thereto.

Sec. 10. The county court of Wetzel county is authorized and empowered to appoint a board of visitors, which shall consist of nineteen members. The board of visitors shall be authorized and empowered to control, manage and operate the hospital, subject however, to the provisions of this act as hereinbefore set forth, and subject to the authority of the county court.

Sec. 11. Sections one to twelve, inclusive, of this act, shall be deemed and regarded as supplementary and additional to the powers conferred by other laws: *Provided, however,* That when any revenue bonds are issued under further provisions provided by sections one to twelve of this act, for the erection and construction of a hospital, no other hospital shall thereafter be constructed, built or erected in Wetzel county, West Virginia, by the county or the county court thereof, until the county court of Wetzel county shall, by investigating and hearing had therein, under such rules as it may prescribe, determine that there is an imperative public need for the construction, building or erection of such additional hospital, and that its construction, building or erection and subsequent maintenance or operation will not materially injure the revenues of and from the hospital constructed, builded, erected, maintained or operated under the provisions of sections one to twelve, inclusive, of this act.

Sec. 12. The provisions and parts of sections one to eleven, inclusive, of this act, are separable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions or parts thereof are for any reason illegal or invalid, it is the intention that the remaining sections and provisions or parts thereof shall remain in full force and effect.

CHAPTER 112

(Senate Bill No. 60—By Mr. Sandridge)

AN ACT to authorize and empower the county court of Barbour county to transfer from funds realized from the county road fund levy of Barbour county, a sum of money for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, to the general county fund of Barbour county, for use of said county in the payment of its current expenses.

[Passed December 21, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County court of Barbour county authorized to transfer not exceeding eight thousand dollars from county road fund to general county fund for fiscal year one thousand nine hundred thirty-three.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Barbour county is hereby authorized and empowered to make transfers from the county road fund of money realized from collections of taxes raised through and by the county road levy, to the general county fund of Barbour county not exceeding the sum of eight thousand dollars, for the fiscal year one thousand nine hundred thirty-three—one thousand nine hundred thirty-four, for the use and payment of its current expenses.

CHAPTER 113

(House Bill No. 185—By Mr. Peery)

AN ACT to authorize the county court of Berkeley county, West Virginia, to transfer any or all district road funds in the several districts of said county, to the general county fund for the fiscal years beginning July first, one thousand nine hundred thirty-three, and July first, one thousand nine hundred thirty-four.

[Passed January 5, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. County court of Berkeley county authorized to transfer for fiscal years one thousand nine hundred thirty-three and one thousand nine hundred thirty-four, all district road funds to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Berkeley county, West Vir-

ginia, is hereby authorized and empowered to transfer any or all district road funds in the several districts of said county, to the general county fund for the fiscal years beginning July first, one thousand nine hundred thirty-three, and July first, one thousand nine hundred thirty-four.

CHAPTER 114

(House Bill No. 213—By Mr. Jarvis)

AN ACT to authorize the county court of Calhoun county, West Virginia, to transfer funds from the dog tax fund to the general county fund.

[Passed January 11, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Calhoun county authorized to transfer dog tax fund for fiscal year ending June		thirty, one thousand nine hundred thirty-four, to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Calhoun county, West Virginia, is hereby authorized to transfer any funds in the dog tax fund of said county to the general county fund, for the fiscal year ending June thirty, one thousand nine hundred thirty-four.

CHAPTER 115

(Senate Bill No. 62—By Mr. Mathews, by request)

AN ACT to authorize the county court of Gilmer county, West Virginia, to transfer money from the special fund, known as the "Troy District Road Bond Fund," to the general county fund, and providing for the use thereof.

[Passed January 5, 1934; in effect from passage. Approved by the Governor.]

SEC.		SEC.	
1.	County court of Gilmer county authorized to transfer special fund known as Troy district		road bond fund to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Gilmer county, West Vir-

ginia, is hereby authorized and empowered to transfer the amount of money now in the special fund, known as the "Troy District Road Bond Fund," to the general county fund, and to permit the said county court to use such money, so transferred, for any purpose for which the money in the general county fund may be used.

*Repealed by Chapter 116, acts of this session.

CHAPTER 116

(Senate Bill No. 131—By Mr. Herold)

AN ACT to repeal senate bill number sixty-two, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three, relating to the Troy district road bond fund of Gilmer county.

[Passed March 16, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Repealing Senate Bill No. 62, acts, second extraordinary session, one thousand nine hundred		thirty-three, relating to transfer of Troy district road bond fund.

Be it enacted by the Legislature of West Virginia:

Section 1. Senate bill number sixty-two, acts of the legislature, second extraordinary session, one thousand nine hundred thirty-three, passed January five, one thousand nine hundred thirty-four, relating to transfer of the "Troy district road bond fund", Gilmer county, is hereby repealed.

CHAPTER 117

(House Bill No. 111—By Mr. Righter)

AN ACT to authorize the county court of Harrison county and the county court of Wirt county, West Virginia, to transfer money from the dog tax fund, sometimes called the sheep claim fund, to the general county fund and providing for the use thereof.

[Passed January 25, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County courts of Harrison and Wirt counties authorized to		transfer money now in dog tax fund to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Harrison county and the county court of Wirt county, West Virginia, are hereby authorized and empowered to transfer so much of the money now in the dog tax fund, sometimes called the sheep claim fund, to the general county fund, as shall be, in the judgment and discretion of the said county court, deemed proper and safe, and to permit the said county court to use such money, so transferred, for the purposes for which the money in the general county fund may be used.

CHAPTER 118

(Senate Bill No. 41—By Mr. White, of Hampshire)

AN ACT to authorize the county court of Jefferson county, or the proper authority so to do, to transfer the unexpended balances in the county road fund and each of the several district road funds to the general county fund of said county.

[Passed December 11, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Jefferson county authorized to transfer unexpended balances of county road		fund and the several district road funds to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Jefferson county, or the proper authority so to do, is authorized and directed, after having discharged the obligations outstanding against the same, to transfer and deposit to the credit of the county fund of said county all unexpended funds remaining to the credit of the county road fund and the several district funds of said county.

CHAPTER 119

(House Bill No. 92—By Mr. Moore)

AN ACT to authorize and empower the county court of Kanawha county to transfer a sum not exceeding seven thousand four hundred dollars from the county dog fund to the general fund of said county.

[Passed December 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Kanawha county authorized to transfer not exceeding seven thousand four hundred dollars, in the year of		one thousand nine hundred thirty-three, from county dog fund to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Kanawha county is hereby authorized and empowered to transfer a sum not exceeding seven thousand four hundred dollars, in the year one thousand nine hundred thirty-three, from the unexpended balance in the county dog fund to the general county fund of said county.

CHAPTER 120

(House Bill No. 279—By Mr. Pelter)

AN ACT to authorize and empower the county court of Logan county to transfer the unexpended balances in the dog tax fund to the general county fund of said county.

[Passed January 26, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Logan county authorized to transfer unexpended		balance in dog tax fund to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Logan county is hereby authorized and empowered to transfer the unexpended balances in the dog tax fund of said county, remaining and not needed for the payment and satisfaction of all claims and expenses against the said dog tax fund, to the general county fund of said county.

All acts or parts of acts inconsistent herewith are hereby repealed, insofar as they may apply to Logan county.

CHAPTER 121

(House Bill No. 368—By Mr. Doringer)

AN ACT to authorize the county court of Marion county, West Virginia, to transfer money from the dog tax fund, sometimes called the sheep claim fund, to the general county fund and providing for the use thereof.

[Passed March 12, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Marion county authorized to transfer existing		dog tax fund to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Marion county, West Virginia, is hereby authorized and empowered to transfer so much of the money now in the dog tax fund, sometimes called the sheep claim fund, to the general county fund, as shall be, in the judgment and discretion of the said county court, deemed proper and safe, and to permit the said county court to use such money, so transferred, for the purposes for which the money in the general county fund may be used.

CHAPTER 122

(House Bill No. 225—By Mr. Curl)

AN ACT to authorize and empower the board of commissioners of the county of Ohio to transfer, annually, the unexpended balances in the dog tax fund, to the general county fund of said county.

[Passed January 26, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Board of commissioners of Ohio county authorized to transfer annually unexpended balances		in dog tax fund to general county fund; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of commissioners of the county of Ohio is hereby authorized and empowered to transfer, annually, the unexpended balances in the dog tax fund of said county, remaining and not needed for the payment and satisfaction of all

claims and expenses against the said dog tax fund, to the general county fund of said county.

All acts or parts of acts inconsistent herewith are hereby repealed, insofar as they may apply to Ohio county.

CHAPTER 123

(House Bill No. 257—By Mr. Marsh, of Ritchie)

AN ACT to authorize the county court of Ritchie county, West Virginia, to transfer funds from the dog tax fund to the general county fund.

[Passed January 22, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Ritchie county authorized to transfer, for fiscal year ending June thirtieth, one thousand nine hundred thirty-four, the sum of two thousand five hundred dollars from dog tax fund to general county fund.		

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Ritchie county, West Virginia, is hereby authorized to transfer the sum of twenty-five hundred dollars from funds in the dog tax fund of said county, to the general county fund, for the fiscal year ending June thirty, one thousand nine hundred thirty-four.

CHAPTER 124

(House Bill No. 259—By Mr. Foster)

AN ACT to authorize and empower the county court of Roane county, West Virginia, to transfer the sum of eight hundred dollars from the dog tax fund of said county, to the general county fund.

[Passed January 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Roane county authorized to transfer eight hundred dollars from dog tax fund, for fiscal year ending June thirtieth, one thousand nine hundred thirty-four, to general county fund.		

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Roane county, West Virginia, is hereby authorized and empowered to transfer the sum of eight hundred dollars from the dog tax fund of Roane county

to the general county fund, for the fiscal year ending June thirty, one thousand nine hundred thirty-four.

CHAPTER 125

(House Bill No. 291—By Mr. Smith)

AN ACT authorizing the county court of Wirt county to transfer a fund arising from collections of prohibition enforcement fees to the general county fund.

[Passed February 13, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	County court of Wirt county authorized to transfer three hundred dollars or more collected		for prohibition enforcement fees to general county fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The county court of Wirt county is hereby given the right and authority to transfer the sum of three hundred dollars or more, arising from collections of prohibition enforcement fees in said county, now in the hands of the sheriff and use the same for general county purposes.

CHAPTER 126

(House Bill No. 195—By Mr. Hiner)

AN ACT to reform, alter and modify the county court of the county of Pendleton so as to make the same consist of three commissioners, in all respects as provided by section twenty-two, article eight of the constitution of West Virginia.

[Passed January 17, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.		SEC.	
1.	County court of Pendleton county to be constituted of three commissioners.	3.	Organization of court and subsequent meetings.
2.	Three commissioners to be elected in one thousand nine hundred thirty-six, no two from same magisterial district; designation by lot or otherwise, of terms of first commissioners elected hereunder.	4.	Adoption of act submitted to voters of county at general election in one thousand nine hundred thirty-four; published notice of election and form of ballot.
		5.	Effect of majority vote in favor of modification of court; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. On and after the first day of January, one thou-

sand nine hundred thirty-seven, the county court of the county of Pendleton shall be composed of three commissioners, and shall be in all respects such county court, with such powers, duties and responsibilities as is provided for under the constitution and general laws of this state relating to county courts consisting of three commissioners.

Sec. 2. At the general election held in one thousand nine hundred thirty-six there shall be elected three commissioners of said county court, no two of whom shall be elected from the same magisterial district. The term of office for said commissioners shall be six years, except that at the first meeting of said commissioners they shall designate by lot, or otherwise in such manner as they may determine, one of their number who shall hold his office for a term of two years, one for four years and one for six years, so that one commissioner shall be elected every two years.

Sec. 3. The first meeting of the county court herein provided for shall be held on the first Monday in January, one thousand nine hundred thirty-seven, or as soon thereafter as may be, at which time they shall elect one of their number president of said court for a term of one year, and annually thereafter at said first meeting in January they shall elect a president. Subsequent meetings of said court shall be held at such time as may be designated by said court and as provided by general law.

Sec. 4. At the general election in one thousand nine hundred thirty-four, the question of the adoption or rejection of this act shall be submitted to the voters of said county. Notice of such election shall be given by publication in each weekly newspaper published in said county once in each week for two successive weeks immediately preceding said election. Said election shall be conducted and the result thereof ascertained and declared as provided by law for general elections. The ballot commissioners of said county shall have printed on the foot of the ballot for said general election, the words

☐ For modification of county court

☐ Against modification of county court

Sec. 5. If a majority of the vote cast upon the question be for the modification of the county court, this act shall be in force and effect; but if a majority of said vote be against modification of said court, this act shall be of no force or effect.

All acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 127

(House Bill No. 146—By Mr. Minear)

AN ACT to reform, alter and modify the county court of Tucker county, so as to make the same consist of three commissioners, in all respects as provided by section twenty-two, article eight of the constitution, and repealing chapter forty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirteen, relating to the said Tucker county court.

[Passed January 16, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.

1. Chapter forty-nine, acts of the Legislature, regular session, one thousand nine hundred thirteen, repealed.
2. Present county commissioners of Tucker county to continue in office until January first, one thousand nine hundred thirty-five.
3. At general election in one thousand nine hundred thirty-four three county commissioners to be elected; terms.
4. No two commissioners to be elected from same magisterial district; president; compensation of commissioner.
5. Present division of county into seven districts unchanged.

Be it enacted by the Legislature of West Virginia:

Section 1. Chapter forty-nine, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirteen, be and the same is hereby repealed.

Sec. 2. The commissioners of the county court elected under and by virtue of chapter forty-nine, acts of the Legislature of West Virginia, one thousand nine hundred thirteen, and now in office, shall continue in office until January first, one thousand nine hundred thirty-five, unless otherwise removed by law; and shall be governed in all respects by chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, and all other laws and provisions of the constitution applicable to county courts.

Sec. 3. At the general election to be held in the year one thousand nine hundred thirty-four there shall be elected by the voters of said county three commissioners, whose terms of office shall commence on the first day of January next after their election; the commissioner receiving the highest number of votes in said election shall hold his office for a term of six years; the commissioner receiving the second highest vote in said election to hold his office for a term of four years; the commissioner receiving the third highest vote in said election to hold his office for two years, so that one commissioner shall be elected every two years thereafter. At each succeeding election thereafter they shall be elected as now provided by law.

Sec. 4. No two of said commissioners shall be elected from the same magisterial district. And if two or more persons residing in the same district shall receive the greater number of votes cast at any election, then only the one of such persons receiving the highest number shall be declared elected, and the person living in another district, who shall receive the next highest number of votes, shall be declared elected. Said commissioners shall annually elect one of their number as president, and each shall receive such compensation for his services as is provided by law.

Sec. 5. The present division of said county into districts as follows: Black Fork, Clover, Davis, Dry Fork, Fairfax, Licking and St. George shall constitute the districts of Tucker county, until changed in manner and form as provided by law.

CHAPTER 128

(House Bill No. 221—By Mr. Nichols)

AN ACT to repeal chapter one hundred forty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, relating to the establishment of a county court and board of commissioners for the county of Tyler under section twenty-nine, article eight of the constitution of West Virginia; making provisions for the commissioners of said county court now in office to continue in office until the expiration of the term of office to which they were elected, and reestablishing the county court in said county as created by

section twenty-two, article eight of the constitution of West Virginia.

[Passed January 12, 1934; in effect ninety days from passage. Approved by the Governor.]

SEC.		SEC.	
1.	Chapter one hundred forty-five, acts of the Legislature, regular session, one thousand nine hundred twenty-seven, relating to Tyler county court, repealed; after December thirty-first, one thousand nine hundred thirty-four, court to consist of three commissioners elected at next general election; terms; present commissioners to continue in office until their terms expire.		

Be it enacted by the Legislature of West Virginia:

Section 1. That chapter one hundred forty-five, acts of the Legislature of West Virginia, regular session, one thousand nine hundred twenty-seven, relating to the establishment of a county court and board of commissioners for the county of Tyler under section twenty-nine, article eight of the constitution of West Virginia, be and the same is hereby repealed, and that after the thirty-first day of December, one thousand nine hundred thirty-four, the county court of Tyler county shall be composed of three commissioners, as established by section twenty-two, article eight of the constitution of West Virginia, and who, in all respects, shall be elected, compensated, regulated, controlled and governed by the provisions of the constitution and the laws of the state of West Virginia respecting county courts generally. At the next general election there shall be elected by the voters of said county of Tyler three commissioners of said county court; the commissioners shall hold their office for the term of six years, except that at the first meeting of said commissioners they shall designate by lot, or otherwise, in such manner as they may determine, one of their number, who shall hold his office for the term of two years, one for four years, and one for six years, so that one shall be elected every two years: *Provided, however,* That the commissioners now in office shall continue in their respective offices and in the performance of the duties thereof until the expiration of their terms of office, and will be regulated, controlled, governed, and compensated as provided by law.

CHAPTER 129

(House Bill No. 375—By Mr. Peery)

AN ACT to authorize and empower the board of education of Berkeley county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of school building or buildings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed March 16, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Berkeley county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental by board, for not to exceed thirty years, with right of purchase; amount of, and levies to pay, rentals.
2. Annual levy for rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Berkeley county, West Virginia, is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it, which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of its agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said

yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Berkeley county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed in so far, and only so far, as they are inconsistent with this particular act.

CHAPTER 130

(Senate Bill No. 96—By Mr. Mathews)

AN ACT to authorize and empower the board of education of Calhoun county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing, and renting of school building or build-

ings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed February 7, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Calhoun county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental by board for not to exceed thirty years, with right of purchase; amount of, and levies to pay, rentals.
2. Annual levy for rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Calhoun county, West Virginia, is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it, which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of its agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that

particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Calhoun county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 131

(Senate Bill No. 57—By Mr. Henderson)

AN ACT to authorize the board of education of Doddridge county to construct, equip, maintain and operate a high school building in and for said county at a total cost of not to exceed two hundred thousand dollars, and to borrow funds from the public works administration, or other governmental agency authorized to make loans, for the purpose of constructing and equipping said high school, together with the right to purchase additional land within the discretion of said board; to issue bonds in payment of same and to pledge a sufficient amount of revenue within the constitutional limitation, and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years.

[Passed December 21, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Doddridge county board of education authorized to borrow not to exceed two hundred thousand dollars from federal governmental agency for purchase of land and erection, etc., of high school building; bonds to pay cost; board authorized to do all things necessary to carry out provisions of act; power to acquire land and make contracts; levies to pay, and tax exemption of, bonds.

SEC.
2. Lien of bonds; enforcement; receivership.
3. School revenue to pay operating cost, bonds, etc.; remittance to, and powers of, state sinking commission; form, etc., of bonds; temporary bonds.
4. Construction of act as to creating indebtedness of board.
5. Act additional and supplementary to existing powers.
6. Act to be liberally construed.
7. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Doddridge county is hereby authorized to construct, equip, maintain and operate a high school building in and for said county at a total cost of not to exceed two hundred thousand dollars. Said board is authorized to borrow funds from the public works administration, or other governmental agency authorized to make loans, for the purpose of constructing and equipping said school, and shall also have the right to purchase additional land on which to build same, within the discretion of the board. Said board is authorized to issue bonds for the purpose of paying the cost of such land, building and equipment and to pledge a sufficient amount of revenue within the constitutional limitation, and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years. Said board is further authorized and empowered to do and perform any and all acts and make all contracts necessary to effectuate the general purposes of this act, including the acquisition by original grant, purchase or other lawful means of all necessary permits, easements and other rights in real estate, and title to and possession thereof, and/or to make such purchases with the money borrowed, as provided in this section. Said board of education shall have authority to make such contracts, agreements and covenants between it and the public works administration, or other governmental agency, for the loan of said funds and securing payment thereof as they may be able to effectuate, subject only to this limitation, that the bonds issued or given as security thereof shall be payable solely out of the levies now provided for by general law, to be levied by said county board in and for Doddridge county, and to construct, equip, maintain and operate such high school, and to make and enter into such contracts, and to do and perform such acts as may be necessary to the construction, operation and maintenance of such high school, subject to such burdens, restrictions and encumbrances as it

may be necessary to incur and bear in securing such funds for construction.

Bonds issued hereunder shall be exempt from taxation by the state of West Virginia or any county, district or municipality thereof.

Sec. 2. There shall be, and there is hereby, created a statutory mortgage lien upon the high school and real estate so acquired or constructed from the proceeds of bonds authorized to be issued under section one of this act, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such high school shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred and may, by proper suit, compel the performance of the duties of the officials of the said board of education set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, or other evidences of indebtedness, any court having jurisdiction in any proper action may appoint a receiver to administer said high school on behalf of the said board of education, with power to charge and collect rents or income sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses, and to apply the income, rents or other revenue in conformity with this act and the order providing for the issuance of said bonds.

Sec. 3. Said board of education issuing bonds under the provisions of this act shall thereafter, so long as any such bonds, or other evidences of indebtedness, remain outstanding, operate and maintain said high school so as to provide revenues as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds and pay the interest requirements thereon as the same may become due. The amounts, as and when so set apart by said county board of education, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and the order pursuant to which such bonds have been issued. The state sinking fund commis-

sion is hereby authorized to act as fiscal agent for the administration of such sinking fund under any order passed pursuant to the provisions of this act and shall invest all sinking funds, as provided by general law. Bonds issued under the provisions of this act are hereby declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than six per centum per annum, payable semi-annually, and shall mature in not more than thirty years from their date and may be made redeemable at the option of the said board of education at such price and under such terms and conditions as said board of education may fix prior to the issuance of such bonds. Bonds issued hereunder shall be payable at the office of the state treasurer and some bank in the city of New York.

In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board of education shall fix the denominations, times and places of payment of such bonds, the principal of and interest on which shall be payable in such funds as are on the respective dates of payment thereof legal tender for debts due the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings and equipment thereon and shall be checked out by the county board under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of bonds issued for said high school shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

Prior to the preparation of definitive bonds, the board of education may, under like restrictions, issue temporary bonds, or interim certificates, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act.

Sec. 4. Nothing in this act contained shall be so construed or interpreted as to authorize or permit the said county board of education to incur a debt for and on behalf of said board of Doddridge county of any kind or nature as contemplated by the provisions of the constitution of this state in relation to debt.

Sec. 5. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplementary and additional to powers conferred by other laws.

Sec. 6. This act, being necessary for the health, welfare, convenience and education of the high school students of Doddridge county, shall be liberally construed to effectuate the purposes thereof.

Sec. 7. The provisions of this act are separable and not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions, or parts thereof, are for any reason illegal, it is the intention that the remaining sections and provisions, or parts thereof, shall remain in full force and effect.

CHAPTER 132

(House Bill No. 320—By Mr. Finley)

AN ACT to authorize and empower the board of education of Hancock county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of a school building or build-

ings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed February 15, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Hancock county board of education authorized to convey land to federal governmental agency for the construction, etc., of school buildings; rental by board, for not to exceed thirty years, with right of purchase; amount of, and levies to pay, rentals.
2. Annual levy for rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Hancock county, West Virginia, be and it is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated, and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an

amount sufficient to pay said rental or rentals for that particular year for the purpose aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Hancock county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 133

(House Bill No. 252—By Mr. Goodwin)

AN ACT to authorize the board of education of Jackson county to construct, equip, maintain, and operate a high school building at the town of Ripley in and for said county at a total cost of not exceeding two hundred thousand dollars and to borrow funds from the public works administration or other governmental agency authorized to make loans, for the purpose of constructing and equipping said high school, together with the right to purchase additional land within the discretion of said board; to issue bonds in payment of same, and to pledge a sufficient amount of revenue within the constitutional limitation and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years.

[Passed January 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Jackson county board of education authorized to borrow not to exceed two hundred thousand dollars from federal governmental agency for purchase of land and construction, etc., of high school building at Ripley; bonds to pay costs; board authorized to do all things necessary to carry out provisions of act; power to acquire land and make contracts; levies to pay, and tax exemption of, bonds.
2. Lien of bonds; enforcement; receivership.
3. School revenues to pay oper-

SEC.
ating cost, bonds, etc.; remittance to, and powers of state sinking fund commission; form, etc., of bonds; temporary bonds,
4. Construction of act as to creating indebtednes of board.
5. Act additional and supplementary to existing powers.
6. Act to be liberally construed.
7. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Jackson county is hereby authorized to construct, equip, maintain and operate a high school building in and for said county at a total cost of not to exceed two hundred thousand dollars. Said board is authorized to borrow funds from the public works administration or other governmental agency authorized to make loans, for the purpose of constructing and equipping said school, and shall also have the right to purchase additional land on which to build same, within the discretion of the board. Said board is authorized to issue bonds for the purpose of paying the cost of such land, building and equipment, and to pledge a sufficient amount of revenue within the constitutional limitation and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years. Said board is further authorized and empowered to do and perform any and all acts and make all contracts necessary to effectuate the general purposes of this act, including the acquisition by original grant, purchase or other lawful means of all necessary permits, easements and other rights in real estate, and title to and possession thereof, and/or to make such purchase with the money borrowed, as provided in this section. Said board of education shall have authority to make such contracts, agreements and covenants between it and the public works administration or other governmental agency, for the loan of said funds and securing payment thereof as they may be able to effectuate, subject only to this limitation, that the bonds issued or given as security thereof shall be payable solely out of the levies now provided for by general law, to be levied by said county board in and for Jackson county, and to construct, equip, maintain and operate such high school, and to make and enter into such contracts, and to do and perform such acts as may be necessary to the construction, operation and maintenance of such high school, subject to such burdens, restrictions and encumbrances as it may be nec-

essary to incur and bear in securing such funds for construction.

Bonds issued hereunder shall be exempt from taxation by the state of West Virginia or any county, district or municipality thereof.

Sec. 2. There shall be, and there is hereby created a statutory mortgage lien upon the high school and real estate so acquired or constructed from the proceeds of bonds authorized to be issued under section one of this act, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such high school shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred and may, by proper suit, compel the performance of the duties of the officials of the said board of education set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, or other evidences of indebtedness, any court having jurisdiction in any proper action may appoint a receiver to administer said high school on behalf of the said board of education, with power to charge and collect rents or income sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses, and to apply the income, rents or other revenue in conformity with this act and the order providing for the issuance of said bonds.

Sec. 3. Said board of education issuing bonds under the provisions of this act shall thereafter, so long as any such bonds, or other evidences of indebtedness, remain outstanding, operate and maintain said high school so as to provide revenues as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds and pay the interest requirements thereon as the same may become due. The amounts, as and when so set apart by said county board of education, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with

the provisions of this act and the order pursuant to which such bonds have been issued. The state sinking fund commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any order passed pursuant to the provisions of this act and shall invest all sinking funds, as provided by general law. Bonds issued under the provisions of this act are hereby declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than six per cent per annum, payable semiannually, and shall mature in not more than thirty years from their date and may be made redeemable at the option of the said board of education at such price and under such terms and conditions as said board of education may fix prior to the issuance of such bonds. Bonds issued hereunder shall be payable at the office of the state treasurer and some bank in the city of New York.

In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board of education shall fix the denominations, times and places of payment of such bonds, the principal of and interest on which shall be payable in such funds as are on the respective dates of payment thereof legal tender for debts due the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings and equipment thereon and shall be checked out by the county board under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of bonds issued for said high school shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

Prior to the preparation of definitive bonds, the board of education may, under like restrictions, issue temporary bonds, or

interim certificates, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act.

Sec. 4. Nothing in this act contained shall be so construed or interpreted as to authorize or permit the said county board of education to incur a debt for and on behalf of said board of Jackson county of any kind or nature as contemplated by the provisions of the constitution of the state in relation to debt.

Sec. 5. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplementary and additional to powers conferred by other laws.

Sec. 6. This act, being necessary for the health, welfare, convenience and education of the high school students of the town of Ripley, in Jackson county, it should be liberally construed to effectuate the purposes thereof.

Sec. 7. The provisions of this act are separable and not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions, or parts thereof, are for any reason illegal, it is the intention that the remaining sections and provisions, or parts thereof, shall remain in full force and effect.

CHAPTER 134

(House Bill No. 183—By Mr. de Gruyter)

AN ACT to authorize and empower the board of education of Kanawha county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of school building or buildings, with an

option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed January 10, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Kanawha county board of education authorized to convey land to federal governmental agency for the construction, etc., of school buildings; rental by board, for not to exceed thirty years, with right of purchase; amount of, and levies to pay, rentals.
2. Annual levy for rental.
3. Act to be liberally construed.
4. Provisions of act separable, inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Kanawha county, West Virginia, be and it is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particu-

lar year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Kanawha county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 135

(House Bill No. 174—By Mr. Ballard)

AN ACT to authorize the board of education of Mercer county to construct, equip, maintain and operate a high school building in and for said county in the town of Athens, Mercer county, at a total cost of not to exceed one hundred twenty-five thousand dollars, and to borrow funds from the public works administration, or other governmental agency authorized to make loans, for the purpose of constructing and equipping said high school, together with the right to purchase additional land within the discretion of said board; to issue bonds in payment of same and to pledge a sufficient amount of revenue within the constitutional limitation, and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years.

[Passed January 4, 1934; in effect from passage. Approved by the Governor.]

SEC.
1. Mercer county board of education authorized to borrow not to exceed one hundred twenty-five thousand dolars from federal governmental agency to buy land and/or construct, etc., a high school building at Athens; bonds for cost payable from board revenues and to be tax exempt; board authorized to do all things necessary to carry out provisions of act.

SEC.
2. Lien of bonds; enforcement; receivership.
3. Revenues to pay costs and bonds; remittance to, and powers of, sinking fund commission; form of bonds; use of proceeds of bonds; temporary bonds.
4. Act not to be construed to create a debt of board.
5. Act supplementary to existing powers.
6. Act to be liberally construed.
7. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Mercer county is hereby authorized to construct, equip, maintain and operate a high school building in and for said county at a total cost of not to exceed one hundred twenty-five thousand dollars. Said board is authorized to borrow funds from the public works administration, or other governmental agency authorized to make loans, for the purpose of constructing and equipping said school, and shall also have the right to purchase additional land on which to build same, within the discretion of the board. Said board is authorized to issue bonds for the purpose of paying the cost of such land, building and equipment and to pledge a sufficient amount of revenue within the constitutional limitation, and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years. Said board is further authorized and empowered to do and perform any and all acts and make all contracts necessary to effectuate the general purposes of this act, including the acquisition by original grant, purchase or other lawful means of all necessary permits, easements and other rights in real estate, and title to and possession thereof, and/or to make such purchase with the money borrowed, as provided in this section. Said board of education shall have authority to make such contracts, agreements and covenants between it and the public works administration, or other governmental agency, for the loan of said funds and securing payment thereof as they may be able to effectuate, subject only to this limitation, that the bonds issued or given as security thereof shall be payable solely out of the levies now provided for by general law, to be levied by said county board in and for Mercer county, and to construct, equip, maintain and operate such high school, and to make and enter into such contracts, and to do and perform such acts as may be necessary to the construction, operation and maintenance of such high school, subject to such burdens, re-

strictions and encumbrances as it may be necessary to incur and bear in securing such funds for construction.

Bonds issued hereunder shall be exempt from taxation by the state of West Virginia or any county, district or municipality thereof.

Sec. 2. There shall be, and there is hereby created a statutory mortgage lien upon the high school and real estate so acquired or constructed from the proceeds of bonds authorized to be issued under section one of this act, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such high school shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred and may, by proper suit compel the performance of the duties of the officials of the said board of education set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, or other evidences of indebtedness, any court having jurisdiction in any proper action may appoint a receiver to administer said high school on behalf of the said board of education, with power to charge and collect rents or income sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses, and to apply the income, rents or other revenue in conformity with this act and the order providing for the issuance of said bonds.

Sec. 3. Said board of education issuing bonds under the provisions of this act shall thereafter, so long as any such bonds, or other evidences of indebtedness, remain outstanding, operate and maintain said high school so as to provide revenues as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds and pay the interest requirements thereon as the same may become due. The amounts, as and when so set apart by said county board of education, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and the order pursuant

to which such bonds have been issued. The state sinking fund commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any order passed pursuant to the provisions of this act and shall invest all sinking funds, as provided by general law. Bonds issued under the provisions of this act are hereby declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than six per cent per annum, payable semi-annually, and shall mature in not more than thirty years from their date and may be made redeemable at the option of the said board of education at such price and under such terms and conditions as said board of education may fix prior to the issuance of such bonds. Bonds issued hereunder shall be payable at the office of the state treasurer and some bank in the city of New York.

In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board of education shall fix the denominations, times and places of payment of such bonds, the principal of and interest on which shall be payable in such funds as are on the respective dates of payment thereof legal tender for debts due the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings and equipment thereon and shall be checked out by the county board under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of bonds issued for said high school shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of the principal and interest upon such bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

Prior to the preparation of definite bonds, the board of education may, under like restrictions, issue temporary bonds, or interim certificates, with or without coupons, exchangeable for

definite bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act.

Sec. 4. Nothing in this act contained shall be so construed or interpreted as to authorize or permit the said county board of education to incur a debt for and on behalf of said board or Mercer county of any kind or nature as contemplated by the provisions of the constitution of the state in relation to debt.

Sec. 5. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplementary and additional to powers conferred by other laws.

Sec. 6. This act, being necessary for the health, welfare, convenience and education of the high school students of Athens, Mercer county, it should be liberally construed to effectuate the purposes thereof.

Sec. 7. The provisions of this act are separable and not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions, or parts thereof, are for any reason illegal, it is the intention that the remaining sections and provisions, or parts thereof, shall remain in full force and effect.

CHAPTER 136

(House Bill No. 338—By Mr. Peters)

AN ACT to authorize the board of education of Mercer county, West Virginia, to construct, equip, maintain and operate a high school building for colored persons in the city of Bluefield, in and for said county, at a total cost not to exceed one hundred thousand dollars, and to borrow funds from the public works administration or other governmental agency authorized to make loans, for the purpose of constructing and equipping said high school, together with the right to purchase additional land within the discretion of said board; to issue bonds in payment of same and to pledge a sufficient amount of revenue within the constitutional limitation, and within the limitations as provided by general law, to pay the

interest on and principal of said bonds within a period not to exceed thirty years.

[Passed February 28, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Mercer county board of education authorized to borrow not to exceed one hundred thousand dollars from federal governmental agency to purchase land and/or construct a high school building for colored pupils in Bluefield; bonds for cost payable from board revenues and to be tax exempt; board authorized to do all things necessary to carry out provisions of act.
2. Lien of bonds; enforcement; receivership.
3. Revenues to pay costs and bonds; remittance to, and powers of sinking fund commission.
4. Act not to be construed to create a debt of board.
5. Act supplementary to existing powers.
6. Act to be liberally construed.
7. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Mercer county is hereby authorized to construct, equip, maintain and operate a high school building for colored persons in the city of Bluefield, in and for said county, at a total cost of not to exceed one hundred thousand dollars. Said board is authorized to borrow funds from the public works administration or other governmental agency authorized to make loans, for the purpose of constructing and equipping said school, and shall also have the right to purchase additional or other land on which to build same, within the discretion of the board. Said board is authorized to issue bonds for the purpose of paying the cost of such land, building and equipment, and to pledge a sufficient amount of revenue within the constitutional limitations, and within the limitations as provided by general law, to pay the interest on and principal of said bonds within a period not to exceed thirty years. Said board is further authorized and empowered to do and perform any and all acts and make all contracts necessary to effectuate the general purposes of this act, including the acquisition by original grant, purchase or other lawful means of all necessary permits, easements and other rights in real estate, and title to and possession thereof, and/or to make such purchase with the money borrowed, as provided in this section. Said board of education shall have authority to make such contracts, agreements and covenants between it and the public works administration or other governmental agency, for the loan of said funds and securing payment thereof as they may be able to effectuate, subject only to this limitation, that

the bonds issued or given as security thereof shall be payable solely out of the levies now provided for by general law, to be levied by said county board in and for Mercer county, and to construct, equip, maintain and operate such high school, and to make and enter into such contracts, and to do and perform such acts as may be necessary to the construction, operation and maintenance of such high school, subject to such burdens, restrictions and encumbrances as it may be necessary to incur and bear in securing such funds for construction.

Bonds issued hereunder shall be exempt from taxation by the state of West Virginia or any county, district or municipality thereof.

Sec. 2. There shall be and there is hereby created a statutory mortgage lien upon the high school and real estate so acquired or constructed from the proceeds of bonds authorized to be issued under section one, of this act, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such high school shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred and may, by proper suit, compel the performance of the duties of the officials of the said board of education set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, or other evidences of indebtedness, any court having jurisdiction in any proper action may appoint a receiver to administer said high school on behalf of the said board of education, with power to charge and collect rents or income sufficient to provide for the payment of said bonds and interest thereon, and for the payment of the operating expenses, and to apply the income, rents or other revenue in conformity with this act and the order providing for the issuance of said bonds.

Sec. 3. Said board of education issuing bonds under the provisions of this act shall thereafter, so long as any such bonds, or other evidences of indebtedness, remain outstanding, operate and maintain said school so as to provide revenues as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds and pay the interest requirements thereon as

the same may become due. The amounts, as and when so set apart by said county board of education, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and the order pursuant to which such bonds have been issued. The state sinking fund commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any order passed pursuant to the provisions of this act and shall invest all sinking funds, as provided by general law. Bonds issued under the provisions of this act are hereby declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear interest at not more than six per cent per annum, payable semiannually, and shall mature in not more than thirty years from their date and may be made redeemable at the option of the said board of education at such price and under such terms and conditions as said board of education may fix prior to the issuance of such bonds. Bonds issued hereunder shall be payable at the office of the state treasurer and some bank in the city of New York.

In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The board of education shall fix the denominations, times and places of payment of such bonds, the principal of and interest on which shall be payable in such funds as are on the respective dates of payment thereof legal tender for debts due the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings and equipment thereon, and shall be checked out by the county board under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of bonds issued for said high school shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used for the purchase of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, and all bonds redeemed or pur-

chased shall forthwith be cancelled and shall not again be issued.

Prior to the preparation of definitive bonds, the board of education may, under like restrictions, issue temporary bonds, or interim certificates, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act.

Sec. 4. Nothing in this act contained shall be so construed or interpreted as to authorize or permit the said county board of education to incur a debt for and on behalf of said board or Mercer county of any kind or nature as contemplated by the provisions of the constitution of the state of West Virginia in relation to debt.

Sec. 5. This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplementary and additional to powers conferred by other laws.

Sec. 6. This act, being necessary for the health, welfare, convenience and education of the colored high school students of the city of Bluefield in Mercer county, it should be liberally construed to effectuate the purposes thereof.

Sec. 7. The provisions of this act are separable and not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions, or parts thereof, are for any reason illegal, it is the intention that the remaining sections and provisions, or parts thereof, shall remain in full force and effect.

CHAPTER 137

(Com. Sub. for House Bill No. 299—Originating in the Senate Committee on the Judiciary)

AN ACT to authorize and empower the board of education of Mercer county, West Virginia, to convey land and enter into a contract and/or lease with the United States government, or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of a school building for Negroes in Bram-

well, in said county, with an option to purchase same, and provide for the payment of a yearly rental for such by said board.

[Passed March 1, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Mercer county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental for not to exceed thirty years with right of purchase; amount of rental, board authorized to do all things required and necessary to carry out provisions of act.
2. Annual levy by board to pay rental.
3. Act to be liberally construed.
4. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Mercer county, West Virginia, be, and it is hereby authorized and empowered, to convey to the United States government or any federal agency any lot, lots, or parcels of land owned by it which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, erect, construct, equip, and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest therein, expended by said government or agency on such project or projects, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purposes of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that par-

ticular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the Negro school children of Bramwell in said county of Mercer, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 138

(House Bill No. 319—By Mr. Ballard)

AN ACT to authorize the board of education of Mercer county, West Virginia, or the proper authority so to do, to transfer the unexpended balances of funds of the old board of education of East River district, Mercer county, to the sinking fund commission of West Virginia; said unexpended balances so transferred shall be used to pay the interest and to retire school bonds issued by the old board of education of East River district of said county.

[Passed February 15, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Mercer county board of education authorized to pay obligations of East River district board of education and remit unexpended balances of that board to state sinking fund commission to pay school bonds issued by said district board.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Mercer county, or the proper authority so to do, is authorized and directed, after having discharged all the obligations of the old board of education of East River district, outstanding against the same, to transfer and deposit to the sinking fund commission of West Virginia all unexpended balances of funds of the old board of education of East River district; and any amount so trans-

ferred to the sinking fund commission of West Virginia shall be used to retire and pay the interest on outstanding school bonds issued by the old board of education of East River district, Mercer county, West Virginia, on or prior to July first, one thousand nine hundred thirty-three.

CHAPTER 139

(Senate Bill No. 97—By Mr. Hodges)

AN ACT to authorize and empower the board of education of Monongalia county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing, and renting of school building or buildings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed February 7, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Monongalia county board of education authorized to convey land to federal governmental agency for the construction, etc., of school buildings; rental for not to exceed thirty years with right of purchase; rental paid from levies; board authorized to do all things required and necessary to carry out provisions of act.
2. Annual levy to pay rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent act repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Monongalia county, West Virginia, is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it, which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of its agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding

thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Monongalia county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 140

(House Bill No. 244—By Mr. LaFon)

AN ACT to authorize the board of education of the county of Monroe, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing additions, remodeling and completing the high school building known as the Greenville high school, at Greenville, Springfield magisterial district, in said county, and equipping and furnishing the same; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency, and to secure the payment of the same by lien given by said board on said high school property, or otherwise; and to promulgate such ordinances as may be necessary for constructing said additions, remodeling and completing said high school building, and as may be necessary to provide for amortization and liquidation of such indebtedness.

[Passed January 18, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Monroe county board of education authorized to borrow money from federal governmental agency for completion, etc., of Greenville high school; bonds or other evidences of indebtedness; lien for same.	2.	Board authorized to do all things necessary to carry out provisions of act and repay loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of the county of Monroe, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing additions, remodeling and completing the high school building known as the Greenville high school, at Greenville, in Springfield magisterial district, in said county, and to equip and furnish the same. Said board of education is authorized to issue bonds or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and to secure the payment of the same by lien given by said board on said high school property, or otherwise; and to do any and all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain

said loan, and to secure the same, and to construct said additions and improvements and equip and maintain said high school building.

Sec. 2. The board of education of said county is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 141

(Senate Bill No. 75—By Mr. Helsley)

AN ACT to authorize and empower the board of education of Morgan county, West Virginia, to convey land and enter into a contract and/or lease with the United States government, or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of school buildings, with an option to purchase same, and provide for the payment of a yearly rental for such by said board.

[Passed January 25, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Morgan county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental for not to exceed thirty years, with right of purchase; board authorized to do all things required and necessary to carry out provisions of act.
2. Annual levy to pay rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Morgan county, West Virginia, be, and it is hereby authorized and empowered, to convey to the United States government or any federal agency any lot, lots, or parcels of land owned by it which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, erect, construct, equip, and/or furnish upon said property, and building or buildings to be used for public school

purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on such project or projects, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Morgan county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 142

(House Bill No. 332—By Mr. Hill)

AN ACT to authorize and empower the board of education of Pocahontas county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of school building or buildings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed February 16, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Pocahontas county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental, for not to exceed thirty years, with right of purchase; board authorized to do all things required and necessary to carry out provisions of act.
2. Annual levy to pay rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Pocahontas county, West Virginia, be and it is hereby authorized and empowered to convey to and/or lease to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it which the said board may see fit to convey and/or lease for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings or additions to present buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals

paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Pocahontas county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 143

(Senate Bill No. 98—By Mr. Reynolds, of Mineral)

AN ACT to authorize and empower the board of education of Preston county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing, and renting of school building or build-

ings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed February 14, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Preston county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental, for not to exceed thirty years, with right of purchase; board authorized to do all things required and necessary to carry out provisions of act.
2. Annual levy for rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Preston county, West Virginia, is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it, which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of its agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Preston county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 144

(Senate Bill No. 71—By Mr. Garrett)

AN ACT to authorize and empower the board of education of Putnam county, West Virginia, to convey land and enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of school buildings, with an option to purchase same, and provide for the payment of a yearly rental for such by said board.

[Passed January 22, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Putnam county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental, for not to exceed thirty years, with right of purchase; board authorized to do all things required or necessary to carry out provisions of act.
2. Annual levy to pay rental.
3. Act to be liberally construed.
4. Provisions of act separable.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Putnam county, West Virginia, be and it is hereby authorized and empowered to convey to the United States government or any federal

agency any lot, lots, or parcels of land owned by it which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Putnam county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 145

(House Bill No. 272—By Mr. Bibb)

AN ACT to authorize and empower the board of education of the county of Raleigh, West Virginia, a corporation, to convey property to and enter into contracts and/or leases with the United States government or any federal agency authorized to make or enter into such contracts and/or leases, for the building, construction, equipment, leasing and renting of school houses and/or buildings used for educational purposes, and to provide for the payment of same.

[Passed January 26, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Raleigh county board of education authorized to convey land to federal governmental agency for the construction, etc., of school buildings; amount of yearly rentals.	2.	Annual levy to pay rentals; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of the county of Raleigh, West Virginia, a corporation, be and is hereby authorized and empowered to convey to the United States government and/or any federal agency any property owned by it, which it may see fit to convey for the purposes hereinafter expressed, and to contract with the said United States government to the end that said government or agency, through its or any of its agencies, duly created by law, may build upon said property schoolhouses and/or other buildings to be used by said board of education for educational purposes. In consideration of which, the said board of education shall pay to the said United States government or federal agency yearly rentals for a period of years, which said rentals in aggregate shall not exceed, exclusive of interest and carrying charges, the total amount expended by the United States government or federal agency on said project or projects, but which said yearly rentals shall not exceed for any one year any debt limitation, as provided by law, for the said board of education,

although the aggregate amount contracted for may exceed said debt limitation.

Sec. 2. The board of education of the county of Raleigh shall, in the manner provided by law, levy annually an amount sufficient to pay said rent or rentals for that particular year for the purposes aforesaid, which shall be collected as is otherwise provided by law.

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

CHAPTER 146

(House Bill No. 222—By Mr. Lilly)

AN ACT to authorize and empower the board of education of Raleigh county, West Virginia, to convey property and to enter into such contract and/or lease for the building, construction, equipment, leasing and renting of a high school building for colored pupils, and to provide for the payment for such by the said board of education.

[Passed January 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Raleigh county board of education authorized to convey land to federal governmental agency for construction, etc., of a high school building for colored pupils; amount of yearly rental.	2.	Annual levy to pay rentals; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Raleigh county, West Virginia, is hereby authorized and empowered to convey to the United States government and/or any federal agency, any property owned by it which it may see fit to convey for the purposes hereinafter expressed, and to contract with said United States government or any federal agency to the end that said government or agency, through its or any of their agencies duly created by law, may build upon said property a high school building to be used by said board of education of Raleigh county for colored pupils, in consideration of which the said board of education shall pay to the said United States government or such federal agency yearly rentals for a period of years which said rental in aggregate shall not exceed the total amount expended by the United States government or such

federal agency on said project, but which said yearly rentals shall not exceed for any one year the constitutional debt limitation as provided by law for Raleigh county, although the aggregate amount contracted for may exceed said debt limitation.

Sec. 2. The said board of education of Raleigh county shall levy annually each year an amount sufficient to pay said rent or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

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

CHAPTER 147

(Com. Sub. for House Bill No. 267—Originating in the Senate Committee on Education)

AN ACT to authorize and empower the board of education of Ritchie county, West Virginia, to convey property to and enter into contracts and/or leases with the United States government, or any federal agency authorized to make or enter into such contracts and/or leases, for the remodeling, erection, construction, equipment, leasing and renting of school buildings, with an option to purchase same, and to provide for the payment of yearly rental for such by said board.

[Passed March 13, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Ritchie county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental, for not to exceed thirty years, with right of purchase; board authorized to do all things required and necessary to carry out provisions of act; expenditures, not exceeding two hundred thousand dollars, apportioned among the magisterial districts of county; non-approval of a project not to affect remaining projects.
2. Annual levy to pay rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Ritchie county, West Virginia, is hereby authorized and empowered to convey to the United States government and/or any federal agency, any property owned by it, which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the said United States government or any federal agency, to the end that said government or agency, its or any of their

agencies, or agents, thereunto duly authorized, may remodel, build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government, and/or any federal agency, for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government, and/or any federal agency, said yearly rental or rentals, for the use and occupancy of said building or buildings, if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, with interest thereon, expended by said government or agency on said project or projects, and which said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purposes of this act: *Provided, however,* That the total amount of money which may be expended under the provisions of this act shall not exceed the sum of two hundred thousand dollars, apportioned among the magisterial districts of said county as follows: A sum not exceeding fifty thousand dollars in Grant district: a like sum in Clay district; and a sum not exceeding one hundred thousand dollars in Union and Murphy districts, including that former division of Union district known as Harrisville Independent School district, as may be required by the needs of said last named districts, at the discretion of the board of education of said county. If projects proposed to the federal authorities by said board of education are for any reason not approved, such fact shall not interfere with the operation of this act so far as it affects other projects.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, con-

venience and education of the school children of Ritchie county, should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 148

(House Bill No. 385—By Mrs. Suddarth)

AN ACT to authorize the board of education of Taylor county, West Virginia, to purchase fractional interests in a building for physical education or other educational purposes and to lease outstanding interests therein.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Taylor county board of education authorized to acquire, out of current authorized levies, undivided interest in building for physical education and to lease		the other undivided interests; occupation and use of building by board and subsequent option or acquirement of additional undivided interests.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Taylor county, West Virginia, is hereby authorized and empowered to acquire by purchase, or otherwise, a one-third or other fractional undivided interest in and to a building in said district constructed for physical education or other educational purposes out of the current authorized levies for any one year, and to lease the other fractional undivided interest or interests in such building for that and any future years. Said board may elect to occupy and use such building, and to acquire by purchase, or otherwise, in any future years, additional fractional undivided interest or interests therein out of the then current authorized levies, and to acquire all of the remaining outstanding undivided fractional interest or interests in such building at any time out of current authorized levies for any year when it may have suffi-

cient fund for such purpose, and to acquire and own options covering the rights to purchase the outstanding interest or interests heretofore mentioned in such building.

CHAPTER 149

(House Bill No. 145—By Mr. Minear, by request)

AN ACT providing for and empowering the board of education of Tucker county to construct, erect, equip, maintain and operate gymnasiums or auditoriums, or both, in connection with the high schools at Parsons and Thomas, West Virginia, by authorizing, empowering and vesting the board of education of Tucker county with all the rights, duties and powers conferred by chapter nine, acts of the Legislature, regular session, one thousand nine hundred thirty-three, on the West Virginia board of control for constructing, erecting, equipping, maintaining and operating dormitories, homes or refectories at the various state educational institutions; providing for the issuance of revenue bonds of the board of education of said county payable solely from the earnings of such gymnasiums or auditoriums, or both, to pay the cost thereof; providing for the collection of rents, fees and charges; and providing that no debt of said county or school district payable by taxes or assessments shall be incurred in the exercise of any of the powers hereby granted.

[Passed December 21, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Tucker county board of education authorized to construct, etc., gymnasiums and/or auditoriums in connection with Parsons and Thomas high schools, with same powers as conferred upon state board of control for erecting dormitories, etc.
2. Revenue bonds to pay cost.
3. Rents, fees and charges to pay bonds.
4. Projects to be self-liquidating.
5. Erection of buildings on land now owned or after acquired by board.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of Tucker county is hereby authorized to provide, construct, erect, equip, maintain and operate a gymnasium or auditorium, or both, in connection with the high schools at Parsons and Thomas, West Virginia, and for that purpose the said board of education is hereby vested and empowered with all the rights, duties, and powers

conferred by chapter nine, acts of the Legislature, regular session, one thousand nine hundred thirty-three, on the West Virginia board of control, a public corporation, for constructing, erecting, equipping, maintaining and operating dormitories, homes or refectories.

Sec. 2. The said board of education may pay the cost of such gymnasium or auditorium, or both, in connection with the high schools at Parsons and Thomas, West Virginia, out of the proceeds of revenue bonds, which the said board of education is hereby authorized to issue and sell in the same manner and under the same terms and conditions provided by law for the issuance of revenue bonds by the said West Virginia board of control, but said bonds are payable solely from the earnings of such gymnasium or auditorium, or both.

Sec. 3. The said board of education is authorized to fix, charge and collect rents, fees and charges for the use and maintenance of said gymnasiums or auditoriums, or both, in connection with the high schools at Parsons and Thomas, West Virginia, in the same manner provided by law for the West Virginia board of control to fix, charge and collect rents, fees, and charges, for the payment of the principal and interest on the revenue bonds issued by said board of education and to maintain and operate said gymnasiums or auditoriums, or both.

Sec. 4. Nothing herein shall be so construed or interpreted as to authorize said board of education to authorize or permit the incurring of a debt payable by the levying of taxes or assessment on property situate in said county, but said gymnasiums or auditoriums, or both, in connection with the high schools at Parsons and Thomas, West Virginia, are of the character commonly known as self-liquidating projects.

Sec. 5. The erection of a gymnasium or auditorium may be located on real estate now owned or later acquired by the board of education of Tucker county.

CHAPTER 150

(House Bill No. 315—By Mr. Melrose, by request)

AN ACT to authorize and empower the board of education of Wood county, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing and renting of school building or buildings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed February 14, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Wood county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental, for not to exceed thirty years, with right of purchase; board authorized to do all things required and necessary to carry out provisions of act.
2. Annual levy for rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That the board of education of Wood county, West Virginia, be and it is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of their agencies, or agents, thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency

said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall not exceed the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Wood county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 151

(House Bill No. 297—By Mr. Carden)

AN ACT to authorize and empower the board of education of the county of Wyoming, West Virginia, to convey land and to enter into a contract and/or lease with the United States government or any federal agency authorized to make or enter into such contract and/or lease for the erection, construction, equipment, leasing, and renting of school building or build-

ings, with an option to purchase same, and to provide for the payment of a yearly rental for such by said board.

[Passed February 13, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Wyoming county board of education authorized to convey land to federal governmental agency for construction, etc., of school buildings; rental, for not to exceed thirty years, with right of purchase; board authorized to do all things required and necessary to carry out provisions of act.
2. Annual levy to pay rental.
3. Act to be liberally construed.
4. Provisions of act separable; inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. The board of education of the county of Wyoming, West Virginia, is hereby authorized and empowered to convey to the United States government or any federal agency any lot, lots, parcel or parcels of land owned by it, which the said board may see fit to convey for the purposes hereinafter expressed; and to contract with the United States government or any federal agency to the end that said government or agency, its or any of its agencies or agents thereunto duly authorized, may build, erect, construct, equip and/or furnish upon said property, any building or buildings to be used for public school purposes; and to contract with said government or any federal agency for the yearly lease or rental of said building or buildings, with the privilege of renewing said lease from year to year, for a period of years, not exceeding thirty, with the right to purchase said building or buildings and land on which the same is or are situated and to apply toward the purchase price thereof any and all rentals paid to said government or agency under the provisions of this act; and the said board shall pay to the said United States government or any federal agency said yearly rental or rentals, for the use and occupancy of said building or buildings if and when the same are constructed, which said yearly rental or rentals, in the aggregate, shall not exceed the total amount, and interest thereon, expended by said government or agency on said project or projects, and the said yearly rentals shall be paid out of levies laid within the constitutional debt limitations; and to do any and all other things required by said United States government or any federal agency which are necessary and proper to effectuate the purpose of this act.

Sec. 2. The said board shall levy and collect annually an amount sufficient to pay said rental or rentals for that particular

year for the purposes aforesaid in the manner and form as is provided by law.

Sec. 3. This act being necessary for the health, welfare, convenience and education of the school children of Wyoming county, it should be liberally construed to effectuate the purposes thereof.

Sec. 4. If any clause, sentence, section, provision or part of this act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, affect or invalidate the remainder of this act, which shall remain in full force and effect thereafter.

All acts and parts of acts inconsistent herewith are hereby repealed insofar, and only so far, as they are inconsistent with this particular act.

CHAPTER 152

(House Bill No. 247—By Mr. LaFon)

AN ACT to authorize the municipality of the town of Alderson, in the counties of Monroe and Greenbrier, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing improvements to and making improvements of the water lines and system or the sewer lines and system, or both, owned and belonging to said municipality; to issue such bonds or other evidence of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction of the improvements and making the improvements to the said water lines and system or sewer lines and system, or both, belonging to and owned by said municipality, and as may be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 18, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Town of Alderson authorized to borrow money from federal governmental agency to construct improvements to municipal water and sewer lines; bonds, or other evidences of indebtedness, for loan.
2. Town authorized to do all things necessary to carry out provisions of act and to repay loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The municipality of the town of Alderson, in the

counties of Monroe and Greenbrier, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing improvements to and making improvements of the water lines and system or sewer lines and system, or both, belonging to and owned by said town of Alderson. The said municipality is further authorized to issue bonds or other evidence of indebtedness as may be required by said public works administration or other federal governmental agency, and to do any or all things required by said public works administration or other said governmental agency from which such loan is obtained, or necessary and proper to obtain such loan, to secure the same, and to construct said improvements to and maintain said water lines and system or sewer lines and system, or both, now owned and belonging to said municipality.

Sec. 2. The said municipality is hereby further empowered to undertake and to do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary and by appropriate act of said municipality in the premises to provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 153

(House Bill No. 248—By Mr. LaFon)

AN ACT to authorize the municipality of the town of Alderson, in the counties of Monroe and Greenbrier, West Virginia, to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping a municipal building in and for the said town; to issue such bonds or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction of such building, and as may

be necessary to provide for the amortization and liquidation of such indebtedness.

[Passed January 18, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Town of Alderson authorized to borrow money from federal governmental agency to construct, etc., a municipal building; bonds or other evidences of indebtedness, for loan.
2. Town authorized to do all things necessary to carry out provisions of act.

Be it enacted by the Legislature of West Virginia:

Section 1. The municipality of the town of Alderson, in the counties of Monroe and Greenbrier, West Virginia, is hereby authorized to borrow funds from the public works administration or other federal governmental agency authorized to make loans, for the purpose of constructing and equipping and maintaining a municipal building in and for the said town. The said municipality is authorized to issue bonds or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and to do any and all things required by said public works administration or other said federal governmental agency from which such loan is obtained, or necessary and proper to obtain such loan, to secure the same, and to construct, equip and maintain said municipal building.

Sec. 2. The said municipality is hereby further empowered to undertake and to do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said municipality in the premises, provide for the repayment of said loan and/or amortization of said bonds.

CHAPTER 154

(House Bill No. 134—By Mr. Peters)

AN ACT to authorize the city of Bluefield, Mercer county, West Virginia, a municipal corporation, to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned stadium in or near said city upon a self-liquidating

basis; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction, operation and maintenance of such stadium, and as may be necessary to provide for the amortization and liquidation of such indebtedness from the income of such stadium.

[Passed February 28, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. City of Bluefield authorized to borrow money from federal governmental agency to construct a municipally owned stadium; bonds, or other evidences of indebtedness, for loan.
2. City authorized to do all things necessary to carry out provisions of act; may provide for repayment of loan, or of bonds, from revenues of stadium.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Bluefield, Mercer county, West Virginia, a municipal corporation, is hereby authorized to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned stadium in or near said city upon a self-liquidating basis. Said city is authorized to issue bonds, or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and to do any and all things required by said public works administration, or other federal governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip, maintain and operate said stadium.

Sec. 2. The board of directors of said city of Bluefield is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds, out of the income realized solely from the operation of such stadium.

CHAPTER 155

(House Bill No. 135—By Mr. Peters)

AN ACT to authorize the city of Bluefield, Mercer county, West Virginia, a municipal corporation, to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned city market in or near said city upon a self-liquidating basis; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency; and to promulgate such ordinances as may be necessary for the construction, operation and maintenance of such city market, and as may be necessary to provide for the amortization and liquidation of such indebtedness from the income of such city market.

[Passed February 28, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	City of Bluefield authorized to borrow money from federal governmental agency for construction, etc., of a municipally owned market upon a self-liquidating basis; bonds, or other evidences of indebtedness, for loan.	2.	Board of directors of city authorized to do all things necessary to carry out provisions of act and repay loan from revenues of market.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Bluefield, Mercer county, West Virginia, a municipal corporation, is hereby authorized to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned city market in or near said city upon a self-liquidating basis. Said city is authorized to issue such bonds, or other evidences of indebtedness as may be required by said public works administration or other federal governmental agency, and to do any and all things required by said public works administration, or other federal governmental agency, from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip, maintain and operate said city market.

Sec. 2. The board of directors of said city of Bluefield is hereby empowered to undertake and do all things necessary to

carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the repayment of said loan and/or amortization of said bonds, out of the income realized solely from the operation of such city market.

CHAPTER 156

(House Bill No. 235—By Messrs. Ross and de Gruyter)

AN ACT to incorporate the city of Charleston, in the county of Kanawha, West Virginia, to fix its corporate limits; to divide the same into wards, and to prescribe and define the powers, rights and duties of said city of Charleston and of the officers and citizens of the same; to provide a plan of board of affairs-city council government for said city, and to prescribe the duties and powers of the board of affairs, city council and other officers and employes of said city thereunder; to provide for the holding of an election for the purpose of submitting the adoption or rejection of this act to the voters of the city of Charleston; and upon its adoption by the voters of the city of Charleston, to repeal all other acts or parts of acts inconsistent or in conflict herewith and all acts amendatory thereof; said bill to be known as, "The Charter of the City of Charleston."

[Passed January 23, 1934; in effect from passage. Became a law without the approval of the Governor.]

(NOTE—Head notes are omitted as this act was submitted to, and rejected by, the voters of the City of Charleston at the special election provided for in the act.)

Be it enacted by the Legislature of West Virginia:

That upon the adoption of this act by the voters of the city of Charleston as hereinafter provided, all prior acts incorporating said city and all acts amendatory thereof and all other acts and parts of acts inconsistent or in conflict with this act shall be deemed repealed as provided herein, and this act shall become the complete charter of the city of Charleston as follows:

Section 1. The inhabitants of all that part of the county of Kanawha included and centered within the limits hereafter prescribed in section two are hereby made a city corporate and body politic by the name of "The City of Charleston", and as

such city it shall have perpetual succession and a common seal, and by that name it may sue and be sued, plead and be impleaded, and may purchase, hold, lease or sell real estate and personal property necessary to the discharge of its corporate duties, or needful or convenient for the good order, government and welfare of said corporation.

Sec. 2. The corporate territorial limits of the City of Charleston shall comprise all that part of the magisterial district of Charleston and all that part of the territory of the magisterial district of Loudon in the county of Kanawha and state of West Virginia, which is bounded and described as follows, to-wit:

Beginning at the upper or east property line of Patrick street at its intersection of the Kanawha river at low water mark in Charleston district; thence following the property lines on the east side of Patrick street north thirty-two degrees forty-one minutes east to a point one hundred forty-seven and five-tenths feet northeast of the north property line of Second avenue; thence north fifty-seven degrees nineteen minutes west six hundred feet to an iron pipe; thence north thirty-two degrees forty-one minutes east five hundred and eighteen feet to the north right of way line of the New York Central Railroad company; thence, following the north right of way line of said railroad westerly to Two Mile creek; thence following the center of Kanawha Two Mile creek in a northeasterly direction to a point in the northeast line extended of lot five, block thirty-eight of West Charleston; thence in a northeast direction in a straight line to the southwest corner of the Littlepage-Hill addition at the intersection of Charleston street and the Sissonsville road; thence north seventy degrees thirty-five minutes east three hundred feet; thence north sixty-six degrees fifteen minutes east two hundred and one feet; thence north fifty-six degrees east ninety-nine feet; thence north forty-two degrees east one hundred and ninety-one feet; thence north seventy-eight degrees thirty minutes east one hundred ninety feet; thence south fifty-four degrees east sixty-two feet to the northeast corner of the Sunset View addition; thence in the northeast corner of the Littlepage Hill addition; thence south fifty-six degrees east one hundred and seventy feet to the northeast direction following the north line of the Bellevue addition to the west line of the Parsons-Poling addition; thence in a northeast direction fol-

lowing the west line of the Parsons-Poling addition to the northwest corner of said addition; thence east following the northeast line to the northeast corner of said addition; thence east following the north line of the Valley View addition to the west line of the Fairview addition; thence south twenty-eight degrees west to the north line extended of lot two hundred and sixty-one of the second resubdivision of Fairview; thence south sixty-two degrees east with the south line of an alley extended to the east side of Chandler road; thence south forty-four degrees forty-five minutes west eighty feet more or less to a point marked three hundred and ninety-six on said Fairview map; thence south sixty-two degrees fifteen minutes west eighty feet; thence south seventy-one degrees twenty-five minutes west seven and twenty-one one-hundredths feet; thence south sixty-two degrees east two hundred and thirty and seventy-four one hundredths feet to the west line of lot one hundred and fourteen; thence north twenty-eight degrees east one hundred and seventy-seven and five one-hundredths feet to the northwest corner of lot one hundred and seventeen; thence south sixty-two degrees east one hundred and fifty feet to the northeast corner of lot one hundred and seventeen; thence by a straight line to the southeast corner of lot two hundred and eight; thence north twenty-eight degrees east one hundred and twenty feet to the northwest corner of lot two hundred and eight; thence south sixty-two degrees east one hundred and forty-two and six one-hundredths feet with the north line of lots two hundred and eight and two hundred and seven to the northeast corner of lot two hundred and seven; thence by a straight line to the northwest corner of lot two hundred and four; thence south sixty-two degrees east one hundred and twenty feet to the northeast corner of lot two hundred and four; thence by a straight line to the north corner of lot two hundred and fifty-three of Fairview; thence north twenty-eight degrees east with the east side of Wilton avenue three hundred and eighty-nine and eighty-four one-hundredths feet to a point; thence by a line curving to the right with a radius of two hundred and twenty-nine and two one-hundredths feet to the northeast corner of lot six hundred and sixty-five, Fairview; thence with the south side of Wood road in Edgewood part to the northeast corner of lot three of Edgewood part; thence with the east line of lot three south thirteen de-

grees ten minutes east one hundred and seventy-one and eight one-hundredths feet to the southeast corner of lot three; thence with the south line of lot two south forty-four degrees one minute east twenty-two and four one-hundredths feet; thence south twenty-nine degrees twenty-eight minutes east twenty feet; thence south forty-one degrees forty-four minutes east nine and seven one-hundredths feet; thence south sixty-four degrees forty minutes east twenty-five feet; thence south thirty degrees west crossing Edgewood drive to a point one hundred and twenty feet south of the south line of Edgewood drive; thence in a westerly and southerly direction one hundred and twenty feet from and parallel to the east line of Edgewood drive to a point three hundred and ten feet from the north line of lot seventy-four, block G, Edgewood; thence with a straight line in an easterly direction to a stake at the extreme northern end of Carr street; thence with a straight line to the northwest corner of lot sixteen of block D of the Sunkist Heights addition; thence with the north line of the Sunkist Heights addition to Magazine road; thence with Rockway road to a point two hundred feet from Magazine road; thence with a line parallel to and two hundred feet from Magazine road to the south line of the Hope property; thence with a straight line to the west corner of lot thirty-one, block F of the Allen addition; thence following the back line of the Allen addition to the Hillsdale addition; thence with the north line of the Hillsdale addition to the northeast corner of lot eighty of the Hillsdale addition; thence east by a straight line to the center of the branch in Gill Hollow; thence with the center of the branch in Gill Hollow extended to the low water mark on the south side of Elk river; thence down said Elk river at low water mark to a point in the center of Coal branch; thence in a straight line to the northeast corner of lot one, block one of the Capitol Hill property, as shown on the map of same and recorded in the office of the clerk of the county court of Kanawha county; thence in a straight line to the southwest corner of lot thirteen of the Jeffries Hill land; thence with a straight line to the southeast corner of lot two of the Jeffries Hill land; thence in a straight line to the northwest corner of the East Woodland addition; thence with the north line of the East Woodland addition to the northeast corner thereof; thence east crossing Ruffner Hollow drive to a point two

hundred feet east of Ruffner Hollow drive; thence in a southerly direction two hundred feet east of and parallel to Ruffner Hollow drive to a point two hundred feet from Piedmont road; thence in an easterly direction parallel with the Piedmont road and two hundred feet northeast of same to a point in the west line extended of lot forty-four of the Floyd addition to the city of Charleston; thence in a northeasterly direction to the southwest corner of lot two of the Floyd addition; thence in a northerly direction following the back line of lots two to thirty-six, inclusive, of the Floyd addition to the northwest corner of lot thirty-six of the Floyd addition; thence in a southeasterly direction following the northeast line of Floyd's addition to the northwest corner of lot thirty-seven of the Floyd's addition, also corner to a lot owned by L. E. McWhorter; thence in a northeast direction to a pine tree of the north corner of the said L. E. McWhorter lot; thence in a southeast direction to the northeast corner of lot three hundred and ninety-four of the Riverview addition; thence following the westerly line of Lower Way to Wilson Way; thence following the westerly line of Wilson Way to the southeast corner of lot fifty of the Riverview addition; thence in a southeasterly direction to the northwest corner of lot sixty-five of the Riverview addition; thence following the south line of Midway easterly, to the northeast corner of lot seventy; thence following the east line of lot seventy extended to low water mark of the Kanawha river; thence with low water mark of Kanawha river to a point opposite the east line of Twenty-seventh street, Kanawha City; thence across said river to the east side of Twenty-seventh street, Kanawha City, in Loudon district; thence with the east side of Twenty-seventh street, extended to a point in the south line of the county road; thence easterly with the south line of the county road to the east line of the school lot; thence with the east line of the school lot extended to a point five hundred feet south of the Chesapeake and Ohio railroad right of way; thence westerly five hundred feet from and parallel to the Chesapeake and Ohio right of way to a point in the west line of the Loudon Heights addition; thence in a southerly direction with the west line of the Loudon Heights addition to the south corner of lot twenty of said Loudon Heights addition; thence with a straight line to the east corner of block one in the subdivision of South Charleston;

thence in a southwesterly direction with the southerly lines of block one, two, three and four of the subdivision of South Charleston to the southeast corner of block four of the said subdivision; thence with the southwesterly line of blocks four, five and eight of the subdivision of South Charleston to Bridge avenue; thence southwesterly to the intersection of the west side of Bridge avenue and the north side of Ravinia Drive; thence westerly with the north side of Ravinia Drive to Ferry Branch; thence northerly with the center of Ferry Branch to a point in the old corporation line where same intersects Ferry Branch; thence down Ferry Branch to the Chesapeake and Ohio right of way as follows: north eight degrees fifteen minutes east six hundred and sixty feet; north seven degrees west two hundred and sixty-four and two-fifths feet; north one degree thirty minutes west two hundred and fifteen feet; north fifteen degrees west one hundred and forty feet; north seven degrees thirty minutes east one hundred and ninety-four and one-tenth feet; north twenty-nine degrees east three hundred and seventy feet; north thirty-one degrees east three hundred and forty-nine and seven-tenths feet; north eighteen degrees west three hundred and ninety feet; north thirty-seven degrees thirty minutes west two hundred and eighty feet; north forty degrees thirty minutes west two hundred feet; north thirty degrees thirty minutes east three hundred and fifteen feet; north one degree thirty minutes east two hundred and ninety-four feet; north fifty degrees thirty-four minutes east two hundred feet; north forty-one degrees east seven hundred and eighty-one feet; north seventy-nine degrees east four hundred feet; north one degree thirty minutes west eight hundred ten feet to low water mark of the Kanawha river at the mouth of Ferry Branch; thence down the Kanawha river at low water mark on the south side of said river to a point opposite the upper or east line of Patrick street; thence across the Kanawha river to the place of beginning.

Sec. 3. The said city shall be divided into wards, the boundaries of which shall be as follows:

First Ward

The first ward shall include the following territory: Beginning at the upper or east property line of Patrick street

at its intersection of the Kanawha river at low water mark, in Charleston district; thence following the property lines on the east side of Patrick street north thirty-two degrees forty-one minutes east to a point one hundred forty-seven and five-tenths feet northeast of the north property line of second avenue; thence north fifty-seven degrees nineteen minutes west six hundred feet to an iron pipe; thence north thirty-two degrees forty-one minutes east five hundred and eighteen feet to the north right of way line of the New York Central Railroad company; thence following the north right of way line of said railroad westerly to Two Mile creek; thence following the center of Kanawha Two Mile creek in a northeasterly direction to a point in the northeast line extended of lot five, block thirty-eight of West Charleston; thence in a northeast direction in a straight line to the Southwest corner of the Littlepage Hill addition at the intersection of Charleston street and the Sissonsville road; thence north seventy degrees thirty-five minutes east three hundred feet; thence north sixty-six degrees fifteen minutes east two hundred and one feet; thence north fifty-six degrees east ninety-nine feet; thence north forty-two degrees east one hundred and ninety-one feet; thence north seventy-eight degrees thirty minutes east one hundred and ninety feet; thence south fifty-four degrees east sixty-two feet to the northeast corner of the Littlepage Hill addition; thence south fifty-six degrees east one hundred and seventy feet to the northeast corner of the Sunset View addition; thence in a northeast direction following the north line of the Belleview addition to the west line of the Parsons-Poling addition; thence in a southwest direction following the west line of the Parsons-Poling addition and the west line of the Holly Hunt addition to Charleston street; thence with Florida street to low water mark on the south side of Kanawha river; thence following low water mark on Kanawha river to a point opposite Patrick street; thence by a straight line across Kanawha river to the place of beginning.

Second Ward

The second ward shall include the following territory: Beginning at the low water mark on the south side of Kanawha

river at the end of Florida street extended; thence with Florida street to Charleston street; thence in a northeastern direction following the west line of the Holly Hunt addition and the west line of the Parsons-Poling addition to the northwest corner of the Parsons-Poling addition; thence east following the northeast line to the northeast corner of said addition; thence east following the north line of the Valley View addition to the west line of the Fairview addition; thence south twenty-eight degrees 00 west to the north line extended of lot two hundred and sixty-one of the second subdivision of Fairview addition; thence south sixty-two degrees east with the south line of an alley extended to the east side of Chandler road; thence by a straight line to a point where West avenue is intersected by the line of Park avenue; extended to low water mark on the south side of the Kanawha thence following the line of Park avenue extended to low water mark on the south side of the Kanawha river; thence with the low water mark to the place of beginning.

Third Ward

The third ward shall include the following territory: Beginning at low water mark on the south side of Kanawha river on the line of Park avenue extended; thence with the line of Park avenue to its intersection with West avenue; thence by a straight line to the corporation line of the north where an alley extended intersects with the east side of Chandler road; thence south 44 degrees forty-five minutes west eighty feet more or less to a point marked three hundred and ninety-six on said Fairview map; thence south sixty-two degrees fifteen minutes west eighty feet; thence south seventy-one degrees twenty-five minutes west (*seven and twenty-one hundredths feet;*) thence south sixty-two degrees east two hundred and thirty and seventy-four one-hundredths feet to the west line of lot one hundred and fourteen; thence north twenty-eight degrees east one hundred and seventy-seven and five one-hundredths feet to the northwest corner of lot one hundred and seventeen; thence south sixty-two degrees east one hundred and fifty feet to the northeast corner of lot one hundred and seventeen; thence by a straight line to the southeast corner of lot two hundred and eight; thence north twenty-

eight degrees east one hundred and twenty feet to the northwest corner of lot two hundred and eight; thence south sixty-two degrees east one hundred and forty-two and six feet with the north line of lots two hundred and eight and two hundred and seven to the northeast corner of lot two hundred and seven; thence by a straight line to the northwest corner of lot two hundred and four; thence south sixty-two degrees east one hundred and twenty feet to the northeast corner of lot two hundred and four; thence by a sixty-two degrees east one hundred and forty-two and six one-hundredths feet with the north line of lots two hundred and eight and two hundred and seven to the northeast corner of lot two hundred and seven; thence by a straight line to the north corner of lot two hundred and fifty-three of Fairview; thence north twenty-eight degrees east with the east side of Wilton avenue three hundred and eighty-nine and eighty-four one hundredths feet to a point; thence by a line curving to the right with a radius of two hundred and twenty-nine and two one-hundredths feet to the northeast corner of lot six hundred and sixty-five Fairview; thence with the south side of Wood road in Edgewood park to the northeast corner of lot three of Edgewood park; thence with the east line of lot three south thirteen degrees ten minutes east one hundred and seventy-one and eight one-hundredths feet to the southeast corner of lot three; thence with the south line of lot two south forty-four degrees and one minute east twenty-two and four one hundredths feet; thence south twenty-nine degrees twenty-eight minutes east twenty feet; thence south forty-one degrees forty-four minutes east (*nine degrees seven feet*) thence south sixty-four degrees forty minutes east twenty-five feet; thence south thirty degrees west crossing Edgewood drive to a point one hundred and twenty feet south of the south line of Edgewood drive; thence in a westerly and southerly direction one hundred and twenty feet from and parallel to the east line of Edgewood drive to a point three hundred and ten feet from the north line of lot seventy-four, block G, Edgewood; thence with a straight line in an easterly direction to a stake at the extreme northern end of Carr street; thence with Carr street to Charleston street; thence with Charleston street to the Kanawha and Michigan railroad; thence with the Kanawha

and Michigan railroad to Delaware avenue; thence with Delaware avenue to low water mark on the south side of the Kanawha river; thence with low water mark in the Kanawha river to the place of beginning.

Fourth Ward

The fourth ward shall include the following territory: Beginning at the low water mark on the south side of Kanawha river at the end of Delaware avenue extended; thence with low water mark of Kanawha river to the mouth of Ferry branch; thence across Kanawha river to the mouth of Elk river; thence up Elk River to Lovell street bridge and Charleston street; thence with Charleston street to Pennsylvania avenue; thence with Pennsylvania avenue to Roane street; thence with Roane street to Delaware avenue; thence with Delaware avenue extended to the low water mark on the south side of Kanawha river, the place of beginning.

Fifth Ward

The fifth ward shall include the following territory: Beginning at low water mark in Elk river at the Lovell street bridge; thence with Charleston street to Pennsylvania avenue; thence with Pennsylvania avenue to Roane street; thence with Roane street to Delaware avenue; thence with Delaware avenue to the Kanawha and Michigan railway; thence with the Kanawha and Michigan railway to Charleston street; thence with Charleston street to Carr street; thence with Carr street to a stake at the extreme northern end of Carr street; thence with a straight line to the northwest corner of lot sixteen of block D of the Sunkist Heights addition; thence with the north line of the Sunkist Heights addition to Magazine road; thence with the east line of the Sunkist Heights addition to Pine street; thence with Pine street to the Kanawha and Michigan railway; thence with the Kanawha and Michigan railway to low water mark of Elk river; thence with low water mark of Elk river to the place of beginning.

Sixth Ward

The sixth ward shall include the following territory: Beginning at the low water mark in Elk river at the Kanawha and Michigan bridge; thence with the Kanawha and Michigan railway to Pine street; thence with Pine street to the east side of the Sunkist Heights addition; thence with the east side of the Sunkist Heights addition to Magazine road; thence with Rockway road to a point two hundred feet from Magazine road, thence with the line parallel to and two hundred feet from Magazine road, to the south line of Hope property; thence with a straight line to the west corner of lot thirty-one block F, of the Allen addition; thence following the back line of the Allen addition to the Hillsdale addition; thence with the north line of the Hillsdale addition to the north east corner of lot eight of the Hillsdale addition; thence east by a straight line to the center of the branch in Gill Hollow; thence with the center of the branch in Gill Hollow; thence with the center of the branch in Gill Hollow extended to the low water mark on the north side of Elk river; thence down said Elk river at low water mark to the Kanawha and Michigan bridge, the place of beginning.

Seventh Ward

The seventh ward shall include the following territory: Beginning at the low water mark in Elk river at Lovell street bridge; thence with Lovell street to Truslow street; thence with Truslow street to Margaret street; thence with Margaret street to Donnally street and the intersection of Young street; thence with Young street to Slack street; thence with Slack street to a point in a straight line between the mouth of Coal branch and the northeast corner of lot one, block one, Capitol Hill property; thence by a straight line to low water mark at the mouth of Coal branch; thence with Elk river to the low water mark at Lovell street bridge, the place of beginning.

Eighth Ward

The eighth ward shall include the following territory: Beginning at the intersection of Lovell and Truslow streets; thence with Washington street to Capitol street; thence with

Capitol street to Slack street, and continuing in a straight line to Upper Sunset drive in the Capitol Hill addition; thence easterly with upper Sunset drive to the east line of the Capitol Hill properties; thence northeasterly to the northeast corner of lot one block one of the Capitol Hill properties; thence in a straight line to a point in Slack street, the northeast corner of Ward Seven; thence with Slack street to Young street; thence with Young street to Donnally street at its intersection with Margaret street; thence with Margaret street to Truslow street; thence with Truslow street to Lovell street, the place of beginning.

Ninth Ward

The ninth ward shall include the following territory: Beginning at the low water mark in Elk river of the Lovell street bridge; thence with Elk river to the Kanawha river; thence with Kanawha river to low water mark at the end of Capitol street; thence with Capitol street to Washington street; thence with Washington street to Lovell street; thence with Lovell street to the low water mark in Elk river, at Lovell street bridge, the place of beginning.

Tenth Ward

The tenth ward shall include the following territory: Beginning at the low water mark in Kanawha river at the end of Ruffner avenue; thence with Ruffner avenue to the intersection with Lee street; thence with Lee street to its intersection with Capitol street; thence with Capitol street to the low water mark in Kanawha river, the place of beginning.

Eleventh Ward

The eleventh ward shall include the following territory: Beginning at the intersection of Lee street and Capitol street; thence with Capitol street to its intersection with Slack street and Piedmont road, and in a continuous straight line to Upper Sunset drive in the Capitol Hill properties; thence with Upper Sunset drive in an easterly direction, in a point in the east line of the Capitol Hill property near the southeast corner of lot one, block one, Capitol Hill; thence southerly with the east line of Capitol Hill property to Piedmont road; thence with Pied-

mont road to Brooks street; thence with Brooks street to the intersection of Brooks and Lee streets; thence with Lee street to Capitol street, the place of beginning.

Twelfth Ward

The twelfth ward shall include the following territory: Beginning at the intersection of Lee and Brooks streets: thence with Brooks street to Piedmont road; thence with Piedmont road to the east line of the Capitol Hill property; thence with the east line of the Capitol Hill property to the northeast corner of lot one, block one, Capitol Hill; thence in a straight line to the southwest corner of lot thirteen of the Jeffries Hill land; thence by a straight line to the intersection of Piedmont road and Richard street; thence with Piedmont road to the east line of the Richard addition; thence with the east line of the Richard addition and an alley to Hansford street; thence with Hansford street to Beauregard street extended; thence with Beauregard street to Lee street; thence with Lee street to Brooks street, the place of beginning.

Thirteenth Ward

The thirteenth ward shall include the following territory: Beginning at the intersection of Beauregard and Lee streets; thence with Beauregard street extended to Hansford street; thence westerly with Hansford street to an alley; thence with an alley and the east side of the Richard addition to Piedmont road; thence with Piedmont road to Richard street; thence in a straight line to the southwest corner of lot thirteen of the Jeffries Hill land; thence in a straight line to the northwest corner of the East Woodland addition; thence with the north line of the East Woodland addition to East Woodland drive; thence with East Woodland drive to a point in the line between lots twenty-four and twenty-five, of the Bowen addition, extended; thence with the line between lots twenty-four and twenty-five and between lots six and seven of the Bowen addition to Piedmont road and Elizabeth street; thence with Elizabeth street to Lee street; thence with Lee street to Beauregard street, the place of beginning.

Fourteenth Ward

The fourteenth ward shall include the following territory: Beginning at the intersection of Ruffner avenue and Lee street; thence following Lee street to Elizabeth street; thence with Elizabeth street to Piedmont road; thence with the line, between lots six and seven and twenty-four and twenty-five of the Bowen addition, extended to East Woodland drive; thence with East Woodland drive to the north line of the East Woodland addition; thence with the north line of the East Woodland addition to the northeast corner thereof; thence east crossing Ruffner hollow drive to a point two hundred feet east of Ruffner hollow drive; thence in a southerly direction two hundred feet east of and parallel to Ruffner hollow drive to a point two hundred feet from Piedmont road; thence in an easterly direction parallel with the Piedmont road and two hundred feet northeast of same to a point in the west line extended of lot forty-four of the Floyd addition to the City of Charleston; thence in a northeasterly direction to the southwest corner of lot two of the Floyd addition; thence in a northerly direction following the back line of lots two to thirty-six, inclusive, of the Floyd addition to the northwest corner of lot thirty-six of the Floyd addition; thence in a southeasterly direction following the northeast line of Floyd's addition to the northwest corner of lot thirty-seven of the Floyd addition, also corner to a lot owned by L. E. McWhorter, thence in a northeast direction to a pine tree at the north corner of the said L. E. McWhorter lot; thence in a southeast direction to the northeast corner of lot three hundred and ninety-four of the Riverview addition; thence following the westerly line of Lower Way to Wilson Way; thence following the westerly line of Wilson Way to the southeast corner of lot fifty to the Riverview addition; thence in a southeasterly direction to the northwest corner of lot sixty-five of the Riverview addition; thence following the south line of Midway easterly, to the northeast corner of lot seventy; thence following the east line of lot seventy extended to low water mark of the Kanawha river; thence with low water mark of Kanawha river to the end of Ruffner avenue; thence with Ruffner avenue to place of beginning.

Fifteenth Ward

The fifteenth ward shall include the following territory: Beginning at low water mark of Kanawha river at Porter's hollow; thence up Porter's hollow in a southwesterly direction to the south side of the Chesapeake and Ohio right of way; thence easterly with the Chesapeake and Ohio right of way to the west side of the Loudon Heights subdivision; thence southerly with the west side of the Loudon Heights addition to the corporation line; thence southerly and westerly with the corporation line to low water mark of the Kanawha river at the mouth of Ferry branch; thence with low water mark on the south side of Kanawha river to the mouth of Porter's hollow, the place of beginning.

Sixteenth Ward

The sixteenth ward shall include the following territory: Beginning at low water mark of Kanawha river at the mouth of Porter's hollow; thence up Kanawha river at low water mark on the south side thereof to Ninth street in Kanawha City; thence with Ninth street extended to a point five hundred feet south of the Chesapeake and Ohio right of way; thence westerly five hundred feet from and parallel to the Chesapeake and Ohio railroad to a point in the west line of the Loudon Heights addition; thence northerly with the west line of Loudon Heights addition to the south side of the Chesapeake and Ohio right of way; thence westerly with the Chesapeake and Ohio right of way to Porter's hollow; thence northerly with the branch in Porter's hollow to low water mark of Kanawha river at the mouth of Porter's hollow, the place of beginning.

Seventeenth Ward

The seventeenth ward shall include the following territory: Beginning at the low water mark of the Kanawha river in the east line of Twenty-seventh street, Kanawha City; thence with the east line of Twenty-seventh street extended to a point in the south line of the county road; thence easterly with the south line of the county road to the east line of the school lot; extended to a point five hundred feet south of the Chesapeake and Ohio railroad right of way; thence westerly five hundred feet from and parallel to the Chesapeake and Ohio right of

way to a point in the line of Ninth street extended; thence with the line of Ninth street to low water mark on the south side of Kanawha river; thence up Kanawha river at low water mark to the place of beginning.

Municipal Authorities

Sec. 4. The municipal authorities of the city of Charleston shall consist of four commissioners, who shall constitute a board of affairs and be known as the "Board of Affairs of the City of Charleston," and a city council to be known as the "Council of the City of Charleston," and composed of two members from each ward of the city. The members of the board of affairs shall be elected by the qualified voters of the whole city, and the members of the council shall be elected by the qualified voters of the respective wards of said city, and all such members of the board of affairs and council shall, for the assessment year preceding their respective elections, have been assessed with and paid taxes in the city of Charleston, upon a valuation of at least five hundred dollars worth of real estate or personal property therein, and any person elected to any one of such offices, who has not been so assessed with and paid taxes upon such an amount of property, shall not qualify or enter upon the performance of the duties thereof, and such office shall thereupon become vacant, and shall be filled by a qualified person as provided herein for other vacancies.

Sec. 5. In addition to the municipal authorities mentioned in section four of this act, said city shall have a city clerk, treasurer, city auditor, municipal judge, municipal court clerk, city solicitor, chief of police, chief of fire department, city engineer, superintendent of highways, health commissioner, building inspector, collector, humane officer, jailer, police matron and such number of policemen and firemen as council by ordinance may direct, and such other officers and agents as the board of affairs and council may from time to time create or employ and the board of affairs may in its discretion abolish or consolidate any appointive offices herein mentioned. The selection of all appointive officers named or provided for in this section (and the power to fix their salaries), shall be vested in the board of affairs unless otherwise provided. Salaries of all officers to be appointed by the board of affairs shall be fixed by ordinance,

and in making all appointments authorized by this act, or by any ordinance pursuant to this act it shall be the duty of the board of affairs to make such appointments in such an equitable manner between adherents of the political parties represented on said board of affairs, as will make the representation as near equal in number and in salary as is practicable. No appointment of any officer shall be made, nor shall any vacancy in office be declared, without the affirmative vote of at least three members of the board of affairs unless otherwise specifically provided for herein. The duties, in addition to those prescribed herein, of all appointive officers named or authorized in this act shall be prescribed by the board of affairs.

Corporate Powers

Sec. 6. All the corporate power of said city shall be vested in and exercised by the city council or under its authority, except as otherwise provided in this act.

Sec. 7. The council of said city shall have, and is hereby granted power to have said city surveyed, to lay out, open, vacate, straighten, broaden, change grade of, grade, re-grade, curb, widen, narrow, repair, pave and re-pave streets, alleys, roads, squares, plots, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall, in all cases, have power and authority to assess upon and collect from the property benefitted thereby, such part of the expense thereof as shall be fixed by ordinance except as hereinafter provided, to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and regulate the use thereof and driving thereon, and to have the same kept free from obstruction, pollution or debris on or over them; to have the right to control all bridges within said city, and the traffic thereover; to change the name of any street, avenue or road within said city, and regulate and cause the numbering and re-numbering of houses on any street, avenue or road therein; to regulate the naming of streets, avenues and public places; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing, re-curbing, paving, re-paving, and repairing of sidewalks and footways for public use in said city to be done and kept clean

and in good order by the owners of adjacent property; to enter into a contract with the county of Kanawha, or any internal improvement company for the joint ownership of any bridge by the city and such county or company, upon such terms as may be prescribed in the contract, but any such bridge shall be a public highway and the interest of the company, county and city shall be only such proportionate part thereof as it may pay for or that may be named in the contract; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, fortune tellers, palmists, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine the bringing into the city by railroads, buses, steamboats, airplanes, or other carriers of persons known to be paupers, dangerous or objectionable characters or afflicted with contagious diseases; to control and suppress disorderly houses of prostitution or ill-fame, houses of assignation and gaming houses or any part thereof, to punish those guilty of unlawfully possessing, transporting or selling intoxicating liquors and to confiscate all automobiles, cars, wagons, boats, water and aircraft, beasts of burden and vehicles of any kind in connection with which intoxicating liquors are unlawfully had, kept or possessed for the purpose of sale, transportation or carrying in any way within the city, to punish those engaged in gaming and to suppress all gaming and gambling houses, and all places where gambling or betting is in any way carried on or permitted, and to punish all persons in any way connected therewith; to provide for the entry into and the examination of all dwellings, lots, yards, enclosures, buildings and structures, cars, boats and vehicles of every description, and to ascertain and regulate their condition as to health, cleanliness or safety; to regulate the building and maintenance of party walls, partition fences or lines, fire-walls, fire places, chimneys, boilers, smoke stacks and stove pipes; to provide for and regulate the safe construction, inspection and repairs of all public and private buildings, bridges, basements, culverts, sewers, or other buildings or structures of any description; to take down and remove, or make safe and secure, any and all buildings, walls, structures or super-structures at the expense of the owners thereof, that are or may become dangerous, or to require the owners or their

agents to take down and remove them or put them in a safe and sound condition at their own expense; to regulate, restrain or prohibit the erection of wooden or other buildings within the city; to regulate the height, construction and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings already erected or hereafter erected in said city, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to the building inspector; to regulate the limit within which it shall be lawful to erect any steps, porticos, bay windows, show windows, awnings, signs, columns, piers or other projection or structural ornaments of any kind for the houses or buildings fronting on any street of said city; to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; to require, regulate and control the construction of fire escapes for any building or other structures in said city; to control the opening and construction of ditches, drains, sewers, cess-pools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to fill, close or abolish the same and to determine at whose expense the same shall be done; and to build and maintain fire station houses, crematories, jails, lockups, and other buildings, police stations and police courts, and to regulate the management thereof; to acquire, establish, lay off, appropriate, regulate, maintain and control public grounds, squares and parks, hospitals, market houses, city buildings, airports, libraries and other educational or charitable institutions, either within or without the city limits, and when the council determines that any real estate, rights, or materials in or out of the city are necessary to be acquired by said city for any such city purpose, or for any public purpose, or is necessary in the exercise of its powers herein granted, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof, whether said property be in or out of said city, in the same manner, to the same extent, and upon the same conditions as such power is conferred upon public service corporations by chapter fifty-four of the official code of West Virginia, one thousand nine hundred thirty-one, as it is now or may here-

after be amended; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate deemed proper for the use of such city; and for the protection of the public to cause the removal of unsafe walls, structures or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances and to that end and thereabout to summon witnesses and hear testimony; to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles, and to regulate the transportation of same through streets, alleys and public places; to regulate, restrain or prohibit the erection or maintaining of tank farms, storage tanks, filling stations, gasoline sales stations, wagons, trucks, tanks or other building, structure, or vehicle for the sale or transportation of gasoline, gas, oils, benzine, or other like inflammable substances within the city of Charleston, or the storage of same in large quantities, to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks, and all noises or performances which may be dangerous, indecent or annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, in or out of the city, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees, shrubbery, grass, flowers and other ornamentations, and the protection of the same; to provide for the poor of the city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks and alleys by street cars, foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, and to regulate the running and operation of the same so as to prevent obstruction thereon, encroachment thereto, injury, inconvenience or annoyance to the public; and to regulate fares and operation of motor vehicles, used in the public transportation of passengers or property for hire; to purchase or otherwise secure life, health or accident policies on the group or other convenient plan upon the members of the city police force and fire department, and as an element of compensation of such members may appropriate the money necessary to defray the cost thereof; whenever in its opinion

the safety of the public so requires, to authorize or require by ordinance any railroad company operating railroad tracks upon or across any public street or streets of the city, to construct and maintain overhead or undergrade crossings wherever the tracks of said company are laid upon or across the public streets of such city, and to apportion between any such railroad company and said city, pursuant to general law, the cost of such construction and maintenance, and the cost of the acquisition of the necessary property and rights of way, and the damages to abutting properties, between any such railroad company and city; to prohibit cock and dog fighting; to license, tax, regulate or prohibit theatres, moving pictures, circuses, and exhibition of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, carnivals, menageries and musical exhibitions and performances, and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and departments, and to provide necessary apparatus, engines and implements for the same and to regulate all matters pertaining to the prevention and extinguishing of fires; to make proper regulations for guarding against danger and damage from fires, water or other elements; to regulate and control the kind and manner of plumbing and electric wiring, the operation and height of flying of airplanes, hydroplanes, airships and balloons; to regulate wireless stations, radio stations, the use of radio receiving sets or any other radio apparatus and other appliances for the protection of the health, comfort and safety of said city; to levy taxes on property and licenses, to license and tax dogs and other animals and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business of its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof and other things, through the streets, alleys and public places; to have the right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for

holding the same, and what shall be sold in such markets, and to let stalls or apartments and regulate the same; to acquire and hold property for market purposes; to regulate the placing of signs, billboards, posters and advertising on or over the streets, alleys, sidewalks and public grounds of said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous or dangerous drugs; to license and collect a tax upon all persons or places where brewed, vinous or distilled liquors are dispensed under authority of state law; to appoint and fix the places of holding city elections; to erect, own, lease, authorize or prohibit the erection of gas works, electric light works or water works, ferry boats, in or near the city, and to operate the same, and to sell the product of services therefrom and to do any and all things necessary and incidental to the conduct of such business; to build, hold, purchase, own and operate toll bridges; to employ or enter into an agreement with the county of Kanawha, whereby the council and the county court of Kanawha county shall have the power and authority to provide for a full time health officer in charge of all the general health and sanitation activities and of the enforcement of all laws and regulations relating to public health, in the city of Charleston and the county of Kanawha, and to provide for the necessary assistants, nurses, clerks, and other employees, and the expenses of the administration thereof, and to provide for a proper division of all such expenses between the city and county, and make all needful rules and regulations to fully carry into effect the said joint undertaking between the city of Charleston and the county of Kanawha; to provide for the purity of water, milk, meats and provisions offered or exposed for sale in said city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale; and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk, containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city, and to prohibit the sale of any articles deemed unwholesome, and to condemn the same or destroy or abate it as a

nuisance; to provide for the regulation of public processions so as to prevent interference with public traffic, and to promote the good order of the city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality, cleanliness, comfort and good order of the city and its inhabitants; and to protect places of divine worship in and about the premises where held, and to punish violations of all ordinances, even though the offenses under and against the same shall also constitute offenses under the laws of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of payment of fines, penalties or costs under this act, who are otherwise unable to discharge the same, by putting them to work for the benefit of the city upon the streets or other places in or out of the city provided by said city, and to use such means to prevent their escape while at work as the council may deem expedient; and the council may fix a reasonable rate per day as wages to be allowed such persons until the fine and costs against them are thereby discharged; to compel the attendance at public meetings of the members of the council; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter eight of the code of West Virginia, edition of one thousand nine hundred thirty-one.

For all such purposes, except that of taxation and for purposes otherwise limited by this act, the council and board of affairs shall have jurisdiction for one mile beyond the corporate limits.

And the council shall have the right to establish, construct and maintain public markets, landing ferries, wharves, parking places and docks on any ground which does or shall belong to said city, or which it shall acquire, by purchase or otherwise, and to sell, release, repair, alter or remove any public markets, landings, ferries, wharves, dikes, buildings or docks which have been or shall be so constructed, and to levy and collect reasonable duty on vessels and other craft coming to or using said landings, ferries, wharves, dikes, docks, parking places and buildings, and to preserve and protect the peace and good order at the same, and upon all rivers within the corporate limits aforesaid, and regulate the manner in which they shall be used; and to have the sole right, under state laws and in

the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits of said city.

To carry into effect these enumerated powers and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the council of said city shall have the power in the manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment in the city lock-up, jail or station house, and to work prisoners found guilty, as the council may prescribe, and market the products of such labor, and with the consent of the county court of Kanawha county, entered of record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs.

Sec. 8. The council of the city of Charleston shall have full discretion in the matter of granting, refusing and revoking licenses for keeping hotels, eating houses and restaurants, garages, taxi-cab stands, bowling alleys, pool and billiard tables and like tables, and for selling soft drinks, and for brewed, vinous, or distilled beverages or liquors, when sold or dispensed under authority of the laws of West Virginia, as in the case of other licenses, and shall supervise, regulate and control all places licensed for said purposes, and the municipal judge shall have jurisdiction when such city license and regulation is sought to be evaded and may prevent such evasion: *Provided*, That no such license, regulation or control shall apply to any fraternal or wholly charitable society permitted under the state laws. The council shall make no provision for the licensing of automobiles or other motor vehicles, except that in the case of motor vehicles used in the transportation of passengers or property for hire the council may require from the owner or operator of any such vehicle a bond, with sureties, and in such penalty, and with such conditions as it may deem proper. The council shall have power to enact and enforce proper ordinances for the purpose of carrying into effect the powers hereby granted.

If any person fails or refuses to secure a license or to pay any license tax due the city, or fails to obtain a permit to do anything for which a permit is required by ordinance, in addition

to all other penalties and remedies provided by the ordinances of the city, the circuit court of Kanawha county and the court of common pleas of Kanawha county, or the respective judge thereof, in vacation, upon application in the name of the city or of any officer of the city, shall grant an injunction, inhibiting such person from continuing the business until the full amount of the license tax and penalty prescribed by the ordinance and due the city is paid, or until the person has obtained the license or permit as required by ordinance.

Sec. 9. The council of the city of Charleston is hereby granted power, in addition to the powers heretofore granted it, to regulate by ordinance the operation of motor vehicles and other vehicles in said city, and the speed at which the same may be driven, and to provide for the punishment of violations of such ordinances; and said council is given specific authority to punish the violation of ordinances relating to the speed of such vehicles, or the operation thereof, by impounding or taking possession of such vehicles and retaining the same for such time as may be prescribed by ordinance not to exceed thirty days.

Registration—Voters—Elections

Sec. 10. Every person qualified by law to vote for members of the legislature of this state (and who shall have been a resident of said city for sixty days preceding the day of election, of the ward in which he offers to vote at least ten days preceding such day and a bona fide resident of the election precinct in which he offers to vote) shall be entitled to vote at all elections held in said city by or under the authority and control thereof.

Sec. 11. The voting precincts in the several wards for all city elections shall be the same as to boundaries as those fixed by the county court for all state and county elections, so long as no precinct as so fixed by the county court embraces territory of more than one ward in said city. So long as the voting precincts in the several wards shall be the same as those so fixed by the county court, then the registration of voters made under the general law concerning the registration of voters shall be the registration of voters, used for all city regular elections with such corrections as are herein provided for, and it shall not be necessary to have a special registration of voters for any special election, but the registration of voters for the last preceding city regular election with such corrections as are herein pro-

vided for, shall be the proper registration for such special election. For all regular elections held hereunder, except for the first election, and except for the referendum election held hereunder as is provided for herein, the council shall elect two persons, one being a member of each of the two leading political parties in said city, having all the qualifications of commissioners of election under chapter three of the code of West Virginia as city registrars. The city executive committee of each of such political parties may present to the council a writing signed by the chairman of the committee of each party requesting the appointment of a qualified voter of his political party as registrar with his city address, and in case such writing is presented the council shall appoint the person so named as such registrar, except for the first election and except for the referendum election as is provided for herein. They shall take the same oath as other officers of the city take and shall be paid such compensation as the council may fix by ordinance.

They shall sit in the lobby of the city hall on five separate days, being the last four Saturdays and the last Monday preceding any regular election in said city, except for the first election and except for the referendum election as is provided for herein, and also for any special election for three separate days, being the last two Saturdays and the last Monday preceding any special election, except for the first election and except for the referendum election as is provided for herein, for the purpose of registering voters who shall not have been already registered in the various precincts, and for issuing transfers to any voter who has moved from one precinct to another, and for striking off the name of any voter from the registration books when it shall be shown by the affidavits of two persons that he is no longer a voter in said city, and they shall strike off from such registration books the names of any person known by or proved to them to be dead. It shall be the duty of the city clerk to make or have made copies of the registration books on file in the office of the clerk of the county court of Kanawha county at least thirty days before any regular city election except for the first election and except for the referendum election as is provided for herein, and such copies, with such additions and changes as may be made by the city registrars, shall be used for all regular elections and for any special

elections except for the first election and except for the referendum election as is provided for herein, which may be held between said regular elections. Notice of the time and place of sittings of said city registrars shall be given by the publication thereof by the city clerk in two newspapers of opposite politics printed and circulated in said city, once a week for five successive weeks before any general election, except for the first election and except for the referendum election as is provided for herein, if there is sufficient space of time for such purpose, and if not, then for such time as there may be before any special or general election. Before the registrars shall register the name of any person as a qualified voter they must be satisfied of his qualifications and shall have the right and power to require of such persons all the things that may be required of him by the registrars under the state law, and such registrars shall, as to the qualifications of persons to vote, be governed by the state laws on such subject in existence at the time of such registration.

The county clerk of Kanawha county shall carefully preserve in his office the registration books of each general election for all the precincts of the city of Charleston and shall deliver one copy of each thereof to the city clerk of the city of Charleston for the use of the registrars of said city in the performance of their duties as such.

Sec. 12. In the event that the county court of Kanawha county changes the boundary lines of any voting precincts in the city of Charleston so that any of said voting precincts as changed include any of the territory of two or more wards as fixed by law, or if subsequent to the last preceding general county and state election there is an extension of the corporate boundaries of the city of Charleston, then the council may hold a regular or special session not later than the last Monday in January of each year in which a city regular election is to be held, at which meeting the council may by resolution change the boundaries of any of the voting precincts of the city, or in their discretion may establish new precincts, so that all the territory within the corporate limits of the city shall be divided into voting precincts: *Provided,* That the territory within the boundaries of two or more of the wards shall not be within any one voting precinct. The council shall appoint for each voting

precinct so established or changed two competent persons as registrars, one each from the two political parties which at the last regular election cast the highest number of votes in the city of Charleston, but the city executive committee of each of such political parties may present to the council a writing signed by the chairman thereof requesting the appointment of a qualified voter of such political party for each precinct so established or changed, and the council shall appoint the person so named in such writing as registrar.

No person shall be eligible to appointment as registrar, or in any way act as such, who has been convicted of a felony, or who holds any elective or appointive office or position in said city or is an employee under the laws of the state of West Virginia or of the United States or who is not a qualified voter in the precinct for which he is appointed or who can not read and write the English language. If such registrar shall fail or refuse to serve, the vacancy shall be filled either by the council, or in vacation of council by the mayor of the city, in the manner hereinbefore provided for the appointment of registrars, and the city clerk shall immediately after their appointment notify all such persons of appointment as registrars. Such registrars shall before entering upon the discharge of their duties take an oath to support the constitution of the United States, the constitution of West Virginia, and to perform the duties of their office to the best of their ability and that they are legal members of the party for which they are respectively appointed. The said oath shall be filed in the office of the city clerk.

The city clerk shall cause to be prepared suitable books and blanks for the registration of the voters and such books shall be so arranged as required by law for the registration of voters for general elections held in the state of West Virginia and all the provisions, duties and obligations of the code of West Virginia or any act of the Legislature amendatory thereof shall apply to the registration of voters hereunder, except as herein otherwise set out, and the city council shall perform the duties required of the county court by said code, and the city clerk shall perform the duties required of the county clerk by said code.

In all cases where a new registration of voters is required the said registrars shall meet not later than the Wednesday follow-

ing the said last Monday in January and proceed to register the names of all qualified voters in their respective precincts in the manner required herein and in all other respects in the manner provided by chapter three of the code.

Said registrars shall complete said registration on or before the first Tuesday in March of every such election year, and shall deliver the books to the city clerk and council for the purpose of amending, correcting and completing said registration.

In case the county court changes the boundary lines of any voting precincts in the manner set out in the first paragraph of this section more than thirty days prior to a general primary election of the city, the council shall select the registrars as provided in this section and shall fix the time and place of registering the voters in the precincts so changed.

Sec. 13. Candidates to be voted for at municipal elections may be nominated by convention, or primary election, as may be decided by the executive committees of any of the political parties recognized by law in said city, and candidates may be nominated by petition in the manner provided by the code of West Virginia, one thousand nine hundred thirty-one. Each of the political parties having the right to make a nomination under the election laws of West Virginia shall give notice of the manner of such nomination by publication thereof in some daily newspaper printed in the city of Charleston every day for ten days prior to the date of such convention or primary election.

Sec. 14. Whenever the county court of Kanawha county shall arrange the voting precincts in the city of Charleston for state and county elections according to the lines of the city wards, then such precincts with the same boundaries and the same voting places as provided for such state and county elections shall be the precincts for all city elections. Except for the first election hereunder or as may be otherwise provided by this act, all city elections shall be held by commissioners appointed by council and the officers shall be appointed in the way and manner prescribed in the code of West Virginia, one thousand nine hundred thirty-one, but no double election boards shall be appointed for any city election.

Election Commissioners

Sec. 15. The county court of Kanawha county shall hold a regular or special session at the court house of said county on the second Monday preceding the date fixed for the first city election hereunder and shall appoint three qualified voters as commissioners of election for each precinct in said city. They shall be selected from the two political parties which at the last preceding regular state election in said city, cast the highest number of votes and not more than two of them shall belong to the same political party, and if at any time during the said session of the county court, the city executive committee of either political party from which said commissioners of election are to be selected or appointed shall present to the said court a writing signed by them, or by the chairman of said city executive committee in their behalf, requesting the appointment of a qualified voter of their political party and who is otherwise qualified to act as such commissioner of election under the code of West Virginia, one thousand nine hundred thirty-one, it shall be the duty of such court to appoint the person named in such writing as such commissioner, and at all subsequent city elections the commissioners of election shall be appointed by the city council and the committees of the dominant political parties shall have the same right of recommendation as provided for such appointments of commissioners for the first election, and all city elections shall in all other respects be held in the way and manner prescribed in said chapter three of the code of West Virginia, one thousand nine hundred thirty-one. The same precincts with the same boundaries and the same voting places as provided for the last general state election shall be the precincts for the first city election hereunder.

Sec. 16. The preparation of the ballot and the method of voting and all other requirements of chapter three of the code of West Virginia, one thousand nine hundred thirty-one, except as changed or modified by this and later acts, shall govern all city elections held under the provisions hereof.

Council

Sec. 17. The city of Charleston shall have a council, which shall be known and styled as the "Council of the city of Charles-

ton'' and shall consist of two residents of each of the wards of the city, not more than one of whom from each ward of said city shall belong to the same political party, and all of whom shall be nominated, voted for and elected in the manner herein provided.

Sec. 18. Only citizens entitled to vote and residents and voters of their respective wards and having the proper qualifications hereinbefore provided shall be eligible to be elected to the office of councilmen from their respective wards and each councilman so elected from a ward shall during his encumbency in office continue to be a resident of the ward from which he is elected during his entire term of office.

First Election

In the event the vote upon adoption or rejection of this act, as herein provided, shall be in favor of the adoption thereof, then an election is directed to be and shall be held upon the fourth Tuesday following the ascertainment of the result of said election called for adoption or rejection thereof, for the purpose of electing the four members of the board of affairs, as herein provided, and two members of the council from each ward, as herein provided for, and all subsequent elections, except special elections, shall be held every two years thereafter on the third Tuesday in April, of such election year, at which time there shall be elected two members of the council from each ward, as herein provided, and two members of the board of affairs, as herein provided. If any person elected to council or to the board of affairs fails to qualify within twenty days after he is declared elected, or resign as a member of the council, or as a member of the board of affairs, or if any councilman cease to be a resident of the ward from which he is elected, then and in either event, such office shall thereby be vacated and the council shall fill such vacancy by the election of some qualified person of the same political party as the disqualified councilman or member of board of affairs for such unexpired term. No person shall be by the council declared elected unless he receives the votes of at least a majority of the members elected thereto, and the minutes of such meeting shall show that fact.

Candidates—Nominations

Sec. 19. Candidates to be voted for at any municipal election for members of the board of affairs and members of the council, may be nominated by convention, primary or petition in the manner and under the provisions now or hereafter prescribed by state laws relating thereto; and as selected by the executive committee of the respective political parties of said city: *Provided, however,* That for the first election to be held upon the fourth Tuesday following the ascertainment of the result of said election called for adoption or rejection of this act, as herein provided for, no political party shall nominate fewer than two and not more than four persons for the office of member of the board of affairs and not more than two persons from each ward for member of the city council. And thereafter at any election to be held either for electing a member of the board of affairs or to the council, no political party shall nominate more than double the number to be elected to any office. If any certificate of nomination or any petition for nomination of candidates for either the board of affairs or the council shall contain more names than prescribed in this section for such office, then the ballot commissioners shall for the first election to be held under this act, take the first four names for board of affairs as the nominees of such party for said offices and said ballot commissioner shall take the second two names as nominees for council in each ward of the city of the political party casting the larger number of votes for its mayor at the last regular city election and the first four names as nominees for council in each ward of the city of the other party and of the names on other petitions; at any and all subsequent regular city elections held hereunder the ballot commissioners shall take the first two names for board of affairs and the first two names for each party and petition and from each ward of the city for council as the nominees of such party for said office: *And provided further,* That there shall not be printed on any ticket on any ballot to be voted at any municipal election for the election of officers of the city, more names for the office of members of the board of affairs and council than provided for in this section.

In case of the nomination of candidates to be voted for to fill the vacancies on the board of affairs, no political party and no petition shall nominate more than double the number to be

elected, and such nominations shall be certified, and the names of the nominees printed on the ballot, in the manner prescribed herein.

Every person so nominated for member of the board of affairs, shall, within five days after his nomination has been certified by the political party making the nomination, or a petition therefor shall have been filed, make, under oath, and file with the city clerk a statement of the political party to which he claims allegiance, or if he belongs to no party shall so state; and, if nominated by two or more parties, he shall state to which of them he belongs. If such person fail to make the oath, and file the same, as herein prescribed, the ballot commissioners shall not place his name on the ballot to be voted for at the approaching election.

Election and Duties of Board of Affairs, Officers, etc.

Sec. 20. The first election held hereunder shall be held on the fourth Tuesday following the ascertainment of the result of said election called for adoption or rejection hereof, as herein provided for, at which time there shall be elected four members of the board of affairs, not more than two of whom shall be members of the same political party; and, according to the vote received by each, they shall be divided into two classes, and not more than one member of each class shall or can belong to the same political party. The two members of the board of affairs receiving the highest number of votes of opposite political parties, except as herein otherwise provided, shall belong to class "A" and shall serve for four years, or until their successors are elected and qualified; and the two members of said board of affairs of opposite political parties receiving the next highest number of votes, except as herein otherwise provided, shall belong to class "B" and shall serve for two years, or until their successors shall be elected and qualified. And, at every city election thereafter there shall be elected two members of the board of affairs, not more than one of whom shall be a member of the same political party, who shall serve for four years or until their successor shall be elected and qualified. The candidate for member of board of affairs who shall, at the first election provided for herein, receive the highest number of votes cast, of the four elected members of the board of affairs at the first election of officers provided for herein, shall thereby then and there be and become mayor of said city; and if at such first

election, or if at any subsequent election at which a mayor is to be elected, as provided for herein, two or more persons shall receive the highest and the same number of votes for member of the board of affairs, then and in that event the council at its first meeting, in case of the first election of officers hereunder, and thereafter, the council then in office at its first meeting next succeeding the election, shall immediately elect one of them as mayor and the mayor thus elected and his successors shall hold office as such for a period of four years, or until his successor is elected and has qualified, as provided for herein. At every second election next following the first election hereunder, which shall also be a regular election, as provided for herein, the candidate for the board of affairs who shall receive the highest number of votes shall be and become mayor and the other elected member of the board of affairs at such election shall become a member of class "A" of said board of affairs. There cannot and shall not be elected to class "A" or class "B" more than one person each of the same political party, and in case of a tie neither party shall have more than one person in any party in either of said classes. In the event the office of mayor, as created herein, shall become vacant, then and in such event the remaining member of the board of affairs of class "A" automatically shall be and become mayor and the class "A" vacancy in the board of affairs shall be filled by the election of a qualified person from the political party not at the time represented in class "A" of the board of affairs. In the event of any other vacancy in the board of affairs then and in such event such vacancy shall be properly filled by the election of a qualified person from the proper political party, so that the same political party shall have the same representation, upon said board of affairs, as existed before such vacancy was created, such vacancy being filled in any and every such event by election by the city council to be held on the second Monday following the day such vacancy occurs. In any and every such election to fill any and every such vacancy in the board of affairs, a majority of the votes of the council elected shall be necessary to elect.

Sec. 21. Vacancies occurring in the city council shall be filled by the election of qualified persons so that the wards shall have the same political party representation as existed before such vacancies occurred. The election of such members of the city

council to fill such vacancies shall be by a majority of the votes cast by the city executive committee entitled to fill such vacancies and a certificate filed by the chairman of such executive committee shall be prima facie evidence of the bona fides and result of any such election; but it shall be unlawful to fill any vacancy on the board of affairs with any person not of the same political party as the person whose vacancy is being filled, and it shall be unlawful, by election, appointment or otherwise, for the board of affairs, at any time, to be composed of more than two members of the same political party. The circuit court of Kanawha county shall have jurisdiction by prohibition, mandamus, and injunction, at the suit of not less than twenty-five taxpayers of the city, to restrain and prohibit any official or governing body from violating this section and to compel and to command any official or governing body to enforce and faithfully observe the provisions of this section; and in any such proceeding such court may inquire into the politics of any person elected or appointed, so that neither by deceit, misrepresentation, false pretense, or subterfuge, may the provisions of this section be violated.

Departments of City Government

Sec. 22. In order to better dispatch the business of the city, and assign more in detail the duties of the members of the board of affairs, the government of said city is hereby divided into four departments, to-wit:

1. Department of finance, embracing the departments of finance, taxation and public utilities.

2. Department of public safety, embracing the departments of law, fire, public buildings and grounds.

3. Department of police, embracing the department of police, health and charity.

4. Department of streets, embracing the department of streets, wharves and sewers.

The mayor, at the first regular meeting of the board of affairs following their election and qualification, shall designate himself and each of the other members as the head of one of the said departments of government, and the members thus designated shall be styled the commissioner of that department, to-wit:

1. "Commissioner of finance."

2. "Commissioner of public safety."

3. "Commissioner of police."
4. "Commissioner of streets."

And the member of board of affairs, so designated by the mayor, shall have the immediate care and supervision of the department of city government designated to him but subject always to the control or orders of the board of affairs. The business, and the labors incident thereto, of each of the departments shall be that which properly falls within the scope of the particular department, but which, in details may be fixed from time to time by the board of affairs. The head of each department shall see to the performance of all business coming within his department, or which may be referred to his department or to any officer thereunder from time to time, but no member of the board of affairs, either as a commissioner of a department or otherwise, shall employ or hire any one to do any service nor shall he make any appointment except with the consent and authority of the board of affairs. The board of affairs shall, by resolution, fix the salaries of all appointive officers which shall be subject to the approval of the council as herein provided; but laborers by the day and those doing special work may be paid by the board of affairs without the necessity of concurrence by the city council.

The commissioner of each department shall keep a public office at which he may be found or communicated with during stated hours to be fixed by him or the board of affairs, unless his official duties call him elsewhere; and the board of affairs shall make proper rules and regulations for its own government and the conduct of its business, which rules shall not be contrary to nor inconsistent with any of the provisions of this act, and such rules shall be duly entered of record and shall be published in any municipal code or other publication made by the city council. Such rules shall prescribe the powers and duties of each member of the board of affairs or commissioners.

Meetings of Board to be Public

Sec. 23. The board of affairs shall have at least one regular public meeting each week at some place provided for that purpose, and on a stated day and at an hour fixed by the rules governing the board.

Sec. 24. Special meetings of the board may be called by the mayor or any two members of the board by personal notice

given to the other members thereof, stating the time and object of the meeting; and no business except that stated in said notice shall be considered or acted upon at said meeting. All meetings of the board shall be open to the public and at the place provided for regular meetings.

Sec. 25. A majority of the whole number of members elected to the board of affairs and a majority of the whole number of members elected to council shall constitute a quorum for the transaction of business before said respective bodies, but a smaller number in either body may adjourn from time to time and may compel the attendance of absent members, in such manner and under such penalties, as either body may by rules provide.

How Vote Taken

Sec. 26. Unless otherwise herein provided, the vote upon any question or motion before the board of affairs or city council may be *viva voce* when unanimous; but if the question or motion does not receive the unanimous vote of the members present, then the vote shall be taken by roll call of the members and made a part of the minutes of the meeting, and when the vote is unanimous the minutes shall so state.

City Clerk

Sec. 27. The city clerk shall be ex officio clerk of the board of affairs. Such board shall cause detailed minutes of its meetings and proceedings to be kept by the clerk in a well bound book for that purpose, which shall remain in the custody of the clerk at his office and open to public inspection. The minutes of every regular or special meeting shall be read publicly at the next succeeding regular meeting of the board, and, after being corrected, shall be signed by the mayor and the city clerk, and, if thus recorded and signed, they shall be admitted as evidence in any court of record in this state. They shall read publicly all recommendations of council since the last meeting and preserve and file the same.

Cannot Hold Any Other Office

Sec. 28. A member of the board of affairs shall not hold any other city office, except as prescribed in this act, nor be an em-

ployee of the city in any other capacity for compensation, nor hold any other office, with or without compensation, which may interfere with the faithful discharge of his duties as member of the board of affairs.

Sec. 29. No appointive officer of the city shall hold two offices with the city at the same time, nor become the employee of the city in any other capacity, than the one in which he was appointed, without first having the consent of the board of affairs. All appointive officers, except those under civil service, shall hold for a term of two years unless sooner removed by and at the pleasure of the board of affairs, and until their successors are appointed and qualified, and not more than one appointee shall be from the same family or related in any way to another appointee.

Eligibility and Salaries

Sec. 30. The salaries of the members of the board of affairs shall be determined by the city council, but in no case shall the salary of any member of the board be more than fifteen hundred dollars per annum. Whenever the board of affairs shall for a period of thirty days fail to make their appointments of all appointive officers, each member shall forfeit his salary thereafter, and until such appointments shall be made, and all disbursing and accounting officers shall take official notice of such failure to make such appointments, and no order, warrant, check or draft shall be issued for such salary so forfeited.

Sec. 31. Any member of the board of affairs, or council or any officer connected with the city government pursuant to any law of this state or ordinance of the city now or hereafter passed, and who shall, in his official capacity or under color of his office, knowingly or wilfully, or corruptly vote for, assent to or report in favor of, or allow, or certify for allowance, any contract or claim or demand against the city, which claim or demand shall be on account or under color of any contract or agreement not authorized by or in pursuance of the provisions of this act or the ordinances of the city, or any claim or demand against the city which claim or demand or any part thereof, shall be for work not performed for and by authority of said city, or by the board of affairs, or for the supplies or materials not actually furnished thereto pursuant to law or ordinance, and every such

member or officer as aforesaid who shall knowingly vote for, assent to, assist or otherwise permit, or aid, in the disbursement or disposition of any money or property belonging to the city to any other than the specific use or purpose for which such money or property shall be or shall have been received or appropriated or collected or authorized by law to be collected, and disbursed shall upon conviction thereof, be punished by imprisonment in the county jail for not more than one year or by fine of not less than five hundred dollars, nor more than two thousand dollars, or by both. But the board of affairs shall pay any just obligations made by the city and keep and perform all contracts, agreements and obligations made under the law as it was the day before this act goes into effect, and for which and on which the city is liable or obligated when the board of affairs herein provided for goes into office.

Attendance of Witnesses, Punishing Contempts, etc.

Sec. 32. The board of affairs and the council in the exercise of their respective powers and the performance of their respective duties, as prescribed by this act and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties, as notaries public, justices of the peace and other officers of the state authorized to administer oaths under state laws; and said board of affairs and said council shall have such power to punish for contempt as is conferred on county courts by section six, article one of chapter seven of the code of West Virginia, one thousand nine hundred thirty-one. All process necessary to enforce the powers conferred by this act on the board of affairs and council shall be signed by the mayor (or acting mayor) and shall be executed by any member of the police force.

Sec. 33. The mayor shall be the presiding officer of the council and be a member thereof, with the right to vote on all questions the same as any other member of said council, and the city clerk shall be ex officio clerk of the council, and the mayor and city clerk shall each perform such other proper duties as the council may require of them. The council shall, at its first meeting after each election, select one of its body as president pro

tempore, who shall in the absence of the mayor, preside as chairman of the meeting of the council, and in the absence of both the mayor and president pro tempore at any meeting of the council, some member of the council shall be elected to preside over such meeting.

Sec. 34. Whenever by the extension of the corporate boundaries of the city a new ward is created as part of the city, such new ward shall have representation in the city council and within thirty days after the act creating such new ward takes effect, the council shall proceed to elect two qualified residents thereof, not more than one of whom shall belong to the same political party, as members of said council, to hold office until the next general election.

Sec. 35. The council shall exercise all of the legislative functions of the city government and shall have the right to demand of any city official, or employee, information, explanations, facts, details, correspondence, or other papers affecting the city's interest; and it shall be misfeasance and neglect of duty for any such official or employee to fail or refuse to comply with such demands.

Auditing of Books

Sec. 36. The council shall by proper ordinance provide for the auditing of all the books and accounts of the city at least once in each year, and shall employ a reputable certified public accountant for such purpose, and such audit shall show the complete financial condition of the city at the time thereof and the receipts and disbursements of all moneys during such year. The council may also provide by ordinance for the publication of the report of the accountant on the financial condition of the city at least once in each year, and such report of the accountant shall be spread upon the records of the council and be a public record for all purposes.

Removal from Office

Sec. 37. Any member of the board of affairs or of the council, and any city official, either elected or appointed, may be removed from his office by the council for any of the following causes: Official misconduct, incompetence, habitual drunkenness, neglect of duty, or gross immorality. The charges against any such officer

shall be reduced to writing and entered of record by the council, and a summons shall thereupon be issued by the city clerk containing a copy of the charges and requiring the officer named therein to appear and answer the same on a day to be named therein, which summons may be served in the same manner as a summons commencing an action may be served, and the service must be made at least five days before the return day thereof, and it shall require the affirmative vote of two-thirds of all the members elected to council to remove any such official. The circuit court of Kanawha county shall have concurrent jurisdiction with the council to try, hear and determine any proceedings for the removal of any city official for any of the causes herein mentioned. The board of affairs, or any city official having the power of appointment hereunder, shall have the absolute right in his discretion to remove any of its or his appointees and appoint another qualified person in his place, but such removal shall be in writing and served upon said official so removed, and all the rights and powers of such official shall cease and end from the time of such service.

Rules and Records of Council

Sec. 38. The council shall make proper rules and regulations for its own government and the conduct of its business, which rules shall not be contrary to, or inconsistent with, any of the provisions of this act, and such rules shall be duly entered of record and shall be published by the council in any municipal code or other publication made by the council of this act and the ordinances of said city. The council shall cause a record of its meetings to be kept and recorded by the city clerk in a well bound book provided by the council for that purpose, which book shall remain in the custody and at the office of the city clerk, and all the books containing the proceedings of former councils or other governing bodies of the city of Charleston, shall likewise remain in the custody and be kept at the office of the city clerk, and all city records shall at reasonable hours and in a reasonable manner be open to the inspection of the public.

Meetings of Council

Sec. 39. The council shall hold regular meetings on the first and third Mondays of each month, and the hour and place of

such meetings shall be fixed by the council in the rules adopted by it.

Sec. 40. Special meetings of the council shall be held when called by the mayor or ten members thereof. In either case, the call therefor shall be in writing and signed by the mayor or members issuing it, and shall state the time, place and business to be considered thereat, and a copy thereof shall be served upon each member of the council then in the city, and also be published on two successive days in two daily newspapers printed and circulated therein. No business, other than that stated in such call, shall be considered at such meeting.

Contested Elections

Sec. 41. All contested elections shall be held and determined by the council and such contests shall be made and conducted in the same manner as provided for in the case of contests for county and district officers; and the council shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases, and there shall be the same right of appeal, in the same way, to the circuit court of Kanawha county.

Oaths and Bonds of Officers

Sec. 42. All officers elected and appointed shall take an oath, before some one authorized to administer oaths, that they will support the constitution of this state, and will faithfully and impartially discharge the duties of their respective offices to the best of their skill and judgment; that they are not then and will not during their term of office, in any way or manner become pecuniarily interested directly or indirectly in any contract with the city, in any franchise granted by it, or in the purchase of supplies therefor. When the officer shall have made such oath in writing and filed the same with the city clerk and shall have given the bond required of him, he shall be considered as having qualified for the office to which he was elected or appointed: *Provided,* That if any person so elected or appointed shall not qualify for said office as herein prescribed, within twenty days after he shall have been officially declared elected or appointed thereto, said office shall *ipso facto* become vacant,

and said vacancy shall be filled in the same manner as other vacancies therein are provided for in this act.

Bond of Officers

Sec. 43. The members of the board of affairs, city clerk, municipal court clerk, treasurer, city solicitor, municipal judge, health commissioner, chief of police and chief of fire department, each shall, before entering upon the discharge of their respective duties, give an official bond, conditioned for the faithful performance of such duties as are prescribed in this act or any ordinance now or hereafter passed, in amounts as follows: The members of the board of affairs, five thousand dollars; the treasurer, sixty thousand dollars; the city clerk, municipal court clerk, municipal judge and city solicitor, three thousand dollars, respectively; health commissioner, chief of police and chief of fire department, one thousand dollars respectively.

The council may require additional bond from any of said appointive officers, and may likewise require bond, in whatever sum they may fix, of any other appointive officer or employee. All bonds of officers or employees shall, before their acceptance, be approved by the council. The minutes of the meeting of council shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted, they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be prima facie proof of their correctness, and they, as so recorded, as well as copies thereof duly attested by the city clerk under the seal of the city, shall be admitted as evidence in all courts of this state. The city clerk shall be the custodian of all bonds, except that given by him, and as to it, the city treasurer shall be custodian. All bonds, obligations or other writings taken in pursuance of any provisions of this act, shall be made payable to "the city of Charleston," and the respective persons, and their heirs, executors, administrators and assigns bound thereby shall be subject to the same proceedings on said bonds, obligations and other writings, for the purpose of enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record held in and for the county of Kanawha, that collectors of county

levies and their sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Sec. 44. Whenever for any reason the mayor shall be absent from the city, or unable to attend to the duties of his office temporarily, the board of affairs shall designate another member of the board of affairs to perform them during such absence or inability, except those duties assigned to him as presiding officer of the council, and in the absence or inability of the manager to attend to the duties of his office temporarily, the board of affairs shall designate some one to perform such duties: *Provided,* That such temporary absence or inability shall not exceed thirty days, but if such absence or inability shall exceed thirty days, then such appointment or designation shall be submitted to the council, for confirmation or rejection. In the absence or inability of any other appointive city official to perform the duties of his office, the person or body making the original appointment, or his successor in office, shall designate some one to fill such office temporarily or if such absence or inability extends over a period of sixty days, he may appoint someone to fill such office permanently.

Board's Appointments

Sec. 45. The board of affairs shall appoint the city solicitor, treasurer, the chief of police, humane officer, or officers, building inspector, collector, city auditor, engineer, health commissioner, jailer, municipal court clerk, municipal judge, police matron, and a chief of the fire department and these appointments shall not require any confirmation by the council, but shall be made at the discretion of the board of affairs who shall, with like discretion, have the full and complete power of removal thereof.

The council shall appoint a city clerk. The board of affairs shall appoint or employ such 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 this 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 board of affairs to see that all of the laws and ordinances of the city are enforced and they shall have a general supervision over the peace, health and good order of the city.

The duties of the city solicitor shall be to attend the sessions of the police court and council, and to prosecute all suits in behalf of the city and defend all suits against the city, to advise the board of affairs, council, and all of the departments of the city and in general to look after the interests of the city when it shall need legal services.

All fees of every kind collected by any officer or employee, including the municipal judge when acting as a justice, shall be paid to the city treasurer each day and a monthly report thereof made to the board of affairs.

Franchises

Sec. 46. Franchises or permits granting the right of occupancy of any portion of the streets or alleys for works of public utility or other use, or granting any right or privilege, which the city has the power to grant to individuals, firms or corporations, in order that the latter may serve the public, may be made only upon the following restrictions and conditions: Such franchises, rights and privileges shall be granted only by ordinance duly passed by the council.

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

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

be made subject to the conditions thereof, including a time limit for a period not exceeding twenty-five years. All franchises hereafter granted shall embody therein a plainly expressed condition, where the franchise is for work to be useful chiefly to the citizens of the city, that at the expiration of such franchise or certain periods therein mentioned, the grantee shall, if required by the governing body of the city, sell to the city the plant at its actual value, exclusive of any value for the franchise granted by the city or its earning capacity or productive worth, and no exclusive franchise shall be granted.

If the city and the owner of the plant cannot agree upon its worth, then the value shall be ascertained by an impartial arbitration, one arbitrator to be selected by the city, one by such owner of the plant, these two to select a third and the decision of any two to be binding upon both parties, and if they shall fail for a period of thirty days to select such third arbitrator, then either party may apply to the judge of the circuit court of Kanawha county who shall then appoint such third arbitrator.

No franchise shall be granted without the affirmative vote of two-thirds of all the members elected to said council, and at least three members of the board of affairs, and said vote shall be recorded.

Sec. 47. When any franchise, permit or license granting the rights to use the streets, alleys, or public grounds, shall be applied for, the application or petition shall be advertised in two newspapers, published in said city, thirty days before the same shall be heard and determined by the council; and any ordinance granting such rights and franchises shall, on the petition of ten per cent of the votes cast for all candidates for the office of mayor at the last preceding election, be submitted to the voters at a special election, for adoption or rejection, which shall be by a majority of the votes cast; said election to be held and conducted as other municipal elections are held; except that all of the expenses of said election shall be borne by the party or corporation desiring said rights and franchise.

All such ordinances shall protect the interests of the city, as provided herein, as well as such additional conditions, compensations or limitations as council may prescribe.

Sec. 48. The city council shall have the right to appoint such committees of its own body as it may deem proper, and may give

such committees power and authority to perform any duties and make any reports to council concerning the duties of council, and council may adjourn its meetings from time to time, pending the consideration of any matter, except as hereinbefore provided, franchise or ordinance, and may postpone the announcement of any vote to an adjourned meeting or to a future meeting.

Ordinances

Sec. 49. The style of all ordinances enacted by the council shall be "Be it ordained by the council of the city of Charleston."

Sec. 50. No ordinance shall be passed, except by bill, and no bill shall be so amended in its passage as to change its original purpose. All bills must be in writing and read in full when presented at a regular or special meeting of council, and except in case of emergency and when so authorized by a vote of four-fifths of the members elected, taken by yeas and nays, no bill shall be considered for final passage at the meeting at which it is introduced; but at any subsequent regular or special meeting bills may be taken up for consideration and final action. No bill, except in case of emergency evidenced by a vote of four-fifths of the members of council elected shall be considered for final passage unless the same has been referred to a committee for report. All amendments made by a committee to a bill shall be reported to council and incorporated in said bill, and before final action on said bill, the bill with any amendments shall be fully and distinctly read, after which reading, whether at the meeting at which the bill is reported or a subsequent meeting, the bill may be considered for final action. No bill shall become an ordinance unless on its final passage the vote be taken, the names of the members voting for and against the same be entered of record in the minutes of council, and a majority of all members elected recorded thereon as voting in its favor. Bills referred to a committee may be withdrawn therefrom at any subsequent meeting for present consideration by an affirmative vote of a majority of the members of council present. No bill except general appropriation bills, which may embrace the various subjects and accounts for and on account of which moneys are appropriated, and bills fixing the annual salaries of officers and employees of the city, and bills providing for the paving or improving of

streets, or construction of sewers, shall contain more than one object and that shall be expressed in the title, but if any object shall be embraced in an ordinance which is not so expressed the ordinance shall be void only as to so much thereof as shall not be so expressed. No ordinance shall be revised or re-enacted by mere reference to the title thereof, but the same shall be set forth at length as if it were an original ordinance, nor shall any ordinance be amended by providing that designated words thereof be stricken out and others inserted in lieu thereof, but the ordinance or sections amended shall be set forth in full as amended. All ordinances in force at the time this act goes into effect, not inconsistent herewith, shall remain in full force until altered or repealed as herein provided, and all rights, actions, prescriptions and contracts of the city not inconsistent therewith shall continue to be valid as if this act had not been passed.

Any ordinance heretofore passed which may be void on account of failure of council to properly observe any provisions of the charter of the city of Charleston or ordinances in force at the time said ordinance was passed shall so far as it may affect the validity of any paving or sewer assessments heretofore laid, be in full force and effect until repealed or amended, the same as if legally passed. No ordinance of the council shall take effect until the expiration of five days after its final passage, unless the council shall by a vote of three-fifths of its members elected, taken by yeas and nays, otherwise direct. It shall be the duty of the city clerk to make publication of the caption or title of every ordinance in a newspaper of general circulation in the city of Charleston within five days after its passage, but failure so to do shall not affect the validity of any such ordinance.

Resolutions and orders of council other than ordinances may be considered for final passage at the meeting at which they are proposed, and shall, unless otherwise provided therein, be in force and effect from and after their passage.

Sec. 51. All ordinances passed shall be spread in extenso upon the records of the council when adopted. The council shall also provide a well-bound book designated as "Ordinance Record," in which shall be copied by the city clerk all ordinances, in the order in which they are passed, which ordinances, when so copied, shall be compared with the originals by the mayor and shall be signed by him when found correct. Such books

shall be indexed so as to show in brief form the substance of the ordinance, and shall be received by all courts and justices in this state as evidence, but the council may adopt by ordinance properly designating and describing it, a code of laws and ordinances, which when adopted shall be printed in book form, or said council may designate any committee, or attorney, or the city solicitor to prepare a code of ordinances for the government of the city of Charleston, and said council may by ordinance adopt the code so prepared as a whole, and when said ordinance adopting said code shall have been passed by the council, the said code shall be and become the law and ordinances of said city, and may be printed by order of the council, and the same shall be so received as evidence of what is printed therein, until errors or omissions be affirmatively shown therein.

Sec. 52. All persons elected or appointed to the offices named in this act shall be conservators of the peace within said city, and they, and any other officer provided for under this act, may be given authority of police officers by the council, or board of affairs.

Municipal Judge

Sec. 53. The municipal judge shall be ex officio a justice and a conservator of the peace, and with authority to issue process for all offenses committed within the police jurisdiction of the city of Charleston, of which a justice of the peace has jurisdiction under state statutes, and for all violations of any city ordinances, and shall have charge of and preside over the municipal court of such city; and may commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury of the circuit, intermediate or other courts of Kanawha county; he shall keep an accurate record of all his judicial proceedings in said court, showing the style of each case, which record shall be indexed and numbered. It shall be his duty to hold daily sessions of his said court, Sunday excepted. Before trying any person charged with any violation of any state law or ordinance a warrant specifying the offense or violation charged shall be issued as herein provided and the municipal judge shall render judgment in any case as the law of the state or the ordinance of the city applying thereto may require; he shall also have the power to issue executions for all fines, penalties and costs imposed by him and he may require immediate payment

thereof, and in default of such payment, may commit the party so in default to the jail of the city of Charleston or of the county of Kanawha, or other place of imprisonment in said city, until the fine and penalty and costs shall be paid or satisfied, to be employed during the term of imprisonment as hereafter provided, but for the violation of city ordinance the term of imprisonment in any such case shall not exceed thirty days, and in all cases where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more, such person shall be allowed an appeal from such decision to the intermediate court of said Kanawha county upon the execution of an appeal bond, with surety deemed approved by the said municipal judge or municipal court clerk in a penalty double the amount of the fine and costs imposed by said judge, conditioned that the person proposing to appeal will appear before the intermediate court of Kanawha county on the first day of the next term thereof to answer for the offense wherewith he is charged and not depart thence without leave of the court and to satisfy all costs and fines imposed against him; and in no case shall judgment for a fine of less than ten dollars be given by the municipal judge if the defendant, his agent or attorney object thereto. When the judgment on appeal is against the appellant for any sum of money, judgment shall be rendered by the intermediate court against the appellant and those who signed the appeal bond as surety thereon. Before said municipal judge or clerk shall accept any natural person as surety upon any bond or recognizance under the provisions of this section, such surety shall furnish a certified statement of the clerk of the county court of any county in this state in which such surety owns real estate, and shall also file an affidavit, the form of which may be prescribed by the municipal judge, showing the bonds and recognizances upon which he is then surety and the amount of each bond or recognizance. If the amount of such bond or recognizances, together with other bonds and recognizances as shown by the affidavit aforesaid, exceeds in amount the assessed value of the surety's property as shown by the certificate of the clerk of the county court, or if any such bond or recognizance theretofore given, by such surety be forfeited and unsatisfied, then such surety shall be disqualified; and if any bond or recognizance be accepted and it subsequently appears that the surety thereon is disqualified then such bond shall be declared void by the

municipal judge and the person whose appearance in the intermediate court of Kanawha county and whose payment of fine and costs are thereby secured may be forthwith apprehended and held in the city jail until a proper bond of recognizance is given: *Provided, however,* That whenever any surety is offered less than one hour before the county clerk's office is closed or after it is closed, surety shall make an affidavit that he owns real estate in Kanawha county to an assessed value above encumbrances thereon, of at least double the amount of bond required. Any person making or procuring to be made a false statement in any such affidavit, with intent to deceive said municipal judge, shall be guilty of perjury. If such appeal be taken, the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by the said judge to the clerk of the intermediate court and the court shall proceed to try the case as upon indictment or presentment and render such judgment, including that of costs, as the law and the evidence may require.

On appeals from said municipal court the intermediate court of Kanawha county shall be governed by the same principles with respect to the forfeiture of bonds and recognizances, and the issuance and execution of capiases and writs of feiri faciasas prevail in cases in which the state is a party.

The expense of maintaining persons committed to the jail of the county by such municipal judge shall be paid by the city. The municipal judge shall account for and pay over the amount of all fines collected by him weekly to the treasurer of the city and shall make monthly reports thereof, and of all other matters pertaining to his office to the council of said city.

Sec. 54. The municipal judge shall be an attorney of at least five years practice at law and shall have attained the age of twenty-eight years at the date of the beginning of his term of service and shall have been a resident of this state for the period of ten years and of the city of Charleston previous to the beginning of his term of service for the period of five years. He shall not appear as counsel in any criminal case in any court during his term of service. In the absence of, or in case of the inability of the municipal judge to perform his duties, the municipal court clerk shall act as municipal judge in his stead, and in the event that neither the municipal judge nor the municipal court clerk can for any cause perform such duties, then the mayor

shall act as municipal judge. The official bond of a justice of the peace shall not be required of the municipal judge.

Police Arrests—Bonds, Etc.

Sec. 55. In all cases of arrest by the police of the city, except in cases of murder and rape, the person arrested shall have the absolute right to give a reasonable and proper bond for his appearance at police court for a trial of his case, and the municipal judge, city clerk, municipal court clerk, mayor, chief of police and the desk sergeant in charge of police headquarters, shall have the power, and it shall be their duty to accept such bond from such person so arrested and upon the giving of such bond he shall be released, and it shall be their further duty to permit such person arrested to communicate in any reasonable way with any person or persons with whom he may desire to have communication in reference to his giving bail in order to obtain his release, and each of said officers and all policemen shall render reasonable aid in assisting such person arrested to communicate with any person that he may desire for the purpose of securing such bail. In case one so arrested fail to give bond as aforesaid, the municipal judge, or if said judge be not then sitting, either of the officers named may order such person committed to the city jail for safe keeping until the trial of his case.

Sec. 56. The board of affairs, or a member thereof, designated by the board of affairs, and acting for the board of affairs of said city shall have authority to abate and remove all nuisances in said city. They or he may compel the owners, agents, assignees, occupants or tenants of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same by orders therefor, and the council shall by ordinance provide a penalty for the violation of such orders. Council may by ordinance regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cesspools, sinks, plumbing drains, yards, lots, areaways, pens, stables and other places, where offensive, unsightly, unwholesome, objectionable or dangerous substances or liquids are, or may accumulate, and provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agents, assignees, occupant or tenant of any premises, or structure where such violation may occur. It shall be the

duty of all police officers to report to the board of affairs the facts as to the existence of any nuisance known to them.

If the owner, agent, tenant, assignee or occupant of any such premises, lot, property, building or structure, as is mentioned herein, shall fail or refuse to abate or remove any such nuisance, as mentioned herein, or to comply with the provisions of any such ordinance and the regulations herein contained, the board of affairs or such member designated by it for the purpose, may have said nuisance abated or the provisions of said ordinance or ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of their or his intention so to do, and collect the expenses thereof, with one per centum per month interest added from the date of said notice, from the said owner, occupant, tenant, agent or assignee, by distress or sale, in the same manner in which taxes levied upon real estate for the benefit of said city are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, the same as taxes levied upon real estate in said city; which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced. In case of non-resident owners of real estate such notice may be served upon any tenant, occupant, assignee or rental agent, or by publication thereof once a week for not less than two consecutive weeks in two newspapers of opposite politics, published in said city.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property of amount due said owner from said agent, and such tenant occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

Any expense incurred by the board of affairs, or any member thereof designated by it, as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act. The abatement or removal of any such nuisance by the city at the expense of said city, as herein provided, shall

be prima facie proof that the said notice to the owner, occupant, agent or assignee was given as herein prescribed.

Abatement of Nuisances

Sec. 57. The board of affairs, or any member thereof designated by the board of affairs for the purpose, and acting for the board of affairs, may require all owners, tenants or occupants of improved property which may be located upon or near any street or alley along which may be extended any sewer or system of sewerage, which the said city may construct, own or control, to connect with such sewer, or system of sewerage, all privies, ponds, water closets, cesspools, drains or sinks, located upon their respective properties or premises, so that their contents may be made to empty into such sewer or system of sewerage.

Sidewalks

Sec. 58. The council shall have the right and authority to establish the width of any sidewalk on any street, alley or public square, or any portion thereof in said city, to cause to be put down a suitable curb of brick, stone or other material along for the footways and sidewalks of the streets, alleys or public squares or portion thereof, and to order the construction, re-laying and repair of sidewalks and gutters of such material and width, and in such manner, as the council may reasonably prescribe by the owners or occupiers of the lots or parts of lots facing upon said streets, alleys and public squares; and in case of a failure or refusal of any such owner or occupiers of the lots or parts of lots to construct, re-lay or repair such sidewalks and gutters, when required, it shall be lawful for the council to have such sidewalks and gutters constructed, relaid or repaired, and levy and collect the expense thereof, with one per centum per month interest added after a demand of thirty days has been made by the treasurer of the city from the said owner, owners, occupier, occupiers or any of them; and in all cases of such assessment, whether for the construction, relaying or repairing of sidewalks or gutters, payment thereof shall be made to the treasurer within thirty days after the completion of the work and demand made, and if not so paid the city is hereby authorized to collect or cause to be collected the expense thereof, with one per cent per month interest added

after the work has been completed and a demand of thirty days, and they shall have the power to collect, or cause to be collected, the same from said owner, owners, occupier or occupiers or any of them, by distress and sale, in same manner in which taxes levied upon real estate for the benefit of the said city are herein authorized to be collected, and in addition there shall be a lien upon the real estate against which such assessment has been levied for the construction, relaying and repairing of sidewalks and gutters as herein provided, which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced, and it shall be the duty of the city clerk to cause to be certified to the clerk of the county court of Kanawha county the order laying an assessment authorized by this section. The clerk of the county court of Kanawha county is hereby required to record and index such assessments in the proper trust deed book in the name of persons against whose property assessments appear therein: *Provided, however,* That a reasonable notice shall first be given to said owner or occupier or agent, that they are required to construct, relay or repair such sidewalks or gutters. In case of non-residents who have no known agent in said city, such notice may be given by publication for a period not less than once a week for two consecutive weeks in any newspaper printed in said city; and in all cases where a tenant shall be required to construct, re-lay or repair sidewalks or gutters in front of the property of his or her occupancy, the expense of such construction of re-laying or repairing may be deducted out of the accruing rent of said property, and he may recover the amounts paid from the owner; unless otherwise especially agreed upon. The laying or construction of any such sidewalks by said city shall be prima facie proof that the said notice to the owner (resident or non-resident) or occupier, or their agent, was given as herein required.

Tax Levies

Sec. 59. The council shall ascertain the total expenses of the city to be provided for by levy for the fiscal year in which said levy is made, and it shall make a detailed itemized estimate of the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, the amount required for the several sinking funds for the reduction of the principal thereof,

the amounts necessary for the support of the various departments of the city and for the improvements of its streets, alleys, avenues and public grounds, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts other than that to be derived by the annual levy, and after receiving such estimates, and before making the levy, it shall apportion the rate thereof, including the estimated receipts from licenses and all other sources among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of this city, and in making said estimate, providing for the revenue for the fiscal years, etc., it shall be the duty of the council to strictly observe all the provisions of the laws of the state of West Virginia now existing or which may hereafter be enacted, respecting the assessment of property for taxation, or the collection of taxes therefrom.

Sec. 60. The council shall have authority to levy and collect an annual tax on real estate and personal property in said city and to impose a license and assess a tax on all dogs kept within the city and to impose a tax upon all other subjects of taxation under the several laws of the state, which shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal and mixed, on which the state imposes a tax: *Provided,* That with the exception of the special levies authorized by law, no greater levy shall be laid by said council on the taxable property of said city than by the constitution and the laws of this state now existing or may be hereafter enacted: *And provided, further,* That the council shall, in making such levy, be subject to all provisions of chapter eleven of the code of West Virginia and section one of article ten of the constitution of West Virginia as now amended. There shall be a tax of two dollars annually assessed on each and every male inhabitant of said city over the age of twenty-one years who is subject to a capitation tax under the laws of the state of West Virginia, which shall be collected by the assessor at the same time and in the same manner as is provided for in the collection of state road and state school capitation tax, and for such services said assessor shall be entitled to receive the same compensation and fees as is provided for in the collection of said state road and state school capitation tax.

City Taxes

Sec. 61. The city taxes annually levied by the council shall be collected as follows: Immediately after the annual levy for city taxes is laid the council shall transmit a copy of said levy, including therein the proper capitation taxes and any paving or sewer assessments that may be due, to the sheriff of Kanawha county, who shall proceed with their collection in the same manner and with the enforcement of the same penalties as is provided by law for the collection of the county and state taxes.

The sheriff shall have the power to collect any city claims that may be placed in his hands by the council for collection except that fines imposed by the municipal judge may not be collected by him.

The council shall allow such compensation to the sheriff for the collection of said taxes as may reasonably be required for any additional duties that may be involved upon his office by reason of such collection.

Sec. 62. All goods and chattels belonging to a person, firm, corporation or estate, assessed with any city taxes, whether the same be a capitation tax or a tax upon real estate or personal property or an assessment for paving or other improvements, shall be liable for said tax, and may be distrained therefor in whosoever's possession they may be found, and the sheriff shall have the same power to collect said tax or assessment from any person owing a debt to or having in his possession any estate belonging to a person assessed with any tax or assessment of any kind that he has to collect state taxes in such cases. The sheriff may distrain and sell for all city taxes and assessments and in all respect have the same power to enforce the collection thereof as he has to enforce the collection of state taxes.

Sec. 63. There shall be a lien upon all real estate within said city for the city taxes assessed thereon, including such penalties added thereto for non-payment thereof as are prescribed by this act, from the first day of January of the year in which said taxes are assessed. Said liens may be enforced by appropriate suit in any court of record in Kanawha county: *Provided*, That such suit be instituted within five years from the time

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

Sec. 64. Said liens for city taxes and attendant penalties may also be enforced by certifying the same to the clerk of the county court of Kanawha county for certification to the state auditor, and the same may be certified down by said auditor, and sold for taxes, interest, penalties and commissions thereon, in the same manner, at the same time, and by the same officer as real estate is sold for taxes, interest, damages, cost and commissions due the state thereon, which officer shall account therefor on settlement with the city and pay over the same to the treasurer of the city.

Sec. 65. No taxes or levies shall be assessed upon or collected by the city from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads, or for the support of the poor of Kanawha county, outside of said corporation limits, for any year in which it shall appear that said city shall at its own expense provide for its own poor and keep its own roads, streets, sewers and bridges in good order. And neither the county court of Kanawha county, nor the authorities of the district in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges, wharves, docks or ferries, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets, sewers, alleys, wharves and bridges in its corporate limits, except that the county of Kanawha may become a joint owner and controller with the city of Charleston in a bridge or bridges across Kanawha river or Elk river.

City Treasurer

Sec. 66. It shall be the duty of the treasurer of the city to keep all funds of the city in some bank or banks within said city,

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

Municipal Bonds

Sec. 67. The city of Charleston is hereby authorized to issue and sell bonds of said city, for the purposes of buying and building bridges, electric light plants, water works, gas lines and fields, and other public utilities; and for the purpose of acquiring and providing land for public parks, public streets, avenues and alleys, airports and other public grounds, and acquiring or assisting in acquiring property to be donated, dedicated or conveyed to, or otherwise vested in, the state of West Virginia, as a site for a state capitol and other public buildings, which donation, dedication and conveyance are hereby authorized to be made, and also to provide ground for and erect an incinerator plant or garbage crematory, or other plant or means for the disposal of garbage and refuse; and such bonds shall be sold for not less than par, and payable in a period not to exceed thirty-four years and shall bear interest not to exceed six per cent per annum; and in the issuance and sale of said bonds the city shall be governed by all the restrictions of the constitution of this state and the statutes of this state, with respect to the issuance and sale of other bonds: *Provided,* That said city shall not, by the sale or issue of bonds for the purposes above mentioned, cause the aggregate of its indebtedness, of every kind whatever, to exceed five per centum of the value of the taxable

property therein, but may for the above purposes issue bonds to the maximum limit of said five per cent; nor shall said city make such issue and sale of bonds without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on the same, and a sinking fund to pay the principal within the time for which the said bonds shall be issued.

Bonds for Paving and Sewering

Sec. 68. The city of Charleston is hereby authorized to issue and sell bonds of said city, for the purpose of paying the city's part of the cost of grading, curbing, paving, sewering or otherwise improving the avenues, streets, roads and alleys of said city, and for the purpose of providing funds to cover all or any part of the cost of grading, curbing, paving or sewering that may be assessed against abutting property owners in the manner provided for by law; and said city is hereby given full power to employ the proceeds of such bonds in the purchase of paving certificates or other permanent improvement certificates issued under the provisions of the charter and made liens or assessments against real estate in said city, at not to exceed their par value, and may hold and collect or otherwise dispose of the same: *Provided,* That said city shall not by the sale or issuance of bonds for the purposes above mentioned, cause the aggregate of its indebtedness, of every kind whatever, to exceed five per centum of the value of the taxable property therein.

The proceeds of any bond issue, authorized under this section, shall be set aside as a separate fund, and all special assessments covering improvements, the cost whereof has been advanced out of this fund, shall be paid into and become a part of said special fund and be used for the same purpose and in the same manner as the proceeds of said original fund.

This fund shall continue to be used for the purposes mentioned herein, until such time as the city's part of the cost of grading, curbing, paving, sewering or otherwise improving the avenues, streets, roads or alleys of the city equals the original proceeds of the bond issues authorized for the purposes mentioned herein. The issuance and sale of bonds, authorized by this section, shall be governed by all of the restrictions of the constitution of this state and statutes of this state with respect to the issuance and sale of other bonds of said city. No issuance

and sale of bonds, under this section, shall be made, unless at the same time provision is made for the collection of a direct annual tax, sufficient to pay the annual interest on the same and create a sinking fund to pay the principal within the time for which said bonds shall be issued. The direct annual tax, provided for in this section, shall be set aside as a separate fund, to be known as an interest and sinking fund. All interest collected on special assessments authorized or referred to in this section shall be placed in and become a part of said special interest and sinking fund, until the principal and interest of said bonds are paid.

Whenever, in the opinion of the council, the special improvement fund created by this section, or any part thereof, is no longer needed the council may order or direct that said special assessments when collected, be applied to retiring such of the bonds provided for herein, as may be outstanding at that time.

Sec. 69. The city of Charleston is hereby authorized to issue and sell the bonds of the said city for the purpose of providing for grading, paving and otherwise improving the streets and alleys of said city or constructing sewers for the proper drainage of same in anticipation of special assessments to be made upon the property abutting upon the streets and alleys so improved, or property so sewered or drained, and such bonds may be in such an amount as shall be sufficient to pay the entire estimated cost and expense of said improvements, for which such special assessments are levied: *Provided,* That the price for which said bonds are sold shall not be below par value thereof, said bonds may be payable in groups of one-fifth of the whole issue payable in two, four, six, eight and ten years respectively, and all payable in not to exceed ten years from the date of issue thereof, and shall bear interest at a rate not exceeding six per centum per annum, payable annually; and in the issuance and sale of said bonds, the city shall be governed by all the restrictions and limitations of the constitution and statutes of this state and with respect to the issuance and sale of other bonds, and the assessments as paid and provided for in this act shall be applied to the liquidation of said bonds and the interest thereon; and if by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of said bonds and all accrued interest and costs, the

said balance shall be turned into the city treasury to the credit of the interest and sinking fund of the city: *Provided,* That said city shall not by the sale or issue of such bonds cause the aggregate of its debt of every kind whatsoever to exceed five per centum of the value of taxable property therein: *And provided further,* That nothing herein contained shall be construed as authorizing said city to become indebted in any other manner or for any other purpose, to an amount including the existing indebtedness in the aggregate exceeding two and one-half per centum on the value of the taxable property therein (as provided in chapter fifty-one of the acts of one thousand nine hundred and five) except for the purpose of grading, paving, sewering and otherwise improving the streets and alleys of said city and as provided for in this act, and except for the purpose of buying or building bridges, electric light plants, water works, gas lines and fields and other public utilities; nor shall they make such issue and sale of bonds for grading, paving, sewering and improving the streets and alleys of said city without, at the same time, providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and principal thereof within a period not exceeding ten years.

All assessments, interest and penalties thereon, collected from the abutting property owners, on account of grading, paving, sewering or otherwise improving the streets and alleys of such city under the provisions of this act, shall annually be applied to the annual tax required to pay the interest on such debt and such principal within and not exceeding said period of ten years and in the event that the assessments, interest and penalties so called do not amount to a sum sufficient to pay annually the interest on such debt, said city shall collect so much of said levy as will pay annually the interest on such debt, and the principal thereof within and not exceeding ten years.

Sec. 70. Whenever the council of said city shall deem it expedient to cause any street or alley in said city or portion thereof to be paved, curbed or macadamized, or otherwise improved in a permanent manner, it shall order the work done in the following manner and upon the following terms: The contract for such paving or other improvements shall, after due advertisement in which the council shall reserve the right

to reject any and all bids, be let to the lowest responsible bidder. The contractor shall look only to the city for the payment of the work, and in no sense to the abutting land owners, except as hereinafter provided. The total cost of grading and paving or otherwise improving any such street or alley, with the exception that where a street is occupied by the street car tracks or other railways, such cost of opening or otherwise improving the distance between the rails and two additional feet outside of each rail, shall be borne and paid entirely by the street car or other railway company operating such street or other railway, (unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act), shall be borne by the owners of the land abutting upon said street, alley or portion thereof, according to the following plan, that is to say: Payment is to be made by all land owners on either side of such portion of a street or block so paved or improved in such portion of the total cost, less the portion, if any, chargeable to such street or other railway company, as the frontage in feet of his land so abutting bears to the total frontage of all lands so abutting on such street, alley or portion thereof so paved or improved as aforesaid.

Paving

When the paving of any street, or alley, or portion thereof shall have been let to contract and the work done as hereinbefore provided, it shall be the duty of the engineer of said city to cause the several frontages abutting thereon to be measured, and to calculate the assessment upon each and every land owner so abutting and to certify the same to the council, showing the proper amount to be determined, as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessment, amounts and names so certified to it, and thereupon give notice by publication once a week for two successive weeks in a newspaper of general circulation published in said city, that an assessment under this act is about to be laid against the abutting property for paving or improvements done on said streets, or alleys, describing the location of such paving or improvements, and any owner or owners thereof shall have the right to appear before said council, within two weeks from the first publication

thereof, and move to correct an apportionment or assessment excessive or improperly made as charged, which correction said council shall have the power to make according to the intent of this act, and if found to be correct or when corrected by the council aforesaid, it shall enter the same, together with a description of the lots of land as to location, frontage, depth and ownership, so far as the same may be ascertained, upon its records and to enter in its records that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them respectively; and when so approved, certified and entered on record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. And it shall be the duty of the council to immediately certify such assessment to the treasurer for collection as herein provided, and a copy of said order shall be certified by the city clerk to the clerk of the county court of Kanawha county, who shall record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. The amount so assessed against said abutting land owners shall be paid in ten payments, as follows: That is to say, one-tenth of said amount, together with interest on the whole assessment, shall be paid into the city treasury, before the first day of May next after said work is completed and said assessments have been certified to the county clerk. And a like one-tenth, together with interest for one year upon the whole amount remaining unpaid on or before the first day of May in each succeeding year thereafter until all has been paid, and each of said installments of one-tenth beginning with the first, shall bear interest on the amount of said installment at six per centum per annum from the date of record of same in the county clerk's office until paid: *Provided, however,* That any abutting owner so liable for any portion of the cost of such paving shall have the right at any time after the same is certified as aforesaid to the treasurer for collection to anticipate the payment of any or all of said assessments and shall be allowed to pay the face of said assessments with interest at six per centum per annum only from the time of recordation to the time of payment. To each of such installments of assessments remaining unpaid in the treasurer's hands on the day herein specified for the

payment thereof, a penalty of ten per centum on the principal sum shall be added and any assessment so remaining unpaid in the treasurer's hands on such date, shall be taken up on such settlement had with the treasurer on such dates, and thereupon place such assessments with the penalty added thereto, in the hands of the sheriff of Kanawha county to be treated and considered, and payment thereof enforced in all respects as hereinbefore provided for the collection of taxes due the city, and they shall be a lien upon the property liable therefor the same as for taxes, which lien may be enforced in the same manner as provided for taxes. The lien hereinbefore provided for shall have priority over all other liens except those for taxes due the state and shall be on a parity with taxes and assessments due the city, and shall be effective as of the date that the assessment is laid by the council, but such lien shall be enforced only against the particular property abutting on said improvement. Whenever all such assessments, for paving, sewerage, macadamizing or other improvements shall be paid in full to the treasurer, he shall deliver to the party paying the same a release of the lien therefor which may be recorded in the office of the clerk of the county court of Kanawha county or other releases of liens, and whenever any such assessments shall not be in the hands of the treasurer for collection, but the same shall be shown to the satisfaction of the city auditor or other official performing the duties of auditor, to have been paid in full or any officer entitled to receive the same, such auditor or the mayor may in like manner execute such release.

Sewering

Sec. 71. Whenever the council shall order the construction of any public sewer in said city, the owners of the property abutting upon any street in which such sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: When said sewer is completed the engineer of said city shall report to the council in writing the total cost of such sewer, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and lay-

ing the sewer shall be borne by the owners of the land abutting upon the streets, alleys, rights of way or easements or portions thereof, in which the sewer is laid, according to the following plan: Payment is to be made by each land owner on either side of such portion of a street, alley, right of way or easement in which such sewer is laid, in such proportion as such frontage of his land upon said street, alley, right of way or easement bears to the total frontage of all lands so abutting on such street, alley, right of way or easement: *Provided,* That the charge laid against any owner or property shall not exceed three dollars per lineal foot of frontage on each side of the portion of such street, alley, right of way or easement in which any such sewer is laid. In case of a corner lot, frontage is to be measured along the longest dimension thereof abutting on such street, alley, right of way or easement in which such sewer is laid. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, rights of way or easements, one in the front and one in the rear of said lot shall be assessed on both of said streets, alleys, rights of way or easements, if a sewer is constructed in both such streets, alleys, rights of way or easements. Where a corner lot has been assessed on the end it shall not be assessed on the side, and where it has been assessed on the side, it shall not be assessed on the end. Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving, which report shall in like manner be examined by the council, and if found to be correct, or corrected as aforesaid, and such estimated assessments to be fair and equitable apportionment of the cost of such sewer upon the basis hereinbefore described it shall enter an order upon its records, setting forth such location, depth, ownership and said amount of such sewer assessments against each, respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots, and if after such advertisements, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable, and contrary to the intent of this act, it shall ascertain, fix and assess the cost there-

of among and upon the abutting owners respectively, justly and equitably and according to the intent hereof, and in like manner, assess and enter the amount so fixed respectively upon its records, and the council shall, in either event, thereupon certify the same to the treasurer for collection, and certify a copy of such order to the clerk of the county court of Kanawha county, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed, upon which lot any business or residence building is or may hereafter be erected, or upon which any water stands not connected with a public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so connect may be given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in the section or sections of this act relating to the abatement of nuisances. Jurisdiction to hear, try, determine and sentence for

violation of this section is vested in the municipal court of such city.

In the paving, curbing, macadamizing or otherwise improving streets and alleys and providing for the assessment of the cost thereof under this charter there may be included in any such assessment the cost of constructing the necessary drains for the disposal of surface water.

Sec. 72. The council is authorized and empowered to order and cause to be constructed, in said city, or part within and part outside of the limits of said city, public, common, lateral, branch, trunk and combined sewers or public sewer systems, or both, by contract or direct by the city, for the benefit of said city or any part thereof, and to purchase lands or easements therein or to condemn lands or easements therein in the manner provided by law, for such sewers or sewer systems, and when the council shall order and complete the construction of any such sewer or sewer system or any part thereof in said city, the owners of the property abutting on such sewer or abutting upon an avenue, street, alley, right of way or easement in which such sewer shall be constructed, or abutting on any avenue, street, alley, right of way, easement in which any common sewer, part of a sewer system, is constructed and laid, may be charged with all or any part of the cost thereof, including the cost of such sewer or sewer system at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provisions of the charter of the city of Charleston relating to street paving contracts shall apply.

A sewer system shall be deemed to include all the common sewers, whether they be lateral, branch, trunk or combined sewers, which serve to drain a definite drainage area as specified in the order of the council directing the work to be done.

A common sewer shall be deemed to be a sewer in which all abuttors have equal rights of entrance and use.

A lateral sewer shall be deemed to be a sewer which does not receive the sewage from any other common sewer.

A branch sewer shall be deemed to be a sewer into which the sewage from two or more lateral sewers is discharged, including storm and surface water sewers.

A trunk sewer shall be deemed to be a sewer into which the sewage from two or more branch sewers is discharged.

A combined sewer shall be deemed to be a sewer intended to receive domestic sewage and industrial wastes.

When said sewer or sewer system is completed the engineer of said city shall report to the council in writing the total cost of such sewer or sewer system, and a description of the lots and lands as to the location, frontage, depth and ownership liable for such sewer assessment, so far as the same may be ascertained, together with the amount chargeable against each lot and owner, calculated in the following manner: The total cost of constructing and laying the sewer or sewer system, including the portions thereof laid in the intersections of streets and alleys, shall be borne by the owners of the land abutting upon the streets, avenues, alleys, rights of way or easements or portions thereof in which the sewer or some part of the sewer system, is constructed and laid; payment is to be made by each land owner on either side of such portion of a street, alley, right of way or easement in which a common sewer is laid, in the proportion that the frontage of this land upon such portion of said street, alley, right of way or easement in which such sewer or sewer system is laid bears to the total frontage of all lands so abutting on such street, alley, right of way or easement; in which, the sewer or some part of the sewer system is laid: *Provided,* That the charge laid against any owner of property shall not exceed three dollars per lineal foot of frontage on each side of such street, alley, right of way or easement in which any such sewer or part of a sewer system is laid. In case of a corner lot, frontage is to be measured along the longest dimension thereof abutting on such street, alley, right of way or easement in which such sewer is laid, but if sewered on both sides then such a corner lot is to be charged only with the side first sewered. Any lot having a depth of two hundred feet or more and fronting on two streets, alleys, rights of way or easements, one in the front and one in the rear of said lot shall be assessed on both of said streets, alleys, rights of way or easements, if a sewer is constructed on both such streets, alleys, rights of way, or easements. Where a corner lot has been assessed on either or both ends, it shall not be

assessed on the side, and where it has been assessed on the side it shall not be assessed on the end.

In the case of corner lots where the cost of sewering along one dimension is not assessed against the owner thereof, and in case of lots less than two hundred feet deep abutting at both ends on a street, alley, right of way or easement in which a sewer is laid, the cost of sewering along the dimension or end not assessed against the property owner shall in every case be borne by the city of Charleston.

Thereupon said council shall give like notice by publication as is required in case of street paving assessments, and the same rights shall exist as to the persons and property affected and the same duty as to corrections by said council as are prescribed with reference to paving. The report of the city engineer shall in like manner be examined by the council as are prescribed with reference to paving, and if found to be correct or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the cost of such sewer or sewer system upon the basis hereinbefore described, it shall enter an order upon its records, setting forth such location, depth, ownership and said amount of such sewer assessments, against each respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein against such respective owners and lots; and, if after such advertisement, notice and hearing, said council shall find that such apportionment at such rate is unjust or inequitable, and contrary to the intent of this act, it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, justly and equitably and according to the intent hereof, and in like manner assess and enter the amount so fixed respectively upon its records; and, the council shall, in either event, thereupon certify the same to the treasurer for collection and certify a copy of such order to the clerk of the county court of Kanawha county, who shall record the same in the proper trust deed book, and index the same in the name of each owner of any such lot so charged with such assessment, and such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens, except those for taxes due the state, and shall be on a par-

ity with other taxes and assessments due the city. Said amounts so assessed against the said several land owners shall be paid by the parties liable therefor to the said treasurer at all times, in the manner and with the attendant penalties for failure to pay promptly at the time prescribed in all respects as hereinbefore provided in the case of assessments for paving streets and alleys in a permanent manner, and the parties liable therefor shall, in the same manner, and to the same extent, have the right and be entitled to anticipate any or all of such installments thereon as in such case provided. The owners of, or the tenants, occupants or agents in control of any lot abutting on or near or adjacent to any street, avenue, alley, right of way or easement in said city, in which a public sewer is or may hereafter be laid and constructed upon which lot any business or resident building is or may hereafter be erected, or upon which any water stands not connected with any public sewer, may be required and compelled to connect any such building or lot with such sewer. Notice to so con-
130-*a* nect may be given to the owner, lessee, or occupant of such
130-*b* building. Each day's failure to comply with such notice and connect with such sewer by such owner or owners, ten days after such notice is given, shall be a misdemeanor and a separate and new offense under this section, and every such offense shall be punishable by fine of not less than five nor more than twenty-five dollars. The expense incurred by any tenant, occupant, or agent in complying with the order of said council to make such sewer connection may be deducted out of the accruing rents as provided for in this act relating to the abatement of nuisances.

Sec. 73. Whenever it is deemed expedient by the council of said city to provide for the grading, paving, sewering, macadamizing or otherwise improving any street or alley therein to be paid for in whole or in part by special assessment, said council shall declare by resolution, by aye and no vote, the necessity of such improvement. At the time of the passage of said resolution the said council shall have on file in the office of the city engineer, plans, specifications, estimates and profiles of the proposed improvements, showing the proposed grade of the street and improvements after completion, with reference to the property abutting thereon, which plans, specifications, esti-

mates and profiles shall be open for the inspection of all persons interested. Said resolution shall determine the general nature of the improvement, what shall be the grade of the street, alley or other public place to be improved, as well as the grade or elevation of the curb, and said council shall approve the plans, specifications, estimates and profiles for the proposed improvement. The council shall also determine in said resolution the method of paying for the work contemplated in said plans and specifications whether by an appropriation from funds in the treasury unappropriated, or whether or not bonds shall be issued in anticipation of the collection of special assessments, to be made against the abutting property owners as provided for in this act. Said resolution shall further show the approximate estimated cost of said proposed improvement per front foot of the property abutting thereon, and shall fix a date, at some regular or special meeting of the council, on which the owners of property be assessed for such improvements may appear before council and protest against the same or be otherwise heard in reference thereto. Assessments shall be payable in ten installments as provided for in this act. The resolution herein provided for, declaring the necessity for said improvement, shall be published at least once a week for two successive weeks after its adoption, in a newspaper of general circulation published in the city, and an affidavit of the publisher, showing publication for such time, together with a copy of said notice attached, shall be filed with the city clerk of the said city and spread upon the record of the minutes of the next meeting of the council. Said resolution shall be in effect from and after the first publication thereof as herein provided for.

Sec. 74. A notice of the passage of the resolution required in the last preceding section, embodying a copy of said resolution, shall be served upon the owner of each piece of property to be assessed, said service to be made in the manner provided by this act for serving notices herein required or in other lawful manner: *Provided,* That if any of the owners or persons be not residents of the city of Charleston, or if it appears by the return in any case, that the owner can not be found, then a notice of the passage of said resolution shall be published in some newspaper of general circulation in said city once a week for two successive weeks, which notice shall be deemed com-

pleted on the day of the second publication thereof, and such notice whether by service or publication, shall be completed at least three days before the date fixed for hearing thereon, as aforesaid, and before the introduction of any ordinance providing for said improvement, as hereinafter provided for; and the return of the officer, or sworn return of any other person, serving such notice or a certified copy of said return, or when published the certificate of the publisher of said newspaper, shall be prima facie evidence of the service of the notice as herein required. Notice upon infants may be served on their guardian, and upon insane persons by service upon their committee. It shall be the duty of the board of affairs, or some member designated by it for the purpose, to cause such notice to be served upon said property owners as aforesaid.

Sec. 75. It shall be lawful for said city of Charleston to issue and sell its bonds as provided in this act for the sale of other bonds, to pay the city's part of the cost of said improvements as required by this act, and it may levy taxes in addition to all other taxes authorized by law, to pay such bonds and interest thereon, provided that the total indebtedness of the city for all purposes shall not exceed five per centum of the total value of all taxable property therein: *And provided further,* That such additional levy shall in no wise violate the provisions of section one of article ten of the constitution of West Virginia as now amended.

Sec. 76. After the expiration of not less than ten days from the time of the giving and publication of the notices as provided for in this charter, the council shall sit at the time and place fixed for the purpose of hearing all property owners to be affected, with reference to such proposed improvements, and shall hear and consider any protests or objections thereto; and the council shall thereupon, or as soon as may be, determine whether it will proceed therewith, and if council decides to make such improvements, an ordinance for the purpose shall be passed. Said ordinance shall set forth the streets and alleys upon which the abutting property is to be assessed for the improvement, and shall contain a statement of the general nature of the improvement, and the character of the materials which may be bid upon therefor, of the mode of payments therefor; a reference to the resolution therefor passed for said im-

provement, giving the date of its passage and a statement of the intention of the council to proceed therewith in accordance with said resolution and in accordance with the plans, specifications, estimates and profiles provided for said improvement. In setting forth the lots and lands abutting upon the improvement it shall be sufficient to describe them as the lots and lands bounding and abutting upon said improvements between and including the termini of said improvements, or by the description by which they are described on the land books of the county of Kanawha, and the rule of description shall apply in all proceedings in which lots or lands are to be charged with a special assessment.

Sec. 77. In any case in which special assessments have been made, or shall hereafter be made, upon property for the construction of any improvement authorized by this act or previous statutes and several kinds of materials have been named in the ordinance or ordinances providing for the same, and on which bids have been received for the construction of said improvements with any, either or all of said material, said assessments shall be valid and binding assessments on the property so assessed. In the case of the construction of sewers required under the provisions of this act, notice of the passage of said resolution therefor, as provided for in this act, shall be given in the manner provided for in this act.

Sec. 78. No pavement, sewer or sewer system, or other public improvement the cost of all or a part of which is to be especially assessed against abutting property, or against the owners thereof, shall be made without the concurrence of two-thirds of all the members elected to council, unless the owners of a majority of the foot frontage of property to be so assessed, petition in writing therefor, in which event the said council shall have power upon the affirmative vote of a majority of all the members elected thereto to proceed with such improvement in the manner provided by law.

Sec. 79. When the whole or any portion of the improvement authorized by this act passes through or by a public wharf, market space, park, cemetery, structure for the fire department, water works, school building, infirmary, market house, work house, hospital, house of refuge, bridge, gas works, public prisons, court house, church or any other public structure or public grounds within said corporation, and belonging to said

corporation, or to the county, state, or any church, association, eleemosynary institution, the council may authorize the proper proportion of the estimated cost and expense of the improvement to be certified to the clerk of the county court of Kanawha, and it shall be the duty of those persons having charge of the fiscal affairs of any such property or institution to make proper arrangements for the payment of such assessments when due and payable.

Sec. 80. The cost of any improvement contemplated in this act and for which assessment may be made, shall include the cost and expense of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices upon the property owners and the cost of constructing and inspection.

Sec. 81. No person shall bring any action whatever in any court in this state for damages arising out of improvements or change of grade unless he shall have filed with the council at some time after the publication of the notice provided for in this act, and before the time of the introduction of the ordinance providing for said improvement a statement of the damage which, in his opinion, he will sustain by reason of said improvement or the change of grade therefor, which statement shall be duly sworn to and be spread upon the minutes of said council.

Sec. 82. Proceedings with respect to improvements shall be liberally construed by the courts to secure a speedy completion of the work at reasonable cost, and a speedy collection of the assessments after the time has elapsed for their payments and merely formal objection in such cases shall be disregarded.

Sec. 83. It is especially provided that no bonds shall be issued under the provisions of this act unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of the city and shall have received three-fifths of all votes cast at said election for or against the same.

The council may provide by ordinance for an election every year, at which the question shall be submitted to the people, as to whether the city shall be authorized to issue bonds for the purpose and under the provisions of this act, to an amount not to exceed in the ensuing year the amount recommended by said ordinance for said ensuing year; but the ordinance providing

for said election need not specify in detail the location of the improvements contemplated to be paid for during the ensuing year out of said aggregate issue authorized for said year, but before issuing any bonds the council shall pass separate ordinances for such street or alley to be improved, dealing with all the requirements set forth in this act, and notwithstanding any of the pertinent provisions of chapter eight of the code, it shall be sufficient description for the purpose for which said election is held if the ordinances providing for said election shall recite that it authorized the council of said city to issue bonds for the purpose of grading, paving, sewering or otherwise improving the streets and alleys of said city, at such time as to the council shall seem fit during the ensuing year ending on the..... day of.....one thousand nine hundred ....., to an amount not exceeding in the aggregate during the year the sum of.....; and when the council shall have been once authorized by a vote of the people to issue bonds for the purpose and in a sum not to exceed the amount set forth in the ordinance providing for the said election, no further election shall be necessary for the issuing of bonds during said ensuing year up to the amount stipulated in said ordinance providing for said election, but the council shall from time to time during said ensuing year, by ordinance authorize the issue of said bonds, in such sums and for the improvement of such streets or alleys as to it may seem best, providing the requirements of this act are complied with. The aggregate amount of bonds authorized by said annual election shall not be exceeded during said ensuing year, unless and except the same be authorized by special election held at a subsequent time in said year and duly called as provided for the calling of the annual bond election.

The provisions of chapter eight of the code concerning bond elections shall, so far as they are not in conflict with the provisions of this act, apply to the annual bond elections and special bond elections herein provided for.

Sec. 84. The council shall have the authority to erect, buy, sell and lease all buildings necessary for the use of the city government and to provide for and regulate the same, and to establish and maintain public hospitals, libraries and reading rooms, and to purchase books, papers and manuscripts therefor,

and to receive donations, gifts or bequests for same in trust or otherwise.

Sec. 85. The city executive committees of the two political parties casting the highest vote at the last preceding general election, shall each consist of one person from each of the wards of the city to be selected in the same manner and at the same time that candidates for municipal offices are selected. Vacancies in a committee shall be filled and members to represent newly created wards shall be elected by the committee to serve until the next general city election.

Civil Service Board

Sec. 86. For the purpose of making examinations of persons applying for offices or positions in the fire and police departments, and prescribing rules for their conduct, the council elected hereunder shall at its first meeting appoint three discreet persons, who need not be members of council, who shall act and be known as a civil service board, and the city clerk shall be ex officio clerk of said board.

The civil service board shall adopt rules for its own government not in conflict with the following provisions:

Said civil service board shall meet on the first Monday after it is appointed, for the purpose of reorganization of the police and fire departments on a non-partisan basis; and it shall so apportion appointments to said two departments in such a manner that same shall be equally divided between the two political parties casting the largest number of votes and the next largest number of votes at the first municipal election to be held hereunder, as herein provided, and wherever such an equal division shall not be possible because of odd numbers, then such board may select one more member from the dominant political party than from the minority party, based upon the last vote for mayor; in making the selections to represent the political party successful in the municipal election last held before this act went into effect, preference shall be given to such members of the present police and fire departments, as by long and faithful service shall have demonstrated their fitness for retention upon such departments respectively, and said board may in its discretion reappoint to their positions the present incumbents to the extent of the representation to which the political party successful in the municipal election last held before this act went into effect shall

be entitled, under this act, provided in the judgment of said civil service board one-half of the present members of each of said departments may be found worthy of and fit for reappointment as hereinbefore provided for.

In making all future appointments to either the police or fire departments, said civil service board shall maintain said equal division of the appointees on said departments, in equal proportions as hereinbefore provided for.

Said civil service board shall cause the minutes of its meetings to be recorded in a book especially provided for that purpose, which shall be kept by the city clerk at his office, and open to public inspection. The civil service board, at least every six months in each year and oftener if it deem it necessary, after ten days notice published in two daily newspapers of opposite politics, giving the time and place of meeting, shall hold examinations for the purpose of determining the fitness and qualifications of applicants for offices and positions in the police and fire departments, which examinations shall be practical and shall fairly test the fitness of the persons examined to discharge the duties of the position to which they seek appointment and such examinations shall be made with the aim to secure and maintain honest, efficient and non-partisan police and fire departments. Said board shall at once, after each of said examinations, place on record in the journal of the civil service board the results of said examination, giving the names of applicants and the positions sought by them and their respective percentages. In making such examination the size, weight, intelligence, health, physical appearance, habits and moral standing and surroundings shall be taken into consideration.

All persons examined by said service board receiving a general average of seventy per cent, shall be placed upon eligible list; and hereafter all appointments, whether original or to fill vacancies therein from time to time, shall be filled by the appointment of the applicant who has the highest standing on the eligible list: *Provided,* That if at the time any appointment is to be made from the eligible list, the civil service board, in its discretion, may make another examination of such person before his appointment and may for good cause on such examination change the grade of such applicant.

Sec. 87. The members of the police and fire department as selected by said civil service board shall remain in office during

good behavior and shall not be removed from their said offices or positions except for misconduct, or failure, inability or incapacity to perform their duties or for the good of the service, or when it shall be necessary to reduce the number of the department: *Provided,* That the board of affairs may remove any member of the police or fire departments if it shall be of opinion that it will be for the good of the service to remove such person from his position. Any member of said department so removed, may within ten days thereafter, appeal to council from the action of the board. Such appeal shall be taken only by such removed member filing with the city clerk his verified petition setting forth good cause for reinstatement, and alleging reasons why such removal order was unjust. The removed member so appealing shall carry the burden of proof of such appeal, and shall not be reinstated except upon the affirmative vote of a majority of all members elected to council reversing such order of removal as unjustified.

Sec. 88. After hearing the charges against any such member of the police or fire department the council may, by a majority vote of its members, sustain the same, and by like vote may reprimand, fine or suspend, dismiss or reinstate said accused person. If such member be found guilty on the charges preferred, and by reason thereof dismissed, or suspended, he shall draw no salary during the period of his suspension.

Sec. 89. No member of the fire department or police department shall actively engage in any primary election, convention or election in which any officer in the city, county or state is to be nominated or elected, nor shall such member, directly or indirectly, give or offer to give, contribute or offer to contribute any money or thing of value or profit to any political committee or party organization to be expended in behalf of any political party, nor to any candidate or candidates for nomination for or election to any office in the city, county or state. The violation of any of the provisions of this section by any member of the fire department or police department, shall subject such member to be dismissed from the service of the city by the head of his department or by council, upon charges preferred and proven by any citizen of said city.

Serving Notice

Sec. 90. When any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department or other employee of said city in the same way or manner in which the laws of the state prescribe for executing summonses and subpoenas by state officers, unless otherwise provided by this act.

Sec. 91. Whenever one or more members of the council shall be a candidate for re-election, it shall be the duty of the council to meet and appoint some person or persons, qualified to act in hearing contested election matters and cases. The place and stead of such disqualified member or members shall be filled in each case by a member or members of the same political party as the person or persons respectively, in whose place or places he or they are so appointed. Every person so appointed shall take an oath of office to faithfully and impartially perform the duties of said office. In all matters concerning such contests, such person or persons so appointed shall act in the place and stead of such member or members, so being candidates, and it shall be unlawful for any member of the council to act as such in hearing any contest in relation thereto, when such member is a candidate at such election; and any one violating this section shall be deemed ineligible to the office for which he is a candidate.

Sec. 92. The city clerk, acting under the state laws insofar as they are not in conflict with this act, shall perform such duties relating to all municipal elections held under the municipal authorities of said city as the clerks of the county and circuit courts of Kanawha county perform, under state laws in relation to state, county and district elections in said county; and he shall likewise be the custodian of all ballots, tally sheets, etc., pertaining to all municipal elections.

Sec. 93. All valid ordinances and regulations passed and adopted by the council, on or before the first day of May, one thousand nine hundred thirty-four, and not inconsistent with this act, shall be and remain in force unless and until repealed, and the council now in office shall continue to exercise its powers as such until the officers elected hereunder in one thousand nine hundred thirty-four shall have been qualified.

Sec. 94. The mayor shall appoint from those recommended by the civil service board such number of policemen as are or may be hereafter prescribed by the city council by ordinance, and the board of affairs shall have at its discretion, the absolute right and power to dismiss any policeman and the mayor may appoint another in his stead. The policeman shall be under command of the mayor and the chief of police, to be appointed as in this act provided for, and shall perform any and all duties incident to the office of policeman under the instructions and command of the mayor and the chief of police, and, in addition to the usual and customary duties prescribed by the laws of this state and under the provisions of this charter required of them, it shall specially be the duty of each police officer to report to the chief of police, or some one designated by said chief of police to receive such report, daily and oftener if occasion demands, the condition of all streets, sidewalks, alleys, basements, backyards, buildings, unimproved lots and all other things and matters within the limits of said city that may come under the notice of such policemen which may relate to the health of the citizens thereof, the sanitary conditions, the necessity for the removal of any obstructions upon any of the streets, alleys or sidewalks, and it shall be the duty of the policemen under their instructions to perform all the duties and exercise all the powers ordinarily imposed upon or given to the officers now known as health officers. It shall also be the duty of each police officer to perform all the duties of humane officer and to exercise all the functions, power and authority relating thereto which are or may be prescribed by any law of this state or ordinance of the city. A police officer in making arrests shall have all of the power and authority of a constable under the laws of the state of West Virginia.

Sec. 95. Each member of the city council shall be paid during his term of office the sum of two dollars and fifty cents for each meeting of the council that he shall attend: *Provided,* That the aggregate amount to be paid to each member of the council shall not exceed the sum of one hundred dollars per annum. The roll of the members of the council shall be called at the beginning and at the end of each meeting thereof, and those members only who answer in person at each roll call shall be entitled to receive their pay for such meeting. The names of those members present at each roll call shall be entered upon

the record. If there should not be a quorum present at the first roll call and the meeting be adjourned for that reason, then it shall not be a meeting that will entitle those present to the payment of the sum of two dollars and fifty cents as provided in this section. It shall be the duty of all councilmen to attend all of its meetings, and if any councilman shall be absent from the meetings of council as shown by its records for three consecutive meetings, then his office shall ipso facto become vacant, unless the council shall authorize or excuse such absence. If the office of any councilman shall become vacant under the provisions of this section, then the council shall proceed to fill the same as it is authorized to do in the case of vacancies.

Reports by Board of Affairs

Sec. 96. It shall be the duty of the board of affairs, not later than the tenth day of any month after their election, to make a detailed report to the council for the preceding month. Such report shall show under distinct heads, first, the names and salaries of all employees under the supervision of the board of affairs; second, all expenditures or disbursements in the several departments under the supervision of the board of affairs; third, an itemized statement of all purchases, together with the cost thereof, for each and every such department; fourth, all such other matters and things as the council may by proper ordinance or resolution require of said board of affairs. Such report shall be entered of record in the minutes of the council and be of a public record, open to the inspection of all persons. All officers or employees in any of the departments under the supervision of the board of affairs shall, whenever required by said board of affairs, make full and complete reports of all things done by them as such officers or employees in connection with the business of the city.

Paving

Sec. 97. In addition to the method provided herein for paving streets, the council may order any street, avenue, public alley, or portion thereof, to be graded and paved, repaved, or otherwise permanently improved, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner

of any lot or fractional part thereof fronting on such street, avenue, or alley. The amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of a lot fronting on such street, avenue, or alley, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids and do all other things in connection therewith as is provided for paving or permanently improving any street or alley or any portion thereof, except that such assessment laid under this section shall include the whole cost of such improvement, including the cost of grading and paving squares at intersections of streets and curbing, the cost of which intersections shall be apportioned against the several properties fronting upon the street or portion thereof so improved; and such certificates shall be issued in the same number of installments and payable at the same time as other paving or permanent improvements are provided to be paid for, and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments are liens under this charter. And nothing contained in this act, or in the charter of the city of Charleston, shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements, heretofore or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient: *Provided,* That the city in issuing such certificates shall not be held as guarantor or in any way liable for payment thereof.

Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates, when due, and said default continuing for a period of sixty days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided. Certificates issued in pursuance of this section shall be negotiable at any bank in the city of Charleston.

The owner of the land or lot of land assessed under this section may at any time anticipate and pay such assessment or certificate with accrued interest thereon: *Provided,* That no street, avenue or alley shall be paved or otherwise permanently improved pursuant to this section except and unless two-thirds of all the members elected to the council shall concur in the passage of the ordinance providing therefor, and the vote thereon shall be taken by ayes and noes, and duly entered upon the record.

Sec. 98. In the case of the construction of any pavement, sewer, sidewalk or other permanent improvement under the provisions of this charter where an assessment has heretofore been laid, or may hereafter be laid for the cost thereof, which said assessment is or shall be void or voidable by reason of errors, irregularities or defects in the proceedings under which such improvement was made, or in case such assessment shall have been made against the wrong person or shall have been omitted to be made in a case where the same was proper, it shall be the duty of the council within two years after the completion of such permanent improvement, or after any court shall have declared such assessment, invalid, to cause notice to be given to any person against whom the cost of said improvement might properly be or have been assessed under said charter, of its intention to lay such assessment against him and fixing a time and place at which he may appear and show cause against the same. Said notice shall be served as provided in the said charter for the giving of notices in assessment proceedings, or in any other manner provided by law, including by publication where the person is a non-resident of the city or can not be found. At the time and place fixed for hearing under the notice aforesaid, or at any time thereafter, the council shall proceed to lay and levy an assessment for the cost of such permanent improvement in such manner as would have been lawful under proper proceedings at the time said improvement was made, unless the person so notified shall show good cause against the same, and no further notice of such assessment shall be necessary The assessment so laid shall be a lien upon the property liable therefor and may be recorded and enforced in the same manner as provided for other liens for permanent improvements. This section shall apply to assessments made and certificates issued

under this charter, as well as to other assessments and liens for public improvements.

Sec. 99. In addition to the method for the payment of the cost of construction of sewers and sewer systems provided by this charter, the council may order any sewer or sewer system constructed and laid, in any block, street, avenue, alley or in any right of way or easement, or portion thereof, and the council may order the mayor and city clerk to issue a certificate for each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue, alley, right of way or easement in which such sewer system is constructed and laid, and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of lot fronting on such street, avenue or alley, right of way or easement, and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien; the council shall fix the amount of such assessment, advertise for bids and do all other things in connection therewith as is provided in this charter for paving or permanently improving any street or alley or any portion thereof, the costs of which shall be apportioned against the several properties fronting upon the street, avenue, alley, right of way or easement or portion thereof in which the sewer or sewer system is laid according to the provisions of this charter. Such certificates shall be issued in the following number of installments:

Where the assessment shall not exceed fifty dollars, the assessment and certificate issued thereon shall be in one amount, due and payable in ninety days from the completion and acceptance of the work; if over fifty dollars and not more than one hundred dollars, then such amount shall be covered by only two certificates of equal amounts, payable in ninety days and one year, respectively; if over one hundred dollars and not more than one hundred and fifty dollars, then such amount shall be covered by only three certificates of equal amounts payable in ninety days, one year and two years, respectively; if over one hundred and fifty dollars, and not more than two hundred dollars, then such amount shall be covered by only four certificates of equal amounts, payable in ninety days, one year, two

years and three years, respectively; and if more than two hundred dollars, then in five certificates of equal amounts, payable in ninety days, one year, two years, three years and four years, respectively; and the term "equal amounts" herein shall mean as nearly equal as practicable, that is, four certificates being expressed in terms of blank dollars each, and, when practical, in multiples of five, the cents and odd amounts being covered by the first certificate.

Every such certificate shall be a lien in the hands of the holder thereof upon the particular lot against which it is assessed in the same way and manner that assessments are liens under the sections of this act. And nothing in this act, or in the charter of the city of Charleston shall be construed as imposing a time limit upon the enforcement by appropriate suit of any lien for public improvements hereto or hereafter created.

Certificates authorized by this section may be issued, sold or negotiated to the contractor doing the work, or to any other person if the council deem it expedient; and shall be negotiable at any bank in the city of Charleston: *Provided,* That the city in issuing such certificates shall not be held as guarantor or in any way liable for the payment thereof. Certificates so issued shall contain a provision to the effect that in the event of default in the payment of any one of said certificates when due, said default continuing for a period of sixty days, unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided: *Provided,* That no sewer or sewer system shall be constructed or laid pursuant to this section except and unless three-fourths of the members elected to the council shall concur in the passage of the ordinance providing therefor, and the vote thereon shall be taken by ayes and noes, and duly entered upon the record.

Sec. 100. If the abutting land on any avenue, street, road or alley sought to be graded, paved, repaved or otherwise improved, or in any avenue, street, road, alley, right of way or easement in which a sewer or sewer system is ordered laid, under any of the provisions of the charter of the city of Charleston, is not sub-divided or laid off in lots by a map or deed of record, the council may, for the purpose of making the assessments provided for in this section and other sections herein,

subdivide said land into lots of such size as the council deems advisable for the purpose of laying the proper assessment against such land.

Sec. 101. Any proposed ordinance, or amendment to any ordinance already in effect, may be submitted to the city council by the petition of qualified voters in said city, but such petition must be signed by such number of voters as shall amount to at least ten per cent of the number of votes cast for the office of mayor at the last preceding municipal election. Such proposed ordinance, or amendment to an ordinance, shall be passed without alteration or change by the city council within thirty days after such petition is filed, or the city council shall, in lieu of passing such ordinance or amendment to an ordinance, submit such proposed ordinance, or amendment to an ordinance, in the manner hereinafter prescribed for ratification or rejection to the qualified voters of the city at the next regular municipal election which is to be held not less than sixty days after such petition is filed. If such petition contains a request for a special election and is signed by sufficient qualified voters to equal in number at least fifteen per cent of the votes so cast for the office of mayor at the last preceding regular municipal election, the ordinance or amendment thereby proposed shall be passed by the city council without amendment or change, within thirty days after such petition is filed, or the city council shall submit such proposed ordinance or amendment for ratification or rejection to the qualified voters at a special election which shall be called within thirty days and held not less than sixty nor more than ninety days after such petition is filed, unless a general or special election is fixed by law to be held within said period of time. In the latter event, said proposed ordinance or amendment shall be submitted for ratification or rejection at such election. The city council shall cause such proposed ordinance or amendment to be printed and published in some newspaper of general circulation in the city once each week from the time the council decides to submit the same to the voters until such election is held. No ordinance or amendment to an ordinance adopted by the voters at any such election shall be repealed or amended by the city council.

The ballot used for any such election shall have printed on it the title of each ordinance, or amendment to an ordinance, sub-

mitted for ratification or rejection and on separate lines under said title the words "for said ordinance" and "against said ordinance" (or the amended part thereof, as the case may be). If a majority of the qualified voters of the city voting on any proposed ordinance, shall vote in favor thereof, the same shall thereupon become a valid ordinance and be in full force and effect at the expiration of the period of ten days from and after said election. If two or more ordinances, or amendments to ordinances, adopted at the same election are inconsistent, then the respective ordinance, or amendment to an ordinance, receiving the largest affirmative vote at such election shall prevail, and the form of submission of inconsistent ordinances, or parts thereof, or amendments to ordinances, shall be in such form that the voters may clearly express their choice.

Sec. 102. If within the period of five days after the passage of any ordinance a petition signed by sufficient qualified voters of said city, being in number at least fifteen per cent of the votes cast for all the candidates for the office of mayor at the last preceding regular municipal election, shall be filed protesting against such ordinance, or any part thereof, taking effect, such ordinance, or such part thereof so protested against, shall thereupon and thereby be suspended from taking effect, and the city council shall immediately again consider the same, and if it be not repealed or so amended as to meet the requirements of the said protest, the city council shall submit the same for ratification or rejection to the qualified voters of the city at the next regular municipal election which shall be held not more than thirty days after such petition is filed, or at a special election to be called thereafter by the city council for that purpose to be held not less than sixty days nor more than ninety days after such petition is filed, and such ordinance, or part thereof so protested, shall not take effect unless a majority of the votes cast at such election thereon shall be for the ratification thereof. If such petition shall only be signed by sufficient qualified voters to equal in number at least five per cent but not sufficient to equal in number at least fifteen per cent of the votes cast for the candidate for said office of mayor at the last preceding municipal election, the city council shall submit such ordinance, or such part thereof so protested, for ratification or rejection at the next ensuing regular municipal election which

is to be held more than thirty days after such petition is filed. The city council may, on its own motion, without any petition being required therefor, submit at a regular or special municipal election any ordinance passed by it in the same manner and with the same force and effect as hereinbefore provided. No ordinance, or part of any ordinance, rejected at any election shall be enacted or passed by the city council within the period of twelve months thereafter.

Recall

Sec. 103. Any officer of the city of Charleston elected by the voters under the provisions of this act, may be recalled and the office declared vacant as provided in this act. Such officer may be removed from office by a recall election held thereunder, but no such officer shall be removed from office within the period of four months after he enters upon the discharge of his duties as such. Before any such recall election shall be held a petition, stating the name or names and the office or the officers sought to be recalled, and signed by sufficient qualified voters of the said city as shall equal in number the quantity of twenty-five per cent of the votes in the whole city or in the ward, as the case may be, for all the candidates for the office of mayor at the last preceding regular municipal election, and containing a sworn statement of the grounds upon which it is sought to remove the said officers or officer, shall be filed with the city clerk. No such petition shall be filed within the period of six months before the end of the term of such officer. The city council shall immediately, upon the filing of said petition, call a special election in the manner in this act provided for calling special elections and submit to the voters the question of recalling such officer or officers. The ballot at such election, with respect to each person whose recall is sought, shall be substantially as follows: "Shall (name of person) be removed from the office (name of office) by recall." Immediately following such question there shall be on the printed ballot the two propositions in the order set forth.

"For the recall of (name of person)."

"Against the recall of (name of person)."

Immediately to the left of said proposition shall be printed a square in which the voters, by making a cross mark (X), or in

some other way declaring their intention, may vote for either of such propositions. If sixty per cent of the voters registered voting on said propositions vote in favor of the recall of such officer or officers, then he or they shall thereby be forthwith removed from such office and such vacancy or vacancies shall be filled as provided in this act: *Provided, however,* That within fifteen days after the returns of such recall election shall have been canvassed by the city council, a petition signed by sufficient qualified voters to equal in number at least thirty per cent of the votes cast in the city, or ward, as the case may be, for the candidates for the office of mayor at the last preceding regular election, and praying that such vacancy or vacancies be filled by a special election to be held not less than thirty days nor more than forty-five days thereafter, the city council shall order a special election to be held in the same manner as other special elections are provided for in this act for the purpose of filling such vacancy or vacancies.

Sec. 104. The signatures to petitions filed under the provisions of the last three sections need not be all on one paper or one sheet of paper, but separate petitions may be circulated and signed and the aggregate number of names on all of such petitions, if equal to the number required in this act, shall be sufficient, the circulator of each such paper shall make and append thereto an affidavit that each signature thereon is the signature of the person whose name it purports to be. The residence address of each signer shall accompany the signature. All such petitions shall be filed with the city clerk and shall be deemed and held to be qualified voters, unless a protest in writing, under oath, shall be filed with the city clerk by some qualified voter within fifteen days after such petitions are filed, which protest shall set forth the name of each signer protested against and the ground therefor. It shall be the duty of the city clerk as soon as possible and within twenty-four hours after the filing of such protest to mail a notice to each signer so protested against at his address as given in the petition, requiring him to be and appear before the city registrars at a time fixed in said notice, not less than twenty-four hours nor more than forty-eight hours after the mailing of such notice, for the purpose of defending his rights to sign said petition. If it shall be proven by satisfactory evidence that such person is not a qualified

signer of such petition, then his name shall be stricken therefrom. All evidence taken shall be under oath, and any signer present at the hearing may be called as a witness by the protestants or testify in his own behalf. All hearings shall be summary and shall be concluded within fifteen days after such petition is filed. The city registrars shall forthwith certify the result of their examination to the city clerk and such city clerk shall serve a copy of such certificate upon the person or persons named in the petition as representing the signers thereof. When the petition contains a sufficient number of qualified signatures the city registrars shall forthwith file the same with the city clerk, and he shall transmit the same to the city council, which shall call an election as provided for in the preceding sections of this act. All petitions filed in the city clerk's office shall be public records. When any petition contains a form of submission of the ordinance petitioned for and such form is a reasonably fair description thereof, the same shall be placed on the ballot and no petition filed subsequently shall use any form of submission that is so similar to the one previously filed as to tend to confuse the voter and, in case of such conflict, the person presenting the subsequent petition may file a form of submission which shall be placed upon the ballot: *Provided,* That the same shall fairly describe the ordinance, or amendment to an ordinance, petitioned for and shall not be in conflict with any prior forms of submission or tend to confuse the voter.

The city council shall so frame all forms of submission that the voter can, by making a cross in a square in front of some appropriate words, vote either for the ratification or the rejection of the proposed measure, but no ballot shall be rejected from which the reasonable intention of the voter, however he shall have marked the same, can be ascertained. All city elections, regular or special, shall conform as nearly as possible to the election statutes contained in chapter three of the code of West Virginia.

Sec. 105. In addition to the method of securing the laying of sidewalks set out in this charter, the council of said city may cause any sidewalk to be constructed, laid, relaid, or otherwise permanently improved in the city of Charleston in the following manner and upon the following terms: Plans and specifications

shall be prepared and filed, resolutions and ordinances shall be adopted and notices shall be prepared and served in the same way and manner as near as may be, as in the case of the paving and improvement of streets and alleys. The contract for same shall, after due advertisement in which council shall reserve the right to reject any and all bids, be let to the lowest responsible bidder and upon completion and acceptance of the work, council shall order the mayor and city clerk to issue to the contractor doing the work a certificate for the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such sidewalk, and the amount specified in said assessment certificate shall be a lien in the hands of the holder thereof upon the lot or part of a lot fronting on such sidewalk as well as a debt against the owner of said lot, and such certificate shall draw interest from the date of said assessment, and the payment may be enforced in the name of the holder of such certificate by a proper suit in equity in any court having proper jurisdiction to enforce such liens, and council shall fix the amount of such assessments and do all things in connection therewith necessary to make them valid and do all other things in connection therewith as is provided for paving or improving streets and alleys and such certificates shall be issued one for each abutting lot or portion thereof payable six months from the date of the completion and acceptance of the work and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments for street paving are liens under the other provisions of the aforesaid act creating and amending the charter of the city of Charleston: *Provided, however,* That council shall not advertise for bids for any one letting of less than five thousand square feet: *And provided further,* That council shall not receive any bids or let any sidewalk contract between the first day of October and the first day of March of any year. Nothing in this section shall be so construed as to prevent any abutting lot owner from having his own sidewalk put in if done before the advertising hereinbefore mentioned and provided same is done according to the lines, grades and specifications of the city engineer, for which no charge shall be made. The total cost of constructing, laying, relaying, or otherwise permanently improving any sidewalk or walks shall be borne by the owners of

the land abutting upon said sidewalk or sidewalks according to the following plan, that is to say, payment is to be made according to the proportion of square feet in front of any lot or the portion thereof bears to the whole letting. The contract for sidewalks referred to in this section does not necessarily have to be one continuous sidewalk, but the five thousand square feet required for a letting as aforesaid may be made up of or composed of any number of sidewalks in any parts of the city.

Sec. 106. The municipal judge, mayor, city clerk, municipal court clerk, chief of police, or in the absence of the chief of police, the captains of police and lieutenants of police shall each have authority to issue warrants for all offenses committed within the police jurisdiction of the city of Charleston. Any vacancy in the office of municipal judge shall be filled by appointment by the mayor until the next election.

Action for Damages

Sec. 107. No action shall be maintained against the city of Charleston for damages for a personal injury alleged to have been sustained by reason of the negligence of the city or of any officer, agent or employee thereof, unless a written verified statement of the nature of the claim and of the time and place at which such injury is alleged to have been received shall have been filed with the city clerk within thirty days after the cause of action, shall have accrued. The cause of action shall be deemed to have accrued at the date of the sustaining of the injury, except that where death results therefrom the time for the personal representative to give notice shall run from the date of death. An action at law for damages for personal injuries or death shall not be commenced until the expiration of thirty days after the filing of the notice as provided in this section.

Health Department

Sec. 108. The health commissioner shall be a physician of good standing in his profession and shall devote his time to this work alone. It shall be his duty to administer to all charity cases that he, or the board of affairs or council may, in their discretion, deem deserving. He shall in conjunction with the city manager, have charge of the general health and sanitation of the

city and it shall be his duty to carefully investigate all complaints and make a careful detailed report of all his official acts as health commissioner to the city manager and council at least once every month. He shall be appointed in the way and manner provided in the charter of the city of Charleston and shall receive such salary as council may by ordinance prescribe. Nothing herein, however, shall be construed as in any way affecting the police officers of the city relative to their powers and duties in regard to city sanitation contained and set forth elsewhere in said charter.

Sec. 109. The city council may cause and contract for the codifying and indexing of all the ordinances of the city to be fully completed, and such ordinances shall include all in force and effect up to the last day possible. Before such work is accepted by the council, it shall be completed in every respect and the council shall then cause it to be properly printed and securely bound in a permanent book. The council may by ordinance adopt the code to be prepared as a whole and when said ordinance adopting said code shall have been passed by the council, the said code shall be and become the law and ordinances of said city up to such time according to the tenor and effect thereof, and when printed in a book, the same shall be received as evidence as the ordinance of said city, unless errors or omissions be affirmatively shown therein, and no other publication thereof shall be made or required under the charter, and the council shall cause all the ordinances of said city, either by printing a supplement thereof, to be brought up to date within a reasonable time after the printing of such ordinances, and in any event such supplement shall be printed, or, if necessary, a new copy of the ordinance shall be printed, or within every four years, and the council shall cause a sufficient number of said books of the ordinances to be printed and to sell such number thereof as it may do so at such price as may be reasonable, and the number of books printed shall be fixed by the council.

Sec. 110. It shall be the duty of the city of Charleston to provide suitable and proper places for the burial of the dead, which places may be in or out of the corporate limits of the said city. The city shall cause such places to be laid off into cemetery lots in a reasonable and proper way and shall sell said lots for a reasonable price, but it may take into consideration the loca-

tion of each of such lots in fixing the prices thereof. The city council shall have all the powers and rights of condemnation of any real estate that it may wish for such purpose in the manner provided by law, and it may require by means of condemnation any real estate which has already been laid out as a cemetery by any person, assosiation or corporation.

No burials of the bodies of deceased persons shall hereafter be permitted within the incorporated limits of the city of Charleston or within the space of one mile of such incorporated limits without the permission of said city shall be first had and obtained, and the city of Charleston, through its proper authorities, shall have power to pass all proper ordinances providing suitable penalties to carry out the powers here given said city.

No moneys received from the sale of lots in any cemetery so owned, or hereafter owned, by said city shall be used for any other purpose than the proper care and preparation of the ground, upkeep and expenses of said cemetery, the roads and ways to and through the same and for the purpose of additional property for cemetery purposes.

Sec. 111. The building inspector shall be a competent person for the duties of his office and shall devote all his time to city work. He shall not be engaged or interested in the building business in any way or manner. The council shall by ordinance fix a proper salary for him. He shall see that the ordinances of the city and laws of the state concerning buildings are enforced and perform such other duties as the manager or council may direct.

Sec. 112. The council shall have power to buy, sell, or exchange any real estate found necessary or convenient, in the opening, construction, straightening, widening, or otherwise altering of any street, alley, or public way within the city, and by resolution and proper deed to convey to any person, firm or corporation any land used, or heretofore or hereafter used, for street or other public purposes, when in the judgment of the council such land shall no longer be needed for such public use.

Sec. 113. For the purpose of promoting health, safety, morals, or the general welfare of the city and community, the council is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures,

the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes: *Provided, however,* That any ordinance or by-laws enacted under the authority of this act shall exempt from the operation thereof any building or structure used or to be used by a public service corporation (not otherwise exempt) as to which proof shall be presented to the council of the city of Charleston provided for in this act, that the exemption of such building or structure is reasonably necessary to the convenience or welfare of the public.

Sec. 114. For any or all of said purposes the council may divide the city into districts of such number, shape and area as may be deemed best suited to carry out the purpose of this and the four succeeding sections, and within such districts it may regulate and restrict the erection, construction, alteration, repair or use of buildings, structures or land. All regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

Sec. 115. Such regulations shall be made in accordance with a comprehensive plan, and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; or to facilitate the adequate provision of transportation, water sewage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

Sec. 116. The council shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed. However, when demanded by any party in interest no such regulation, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least

fifteen days' notice of the time and place of such hearing shall be published in at least two newspapers of general circulation, published in the city of Charleston.

Sec. 117. Such regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such change signed by the owners of twenty per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof, extending one hundred feet therefrom, or of those directly opposite thereto, extending one hundred feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of council. The provisions of the previous section relative to public hearings and official notice shall apply to all changes or amendments.

Sec. 118. In order to avail itself of the powers conferred by this act, the council shall appoint a commission to be known as the zoning commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such council shall not hold its public hearings or take action until it has received the final report of such commission.

Sec. 119. The object and aim of this act is to procure an honest and efficient administration of the affairs of the city of Charleston, free from political partisan distinction or control; and the municipal authorities of the city and courts of the state, shall construe this act with that aim in view.

Board of Affairs Successors to Council

Sec. 120. The board of affairs (together with the council) provided for in this act, and their successors in office, shall be held and deemed in law and in fact, the successors of the mayor, and council of the city of Charleston.

First Election and Present Officers

Sec. 121. The first election hereunder shall be held at the time and in the manner hereinbefore provided and the officers

then elected shall begin their terms on the first day of May, one thousand nine hundred thirty-four, and thereafter all elections, except special elections, shall be held on the third Tuesday in March in every second year thereafter; and the terms of office of the persons elected shall begin on the first day of May next after such election. For the first election to be held hereunder, the county court of Kanawha county shall be a canvassing board to ascertain and disclose the result of said election, and to hear and determine all contests. Thereafter the board of affairs shall act as such canvassing board and for this purpose it may assemble in special session on the day fixed by law to canvass the result of any election; and all the powers concerning elections, the appointment of registrars and election officers heretofore given to the council, or which may hereafter be given to council by general law, are hereby vested in the board of affairs; and whenever one or more members of the board of affairs shall be a candidate for reelection it shall be the duty of the council to meet and appoint some person or persons, qualified to act on the board of affairs, to serve as such in the appointment of election officers and in canvassing and disclosing the result of any election and in hearing contested election matters and cases, in the place and stead of such members or member so being candidates such person or persons so appointed shall be, in each case a member or members of the same party as the person or persons respectively candidate and in whose place he or they are appointed; and every person so appointed shall take the required oath of office before discharging his duties; and in all matters concerning said election thereafter and the canvassing and disclosing the result thereof and the hearing of contests in relation thereto, such person or persons so appointed shall act in the place and stead of such member or members so being candidates, and it shall be unlawful for any member of the board of affairs to act as such in any capacity in the appointment of election officers or in ascertaining and declaring the result thereof or in hearing any contest in relation thereto, when such member is a candidate at such election; and anyone violating this section shall be deemed ineligible to the office for which he is a candidate; and if upon application to the board of affairs by any five taxpayers it fails to disclose such ineligibility, then the council shall have power so to do; if the council shall fail to

do so, then the circuit court of Kanawha county shall have power so to do by mandamus prohibition or certiorari.

Sec. 122. The city clerk, acting under state laws in so far as they are not in conflict with this act, shall perform such duties relating to all municipal elections held under the municipal authorities of said city, as the clerk of the county court of Kanawha county performs, under state laws, in relation to state, county and district election in said county and he shall likewise be the custodian of all ballots, tally sheets, etc., pertaining to all municipal elections.

Sec. 123. The present mayor, city council and all officers, agents, and employees of the city of Charleston shall remain in and hold their offices, and discharge the duties thereof until the first day of May, one thousand nine hundred thirty-four, and thereafter until their successors are elected and qualified as provided by this act, and all existing officers not provided for by this act, shall be abolished as of the first day of May, one thousand nine hundred thirty-four, except this section shall not apply to firemen and policemen retained by the civil service board as hereinbefore provided for.

Referendum

Sec. 124. This act shall not become effective until it shall have been submitted to and obtained the approval of a majority of the votes cast at the referendum herein provided. A referendum to the voters of the city of Charleston or a special election therein is hereby called and shall be held on the third Tuesday following the date on which this act becomes effective by legislative enactment for the purpose of submitting to the voters of the city of Charleston the question of the adoption or rejection of this act.

Sec. 125. At such referendum or special election all persons now qualified to vote in the municipal elections of the city of Charleston, who shall have been registered voters at the special election held June twenty-seventh, one thousand nine hundred thirty-three, for the purpose of providing for a convention to pass on an amendment to the constitution of the United States or who, under the provisions of this charter are, at the time of the election, qualified voters, shall be entitled to vote. The registration books used in said election, as corrected by the

county court, holding session on the Friday and Saturday preceding the day of such election for the purpose, shall be used in said referendum.

Sec. 126. Except as in this act otherwise provided, such referendum shall be conducted and the results thereof ascertained and certified by the county court of Kanawha county, West Virginia, sitting as a board of canvassers, and all provisions of the law of this state, relative to elections, except so far as inconsistent with this act, are hereby made applicable to such referendum. The county court of Kanawha county shall appoint for each precinct in said city three commissioners of election, and no more, and no poll clerks, for the referendum hereby called, and at least one commissioner shall be known to the court to be for the adoption of this act and one shall be so known to be for the rejection thereof. The commissioners shall designate two of their number, one known to be for the adoption and one known to be for rejection, as poll clerks, who shall perform all duties of poll clerks as well as commissioners at such referendum. No such commissioner of election shall receive compensation for his duties as such.

Sec. 127. The referendum shall be by ballot and the ballot commission of Kanawha county, West Virginia, or said county court shall prepare ballots, and print thereon the following:

Ballot on Bi-partisan charter.

☐ For adoption of Bi-partisan Charter.

☐ Against adoption of Bi-partisan Charter.

Sec. 128. The county court of Kanawha county, sitting as a canvassing board, shall ascertain the result of the referendum, and shall within five days thereafter file a certificate of the same with the secretary of state, whereupon, if this act shall have been so adopted, the same shall to all intents and purposes become immediately effective, otherwise null and void and of no effect whatsoever.

Sec. 129. If one or more sections or parts of sections of this charter shall be declared to be unconstitutional by any of the courts of this state, the remaining sections and parts of sections hereof shall not be affected by any such decision, but shall be and remain in full force and effect.

Sec. 130. All expenses of election held under this act shall be paid out of the treasury of the city of Charleston.

Sec. 131. All acts or parts of acts in conflict or inconsistent with this act, are, to the extent of any such conflict hereby repealed.

CHAPTER 157

(House Bill No. 89—By Mr. Martin)

AN ACT to amend and reenact section sixteen, chapter sixteen, acts of the Legislature of West Virginia (municipal charters), one thousand nine hundred fifteen, relating to the charter of the town of Charles Town, in the county of Jefferson.

[Passed December 13, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
16. Number, terms, duties and compensation of appointive officers.

Be it enacted by the Legislature of West Virginia:

That section sixteen, chapter sixteen, acts of the Legislature of West Virginia (municipal charters), one thousand nine hundred fifteen, be amended and reenacted so as to read as follows:

Section 16. There shall be one or more sergeants, a clerk, a treasurer, an assessor, a city attorney, a city health officer, a city engineer, and three commissioners of roads, streets and alleys of said town, who shall be appointed by the council thereof and hold office during the pleasure of said council. The duties of sergeant, clerk, treasurer and assessor may be discharged by the same person, or otherwise, as the council may from time to time determine; but no member of the council shall hold any of said offices. The compensation for said officers shall be in the discretion of the council.

CHAPTER 158

(House Bill No. 184—By Mr. Martin)

AN ACT authorizing the town of Charles Town, Jefferson county, West Virginia, a municipal corporation, to borrow funds from the public works administration or other federal government agency authorized to make loans, for the purpose of remodeling the municipal building known as the Charles Washington hall, and installing heating, plumbing and other equipment necessary to make the same modern in all respects, and to provide payment therefor; and also to give a lien or liens to secure the same upon the lot upon which the building is located and upon the improvements thereon.

[Passed January 17, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Town of Charles Town authorized to borrow not to exceed twenty-five thousand dollars from federal governmental agency to remodel, etc., its municipal building; council authorized to do all things necessary to carry out provisions of act and repay loan.

Be it enacted by the Legislature of West Virginia:

Section 1. The town of Charles Town in the county of Jefferson, West Virginia, is hereby authorized to borrow not to exceed twenty-five thousand dollars from the public works administration or any federal agency authorized to make loans, for the purpose of remodeling the municipal building known as the Charles Washington hall and installing necessary heating, plumbing and other equipment necessary to make same modern in all respects and also to give a lien or liens to secure the same upon the lot upon which the said building is located and the improvements thereon. The town council of said town of Charles Town is hereby empowered to undertake and do all things necessary to carry out the provisions of this act, and by appropriate action of said council to provide the repayment of said lien.

CHAPTER 159

(House Bill No. 173—By Mr. Randolph)

AN ACT to authorize the city of Clarksburg in Harrison county, West Virginia, to transfer money from the special funds known as the public recreation and playground fund, municipal band fund, health department fund, and the public library fund, to the general fund of the city, and providing for the use thereof.

[Passed January 5, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. City of Clarksburg authorized to transfer to general city fund the special funds known as public recreation and playground fund, municipal band fund, health department fund and public library fund.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Clarksburg in Harrison county, West Virginia, is hereby authorized and empowered to transfer any funds now or hereafter in the special funds known as the public recreation and playground fund, municipal band fund, health department fund, and the public library fund, to the general fund of the city, and to permit the said city to use such moneys so transferred from said funds for any purpose for which the money in the general fund may be used.

CHAPTER 160

(House Bill No. 386—By Mrs. Suddarth)

AN ACT to authorize the city of Grafton, West Virginia, a municipal corporation, to set aside from the general revenues of said city, other than direct property taxes levied on real estate and personal property, a sum not to exceed five thousand dollars annually, to be used in the repayment of any sum of money borrowed by the city of Grafton from the reconstruction finance corporation, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned hospital, in or near the city of Grafton, the authority to annually set aside the said sum and use it for said purpose, to exist until the sum or sums so borrowed shall be repaid, and to enact

proper ordinance to carry out the provisions of this act, and to pledge the sums so set aside for the repayment of said loan.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. City of Grafton authorized to set aside annually from its general revenues, except from taxes levied directly on real and personal property, not to exceed five thousand dollars to repay loan for its municipally owned hospital, until loan repaid; act confers additional powers.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Grafton, Taylor county, West Virginia, a municipal corporation, is authorized to set aside from the general revenues of said city, other than taxes levied directly on real estate and personal property, a sum not to exceed five thousand dollars annually, to be used for and in the repayment of any sum or sums of money borrowed by the city of Grafton from the reconstruction finance corporation or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned hospital, in or near the city of Grafton, under the authority of chapter sixty-eight, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three. The authority to annually set aside and use for said purpose, the said sum from the general revenues of the city of Grafton, other than taxes levied directly on real estate and personal property, shall exist until the sum or sums so borrowed for said purpose is repaid. This authority shall be additional to the authority vested in said city of Grafton by virtue of said chapter sixty-eight, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-three, and the said city is authorized to enact and put in force proper ordinances to carry out the provisions of this act, and to pledge said sum so set aside for the purpose of further securing said loan or loans and the repayment thereof to such federal governmental agency.

CHAPTER 161

(Senate Bill No. 66—By Mr. Taylor)

AN ACT to amend and reenact chapter eleven, acts of the Legislature, one thousand nine hundred twenty-one (municipal charters), and amendments thereto by chapters seventy-seven and seventy-eight, general acts of the Legislature, one thousand nine hundred twenty-three; chapters twenty-seven and twenty-eight, acts of the Legislature, one thousand nine hundred twenty-five (municipal charters); chapter seventeen, acts of the Legislature, one thousand nine hundred twenty-seven (municipal charters); chapter eleven, acts of the Legislature, one thousand nine hundred twenty-nine (municipal charters); chapter seventy-six, acts of the Legislature, one thousand nine hundred thirty-one; chapter twenty-five, acts of Legislature, one thousand nine hundred thirty-two; and chapter one hundred twenty-one, acts of the Legislature, one thousand nine hundred thirty-three, in relation to the charter of the city of Huntington, and to consolidate into one act the charter of said city.

[Passed February 16, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.

1. City of Huntington a body corporate.
2. Corporate limits.
3. Division into ten wards.
4. Municipal authorities to consist of mayor and councilmen.
5. Corporate powers vested in council.
6. Enumerated powers of city; purchase of real estate beyond city limits; city to be successor to rights of former incorporated cities and town in present boundaries; powers as to water works, etc.; further powers; ordinances to carry enumerated powers into effect.
7. Qualification of newly elected members of council; powers of mayor; vice-mayor, election, duties and compensation; duties of city clerk.
8. Filling vacancy in council.
9. Approval, by council, of franchise, by vote recorded in minutes.
10. Procedure for removal of mayor on charges.
11. Rules and minutes of council.
12. Duties of mayor.
13. Appointment and removal by mayor of appointive officials.
14. Qualifications of city voters.
15. Nomination of candidates for mayor and councilmen.
16. Primary and general elections and registration of voters.
17. At general election in one thousand nine hundred thirty-four and each second year thereafter a mayor and thirteen councilmen to be elected; terms and qualifications; separate ballots for city officials.
18. Councilman for each ward elected by ward voters and three at large by voters of entire city; termination of office of city commissioners and mayor on the second Monday in June, one thousand nine hundred thirty-four and election of mayor by citizens board, as city council.
19. Mayor and councilmen must be voters.
20. Contested elections decided by county courts of Cabell and Wayne counties; deposit for costs; compensation of members of court; tie vote.
21. Oath and bond of city officials; time within which to qualify.
22. Official and additional bonds of enumerated officials; approval, recordation, enforcement and payment of premiums by city, of official bonds.
23. Departments of government of city.

SEC.
24. Salaries of officials and wages of laborers.
25. Regular meetings of council; published notice of special meetings.
26. When roll call of council on motion required.
27. City clerk as clerk of council; minutes of council meetings.
28. Powers of council as to witnesses, etc., and contempt; process.
29. Purchase by mayor, upon requisition, of city supplies; contracts and filing of bids.
30. Qualifications and powers of police judge; appeals from decisions.
31. Regulations as to franchises.
32. Style of ordinance.
33. Granting, refusing or revoking city licenses; bond.
34. Full time health officer; qualifications; health ordinances; abatement of nuisances; ordinance to regulate location, etc., of water closets, cesspools, etc.; cost, after notice, and refusal of abatement, a lien; publication as to nonresidents.
35. Powers of council to require connection with sewerage system.
36. Council may lay or require the laying of curbing, sidewalks, etc.; shade trees; lien of assessment for cost; recordation and enforcement; sale of certificates to contractor; published notice of letting contract; notice when owner required to lay sidewalks, etc.; removal of weeds, etc., on lots; collection of cost.
37. What annual estimate for levy to show.
38. On what property annual levy laid; amount; additional levy of not to exceed twenty cents and special revolving fund levy of not to exceed ten cents by two-thirds vote of council; investment of revolving fund.
39. Lien and collection of taxes; duties of city clerk and of sheriffs of Cabell and Wayne counties; monthly compensation of sheriff of Cabell county as city treasurer.
40. When city provides for its poor, streets, etc., no tax for same outside of corporate limits; county courts to have no jurisdiction over roads, etc., within city.
41. Levy, and collection by county assessor, of city capitation tax of two dollars; uses of fund.
42. Designation of depository bank for, and interest on, city funds; bond of bank; bonds of, and monthly accounting by sheriffs.
43. Permanent grading, paving, etc., of streets by city or by contract; purchase or condemnation of land; assessment and apportionment of cost against abutting property owners; what to be included in total cost; publication of ordinance ordering improvement; objections by abutting property owners; hearing on objections; city may elect to do the work; costs of grading, etc., street intersections to be paid by city; assessment against street or other railroad occupying street to be improved; what ordinance for improvement of streets, parks, etc., to set out; publication; protest of property owners affected; hearing on; appeal to circuit courts of Cabell and Wayne counties; published notice for bids and awarding contracts; two methods of payment of cost of improvements; when council may sub-divide into lots the property abutting on street to be improved.
44. Installment payments of costs of improvement; number, form, due dates, etc., of certificates for installment payments; certificates may be sold or held by city; number of certificates determined by amount of assessment; lien of certificates; collection by action; reports by city engineer to council of total cost, etc., of improvements and assessments; publication of assessments; protests; recordation of assessments by county clerks; lien of assessments; payment before recordation; when city is, or is not, responsible to contractor for assessment certificates; procedure when certificate void; form of assessment certificate, principal installment and interest coupons.
45. Sewer construction; assessment of cost; city may elect to do the work; when assessment levied against street or other railroad for sewers; what notice for bids to set out; city may lay off tract into lots for sewer construction purposes.
46. City may construct sewers or let work to contract; how cost paid; installment payments certificates, number and form; certificates may be held by city or sold to contractor; number of certificates determined by cost; lien of certificates; collection by suit; what report of city engineer to council to show; publication of assessments; protests by property owners; recordation and lien of assessments; payment before recordation; when city is, or is not, liable to contractor for certificates; procedure when assesment void; form of assessment certificate, principal installment and interest coupons.
47. City may issue bonds for streets and sewers in anticipation of assessment payments; form; interest rate on and payment of bonds; limitation on amount of bonds; items excluded in estimate of existing indebtedness;

SEC.
methods of collecting assessment to retire bonds; penalty for nonpayment of assessment when due; lien of assessment; obligation of city to contractor.
48. Street and park lighting systems; cost of construction may be assessed against abutting property owners; cost of upkeep and current borne by city; levy and collection of assessments.
49. Method of release of assessment lien; release of lien upon affidavit; penalty for false affidavit; when lien and personal liability of owner terminates; recordation of assessment lien and assessment roll; collection of certificates and release of lien by city treasurer.
50. Methods of refunding certificates, with consent of their owners; provisions of refunding contract; statements to council by city clerk and action on; publication; hearing on protests; payment by property owner before refunding ordinance adopted; form and publication of ordinance; lien of reassessment certificates; assessment certified by city clerks to county clerks for recordation; assessment in ten annual installments; penalty for nonpayment when due; form of certificate, principal installment and interest coupons; refunding certificate delivered to owner of original certificate; suits to set aside reassessment; void assessment not validated.

SEC.
51. Provisions of act separable; inconsistent acts repealed; provisions of act not retroactive.
52. Civil service board to consist of mayor and four members, two from each of the dominant political parties, to be appointed by the mayor and confirmed by council; removal, terms, duties and meetings of board; appointments to police and fire departments by board; qualifications of appointees; departments bipartisan; special officers; term of appointees; present policemen and firemen to obey mayor's rules and regulations for their departments; suspension by mayor or chief of member for cause; appeal to board; dismissal by mayor of member on written charges; hearing by board; board to make rules to govern civil service appointees; physical and moral character of applicant for appointment to be considered.
53. Use of local labor on city contracts.
54. Council may adopt code of laws and ordinances.
55. Notices, warrants, etc., may be executed by police officer of city.
56. Definition of the words "street" and "treasurer".
57. Inconsistent acts repealed but act creating park board for city not repealed or amended.

Be it enacted by the Legislature of West Virginia:

That chapter eleven, acts of the Legislature, one thousand nine hundred twenty-one (municipal charters), and amendments thereto by chapters seventy-seven and seventy-eight, general acts of the Legislature, one thousand nine hundred twenty-three; chapters twenty-seven and twenty-eight, acts of the Legislature, one thousand nine hundred twenty-five (municipal charters); chapter seventeen, acts of the Legislature, one thousand nine hundred twenty-seven (municipal charters); chapter eleven, acts of the Legislature, one thousand nine hundred twenty-nine (municipal charters); chapter seventy-six, acts of the Legislature, one thousand nine hundred thirty-one; chapter twenty-five, acts of the Legislature, one thousand nine hundred thirty-two; and chapter one hundred twenty-one, acts of the Legislature, one thousand nine hundred thirty-three, be amended and reenacted, and that the charter of said city, as constituted by this act, be incorporated and consolidated into one act to read as follows:

Section 1. That part of the county of Cabell and the county of Wayne, included in the limits hereinafter prescribed in section two, is hereby made a city corporate and body politic by the name of "The City of Huntington," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, and may purchase, lease, sell and hold real estate and personal property necessary for the purpose of said corporation.

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

Beginning at a point at low water mark of the Ohio river on the south side thereof, about one mile above the mouth of the Guyan river, in the west line of Peck farm; thence southerly with the said Peck line, crossing the Ohio River hill, to the east boundary line of the Eastland addition; thence with the east line of said addition southerly to the west boundary line of Woodland terrace; thence with the west line of same, produced, to the south right-of-way line of the Chesapeake and Ohio railroad; thence with said right-of-way line easterly to a point in the west line of Fifth street of the Altizer place, plat number one; thence with the west line of said Fifth street, produced, southerly crossing Guyan river to the top of the south bank of said river; thence down said river with the top of the bank thereof to a point in the east line of the International Nickel company's land, produced, and with said line crossing said river in a northerly direction to the south right-of-way line of the Chesapeake and Ohio railroad, thence with said right-of-way line westerly to Pat's branch; thence down same to the easterly right-of-way line of Riverside drive and with said right-of-way line southerly and easterly to a point in the east line of said International Nickel company; thence with said line southerly, crossing the Guyan river to the top of the south bank thereof; thence down said river bank to the east line of Ellwood avenue in Arlington addition as of record in Cabell county court clerk's office, in map book number three as map number sixty-eight; thence with the east line of said Ellwood avenue southerly to the south line of Washington boulevard in said addition; thence in an easterly direction with the southerly line of Washington boulevard continuing with the same to the point of junction of Washington boule-

vard with Arlington boulevard, and thence continuing in a southerly direction with the westerly line of Arlington boulevard to a point in the line between lots numbers seven hundred thirty-three and seven hundred thirty-four of said addition, produced; thence easterly crossing said Arlington boulevard and with said lot line to a point in Crump branch in the property line between the said Arlington addition and Monel park; thence up Crump branch and with the property line between said additions to the north line of Norway avenue; thence leaving said property lines and continuing up said Crump branch as it meanders for a distance of about one thousand seven hundred forty feet to what is known as the "old military line"; thence with said line westerly, to the easterly boundary line of Roland park subdivision as of record in Cabell county court clerk's office in map book number three, map number thirty-two; thence with the easterly line of said Roland park in a southerly direction to the northerly line of Grand boulevard as shown on map of Forrest Hills subdivision number one, of record in map book number two as map number two hundred thirty-three; thence with the said line easterly to the easterly line of J. L. Hawkins' lot, produced; thence with said lot line southerly and westerly to the east line of the said Roland park subdivision; thence with the easterly and southerly lines of said Roland park in a southerly and westerly direction to a point in the east right-of-way line of a road survey made by the state road commission in one thousand nine hundred thirty-two, known as state project number two thousand thirty-four; thence with said road right-of-way line in a northerly direction to a point in the easterly line of Fairfax court at its intersection with the aforesaid "old military line"; thence with the said military line, westerly to a point in the east side of Ricketts road, at its intersection with Line street; thence with the south line of Line street in a westerly direction to the south line of Washington boulevard; thence with same westerly to the east line of Hildacrest; thence with said line southeasterly to the north right-of-way line of the Huntington and Hamlin pike; thence south forty-five degrees no minutes west to the south bank of Four Pole creek; thence down said creek with the south bank thereof, to a point in the easterly exterior line of Enslow Park place; thence with

said line to the corner between lots numbers seventy-four and seventy-five as shown on the Enslow park map; thence with said lot line westerly about one hundred fifty feet to the east line of Donald avenue; thence crossing said Donald avenue and Enslow boulevard at their convergence to the corner between lots numbers twenty-four and twenty-five in the west line of Enslow boulevard; thence with said line northwesterly to the lot line between lots numbers thirty-one and thirty-two; thence southwesterly with said lot line between lots numbers forty-four and forty-five, and with same southwesterly to the east line of Ritter boulevard; thence with said line northwesterly to a point in the line between lots numbers eighty-five and eighty-six, produced; thence crossing said Ritter boulevard westerly and with said lot line to the east line of said Ritter boulevard; thence with said line northerly and westerly to the line between lots numbers one hundred five and one hundred six; thence with said lot line northwesterly about two hundred thirty, four-tenths feet to the corner common to lots numbers one hundred two, one hundred three, one hundred five and one hundred six; thence with line between lots numbers one hundred three and one hundred six westerly about thirty-five feet to the westerly exterior boundary line of said Enslow park place, and in the easterly line of the Tom Beard land; thence with said line southerly to his southeast corner; thence with said Beard's southerly line, and the same produced, westerly to the west right-of-way line of the McCoy road (now known as United States route number fifty-two); thence with said road right-of-way, southerly, to the north right-of-way line of the McCullough road; thence with said right-of-way line of said McCullough road southwesterly to a point at or near the Miller road in the northerly right-of-way line of state road project number three thousand two hundred eighty-seven, as surveyed by the state road commission in December, one thousand nine hundred thirty-two; thence with said right-of-way line paralleling the center line of said road survey, including necessary revisions substantially upon or near the same location, which said center line is described as follows:

Beginning at or near station 82x33 on said road survey; thence curving to the left with a radius of one thousand four hundred thirty-two, thirty-nine hundredths feet, a distance

of four hundred seventy-eight feet, more or less, to a point of tangent at station 77x54.8; thence north fifty-one degrees thirty minutes west thirty-nine hundred seventy-three ninety eight hundredths feet to a point of curve at station 37x80.82; thence curving to the right on a radius of five hundred seventy-two ninety-six one hundredths feet, a distance of six hundred fifty-nine sixty-seven one hundredths feet to a point of tangent at station 31x21.15; thence

North fourteen degrees thirty minutes east four hundred fifteen eighty-four one hundredths feet to a point of curve at station 27x05.31; thence

Curving to the left with a radius of two hundred, eight sixty-four seventy-nine hundredths feet, a distance of three hundred five thirty-one one hundredths feet to station 24x00 on the said curve;

Thence leaving the said road right-of-way line and passing through station 24 of the said center line, in a westerly direction, to the northwest corner of the A. Blake seven and sixty-five hundredths acre tract; thence with the southerly line of said twelve and five-tenths acre tract.

North seventy-six degrees four minutes west four hundred seventy-four eight tenths feet to a corner in the east line of the Wilburn twenty-two and forty-five hundredths acre tract; thence with the east line of said tract south eighty-seven degrees no minutes west fifty-three feet; thence south twenty-eight degrees fifteen minutes west one hunderd eighty-five feet; thence south thirty-four degrees fifty minutes west one hundred seventy feet; thence south thirty degrees thirty minutes west one hundred twenty feet; thence south four degrees twenty minutes west one hundred forty-two feet; thence south forty degrees fifty-five minutes west two hundred sixty-six feet; thence south thirty degrees no minutes west about two hundred forty feet to the southerly side of the Hisey fork road; thence with the line of said road in a westerly and southerly direction to the F. L. Whittaker line on the north side of Hisey fork of Four Pole creek; thence with the westerly lines of said Whittaker land crossing said creek, southerly and westerly, to the southwest corner of said Whittaker land; thence with the southerly lines of said Whittaker land southerly to a large white oak, a corner to the William Long land (now Mullens) on the Porter ridge;

thence with said ridge southwesterly and with the said Long and Overby lines (now Mullens) to the northeast corner of the Ollie Simmons land; thence with the east line of the said Simmons and said Porter ridge, southerly to the northeast corner of the Sam Simmons land; thence with the east line of same and said Porter ridge, southerly, to the northeast corner of T. H. Reece's land; thence with the north line of same and the said Porter ridge southeasterly, to the southeast corner of said Reece's land; thence with the east line of same, southerly, and with said Porter ridge, to a locust stump, a corner to said T. H. Reece and Oliver Morrow; thence southwesterly on said Porter ridge with lines between said Reece and Morrow, to the most southerly corner of said Reece's land; thence leaving said Porter ridge and continuing with the said lines between Reece and Morrow and Bond and Childray, westerly, to the Wayne county line; thence with said line northwesterly to the east line of the Fred Zihlman land; thence with the east line of said Zihlman, northerly to the George Fisher and John Cole lands; thence with the southerly and westerly lines of George Fisher (so as to include said Fisher land within the city of Huntington) to the south bank of the Hisey fork of Four Pole creek; thence down same to the lower line of the W. H. Dixon land; thence leaving said creek, and running westerly and southerly, with the west lines of said Dixon, to the top of the divide between said Four Pole creek and Gimlet branch; thence southerly with said Dixon's west lines to the westerly lines of the Rebecca Huxham land; thence with the westerly lines of same, southerly, to the Wayne county line; thence with said line northwesterly to a point in the south right-of-way line of the Chesapeake and Ohio railroad; thence with said right-of-way line westerly, to its intersection with the easterly line, produced, of a thirty-foot road in the Camden park subdivision lying immediately east of and adjoining lot number seventeen of said subdivision; thence with said street line northerly, crossing the Chesapeake and Ohio railway right-of-way to a point in the northerly line of Ohio Valley Electric Railway right-of-way; thence with said north right-of-way line easterly to a point in the westerly line of Handley road, produced, as the said road is shown on the map of Hale and Taylor subdivision; thence with the said line of Handley

road northerly and westerly to a point in the line between lots numbers eighty-eight and eighty-eight-(a), produced; thence with said lot line northerly about two hundred forty-two twenty-six hundredths feet to the line between lots numbers fifty-two and fifty-three; thence with said lot line north fourteen degrees fifty-six minutes east about one hundred ninety-four sixty-nine hundredths feet to a point in the southerly line of Westmoreland road; thence with said road line westerly and northerly to a point in the north line of Bogie road; thence continuing on the westerly line of Westmoreland road, produced, north twelve degrees fifteen minutes west to a point in the low water line of the Ohio river; thence up said river with the low water line thereof to the beginning: *Provided,* That the part of the territory embraced herein, which is in Wayne county, shall always remain in Wayne county.

Sec. 3. The territory of the said city shall be divided into ten wards, and such division shall be as follows:

First Ward: To include the territory lying south of the main line of the Baltimore and Ohio railroad, and east of the division line between Cabell and Wayne counties, and west of First street, projected southerly to the corporation line;

Second Ward: To include the territory lying north of the main line of the Baltimore and Ohio railroad, and east of the division line between Cabell and Wayne counties, and lying west of First street;

Third Ward: To include the territory lying east of First street and west of Tenth street, and between the Ohio river and the main line of the Chesapeake and Ohio Railway company;

Fourth Ward: To include the territory east of Tenth street and west of Eighteenth street, between the Ohio river and said main line of the Chesapeake and Ohio Railway company;

Fifth Ward: To include the territory east of Eighteenth street and west of Twenty-eighth street, between the Ohio river and said main line of the Chesapeake and Ohio Railway company;

Sixth Ward: To include the territory bounded as follows: The said main line of the Chesapeake and Ohio Railway company on the north, the south corporation line of said

city on the south, the west line of First street, projected, on the west, and by the west line of Sixteenth street and State Route No. 10 to the south corporation line of said city on the east;

Seventh Ward: To include the territory bounded as follows: On the north, by said line of the Chesapeake and Ohio Railway company; on the west, by Sixteenth Street and State Route No. 10 to its intersection with the south corporation line of said city; on the south, by a line at the intersection of the corporation line with the west line of Sixteenth street, or State Route No. 10; and with said south corporation line to the southwesterly line of Norway avenue; on the east, by a line at the intersection of said south corporation line with the said line of Norway avenue, and with the same to its intersection with Twentieth street; and with the west line of Twentieth street to the said main line of the Chesapeake and Ohio Railway company;

Eighth Ward: To include the territory east of Twentieth street and the extension thereof, known as Norway avenue; and west and south of the Guyandotte river, south side thereof; and between the main line of said Chesapeake and Ohio Railway company, and the south corporation line;

Ninth Ward: To include the territory lying east of Twenty-eighth street and north of the main line of the Chesapeake and Ohio Railway company to the Ohio river, and west of the west side of the Guyandotte river, and also all that territory east and north of the Guyandotte river, west and south side thereof;

Tenth Ward: To include all the territory in said city lying west of the Cabell-Wayne county line.

Sec. 4. The municipal authorities of the city of Huntington shall be vested in a body comprised of a mayor and councilmen, to be elected in the manner as hereinafter provided under this act. The councilmen thus elected, together with the mayor, shall constitute and be known as "The Council of the City of Huntington."

Sec. 5. All the corporate powers of the city shall be vested in and exercised by the council, or under its authority, except as otherwise provided in this act.

Sec. 6. Said city shall have, and is hereby granted, power to have the city surveyed from time to time; to open, vacate,

broaden, change grade of streets, and to grade and pave streets, sidewalks and gutters, or otherwise permanently improve the same for public use, and to alter, improve, embelish, ornament and light the same, and to construct and maintain public sewers and laterals, and the city shall in all such cases have power and authority to assess upon and collect from the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter in or about them; to have the right to control all bridges within the city, and the traffic passing thereover, except that nothing herein contained shall be construed to change or void the right and duty of the state to maintain the streets, avenues or alleys through said city that are designated or may be designated as state roads or routes; to change the name of any street, and the numbering and renumbering of houses on any street therein; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks and footways in said city, to be done and to be kept clean and in good order, by the owner of abutting property; to enter into a contract with any internal improvement company for the joint ownership of any bridge by the city, and such company, upon such terms as may be prescribed in the contract; but such bridge shall be a public highway, and the interests of the company shall be only such proportionate part thereof as it may pay for; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide their arrest and manner of punishment; to prohibit and punish, by fine, the bringing into the city by steamboats, railroads or other carriers, of paupers or persons afflicted with contagious diseases; to control and suppress disorderly houses, houses of prostitution or ill-fame, houses of assignation; to suppress gaming, games of chance and gaming houses, or any part thereof; to prohibit within said city, or within one mile thereof, slaughter houses, soap or glue factories and houses or business of like kind; to control the construction and repair of all

houses, basements, walls, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the construction of the same, and to require permits to be obtained for such buildings and structures, and that plans and specifications therefor be first submitted to the city for inspection; to control the opening and construction of ditches, drains, sewers, cesspools, and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to determine at whose expense the same shall be done; to cause garbage, refuse, trash, etc., in public places and on privately owned lots and premises to be gathered and disposed of, and which may, if the city so elects, be done by and under contract, under such rules and regulations as the city may make and provide therefor, or under the authority of law not herein specified; to build and maintain fire station houses, police stations, and police courts, and to regulate the management thereof; to acquire, lay off, appropriate and control public grounds, squares, and parks, either within or without the city limits as hereinbefore defined, and when the city determines that any real estate is necessary to be acquired by said city for any such purposes, or any public purpose, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the extent and upon the same conditions as such power is conferred upon public corporations by chapter fifty-four of the revised code of West Virginia, one thousand nine hundred thirty-one; to construct, purchase, sell, lease or contract for public buildings and structures, including libraries and hospitals, deemed proper for the use of the city; and for the protection of the public, to cause the removal of unsafe walls or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances, and to that end and thereabout to summon witnesses and hear testimony; to regulate the keeping or moving of gunpowder and other combustible or dangerous articles within the city; to regulate or refuse the drilling of gas wells or oil wells within the city; to regulate, restrain or prohibit the use of firecrackers or other explosives or fire works, and all noises or

performances which may be dangerous or annoying to persons or which tend to frighten horses or other animals; to prohibit or control the use of airplanes or other air craft in or over the city or any part thereof; to purchase and carry group life, accident and/or health insurance for and on members of the police and fire departments or other employees of the city, and arrange for payment of premiums therefor, in whole or in part; to provide and maintain proper places for the burial of the dead, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees on streets or public places, and the protection of the same; to provide for the making of division fences; to make proper regulations for guarding against danger from fires; to provide for the poor of the city, and to that end may contract with the proper authorities of Cabell county or Wayne county to keep and maintain the poor or any number thereof, upon terms to be agreed upon; to make suitable and proper regulations in regard to the use of the streets and alleys for street cars, railroad engines and cars, and to regulate the running and operation of the same so as to prevent injury, inconvenience or annoyance to the public; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theatres, public dances and dance halls or dances for which paid admissions are required, circuses, the exhibit of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions, and performances, Tom Thumb golf or other golf of like kind, human contests at walking or dancing, sometimes designated marathon, sitting on a pole or other things severely taxing human endurance or endangering the life and safety of those engaged therein, or endurance contests of automobile, or drivers, or other mechanical machines on any public street; and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and to provide necessary apparatus, engines, and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals. and regulate, restrain and prohibit them and all animals and

fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business and for its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city, and to regulate the transportation thereof, and other things, through the streets; to have the sole and exclusive right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such market, and to acquire and hold property for market purposes; to tax by license and regulate the placing of signs, bill boards, posters and advertisements in, on or close to the streets, alleys, sidewalks and public grounds of said city, whether stationary or by persons, automobile or other movable transportation; to preserve and protect the peace, order and safety and health of the city, and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium, and poisonous drugs; to erect, own, lease, authorize or prohibit the erection of gas plants, telephone plants, electric light plants and water plants, or ferry boats, in or near the city, and to operate the same, and sell the products and services thereof to the inhabitants and industries of the territory outside of the city, under such rules and regulations; and for such compensations as the city may from time to time prescribe, and to do any and all things necessary and incidental to the conduct of such business; to build, hold, purchase, own and operate toll bridges; to provide for the purity of water, milk, meats and provisions offered for sale in the city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within the said city; to prescribe and enforce ordinances and rules for the purposes of protecting the health, property, lives, decency, moral-

ity and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violation of ordinances thereabout, even if the offense under and against the same shall constitute offenses under the laws of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of any payment of fines, penalties or costs under this act, who are otherwise unable or fail to discharge the same, by putting them to work for the benefit of the city upon the streets or other places, in or outside of the city, provided by said city, and to use such means to prevent their escape while at work as the city may deem expedient; and the city may fix a reasonable rate per day as wages to be allowed such persons until the fine and costs against them are thereby discharged; and the city may contract with the county court of Cabell county for the detention, keeping and working of such city prisoners in Cabell county and outside the city until their term of imprisonment shall have expired; to compel the attendance at public meetings of the members of the council; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter eight of the revised code of West Virginia, edition of one thousand nine hundred thirty-one for such purposes, except that of taxation, the city shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city, excepting any other municipal corporation or part of any other state within said one mile limit: *Provided, however,* That nothing herein contained shall be construed as limiting the city from going beyond its territorial limits to lease, purchase or acquire any real estate for public grounds.

Said city of Huntington, as constituted by this act, shall retain, keep and succeed to all rights, privileges, property, interest, claims and demands heretofore acquired by, vested in or transferred to the city of Huntington, the city of Central City, the town of Guyandotte, as formerly constituted.

And the city shall have the right to establish, construct and maintain landings, ferries, wharves, and docks on any ground which does or shall belong to said city, or which it shall acquire, and to sell, lease, repair, alter or remove any such landings, ferries, wharves, buildings or docks which have been,

or shall be so constructed, and to levy and collect reasonable duty on vessels, and other crafts coming to or using said landings, ferries, wharves, docks and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used; and to have the sole right, under state laws and in the same manner as now control county courts to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits.

To the end that the city and its inhabitants and industries may be furnished with an adequate supply of water, electricity, and with gas for heat, power and light, for all needful purposes, the city is hereby authorized to acquire and hold by gift, purchase, condemnation, or otherwise, such real estate or interest therein or personal property, either within or without the city limits, as may from time to time be necessary or convenient for use in connection with such plants, works, structures, pipe lines or other property in and about leasing, constructing, operating and maintaining a water works, electric plant system and gas plant system, which system may also be used to supply water, electricity and gas to the inhabitants and industries of such territory outside the city, as the city may from time to time elect, for adequate compensation.

And the said city shall have the right and power to receive and hold gifts or bequests of money or property of any sort, and to manage and administer the same in accordance with the terms of such gifts or devises or bequests; to establish and manage homes for children or the helpless or indigent, hospitals for the sick, invalid, crippled or destitute, and for libraries, gymnasiums, or athletic park; to take, acquire, hold, keep and administer, under proper rules and regulations by the city prescribed, such real estate as may be proper to accomplish any or all of said purposes, and lay such levy as may be needed to maintain the same, and to have, hold and maintain or administer such property as it may now have for any or all purposes.

To carry into effect these enumerated powers, and all other powers conferred upon the city expressly or by implication in this act and other acts of the legislature, said city shall have the power, in the same manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances

not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties including imprisonment; and with the consent of the county court of Cabell county, entered on record, shall have the right to use the jail of said county for any purpose necessary to the administration of its affairs.

Sec. 7. Whenever a majority of the newly elected members of the council shall have qualified, they, as a body, shall enter upon the duties of their offices, and supersede all the members of the former council. The mayor shall, by virtue of his office, be the administrative head of the council. He shall be the presiding officer at the meetings of the council; and he shall, as mayor, sign the minutes of the meetings of the council, and execute all papers and documents required of him by the council. The mayor shall not have a vote on any question before the council, except that in case of a tie in the vote on any question the mayor shall then have the right to cast the deciding vote.

The council shall elect a vice-mayor of said city, whose term of office shall expire at the end of the term for which the mayor was elected. The vice-mayor shall act as such, and perform the duties of the mayor, only when called by the mayor because of his absence from the city, or, without being so called, when the mayor shall be incapacitated for the performance of the duties of the office of mayor. The compensation of the vice-mayor, for services rendered while acting as mayor, shall be that agreed upon between him and the mayor, and the amount so agreed upon shall be deducted from the salary of the mayor and paid to the vice-mayor. If no agreement shall have been made thereabouts, then the vice-mayor shall, during such time, receive one-half the salary of the mayor, which amount shall be deducted from the salary of the mayor. The agreement in relation thereto, if any, shall be written memoranda and filed with the city clerk. If the mayor shall be removed from office as herein provided, or shall die during his term of office, then in either of such events, the vice-mayor shall ipso facto become mayor for the remainder of said term, subject to limitations set out in this act, and receive the salary fixed for the mayor; and in which event council shall elect some other person for the office of vice-mayor, in the manner provided in this act.

The mayor shall have the right to recommend to the council

some person for vice-mayor, but the council is not required to elect the person so named by the mayor, provided the person named for vice-mayor shall be a member of the same political party as that of the mayor.

The city clerk shall be ex officio clerk of the council, and shall perform such duties thereabout as may be required of him.

Sec. 8. If any person elected to the council fail to qualify as herein provided within thirty days after his election, or shall, after having qualified, resign from the council, or move from the city, his office shall be vacated, and the council shall, by a majority vote of the members present, fill such vacancy for the unexpired term with some person from the same ward (except the vacancy be of a councilman elected at large), and the same political party as the person whose vacancy of office is being filled.

Sec. 9. No franchise, or extension of franchise, shall be valid unless it shall have been ratified and approved by a majority of all the members elected to the council, at two regular meetings thereof, or, upon the written approval of the mayor, by the three-fourths vote of all the members elected at one regular meeting thereof; and the vote of said council shall be taken by roll call of the members and entered of record in the minutes of the meeting of the council.

Sec. 10. The council shall have the right to hear, consider and act on charges against the mayor, and, after having heard proof of such charges, may remove the mayor and declare his office vacant by a two-thirds vote of all the members elected to the council, and the vote thereon shall be by roll call of the members and entered of record in the minutes of the meeting. But before the mayor shall be put to trial on such charges, he shall have at least ten days written notice of the nature of said charges, and the time and place of the hearing thereon, before the council. If the council, after hearing the charges, shall remove the mayor from office, thereby declaring a vacancy in his said office, it shall cause its action thereabout to be at once certified to the mayor: *Provided,* The mayor shall not act as chairman of the council meetings during his trial before it.

The mayor shall not be removed from his office except for one of the causes mentioned in section six of article four of the constitution of West Virginia, except the mayor may be

removed from office, on charges preferred as set out in this section, for causes not included in section six, article four of the constitution, if found guilty by a three-fourths vote of all the members elected to council.

Sec. 11. The council shall make proper rules for its government not contrary or inconsistent with any of the provisions of this act, and it shall cause a record of its meetings and proceedings to be kept and recorded by its clerk in a well-bound book, which shall remain in the custody and at the office of the city clerk, open to public inspection. The minutes of the meeting and proceedings of the council, after recordation and when signed by the mayor or other presiding officer, shall be admitted as evidence in any court of record in this state.

Sec. 12. The mayor shall be the chief executive officer of the city and shall have and exercise all of the rights, powers and duties of mayor conferred by the constitution and laws of this state, and those conferred by the terms of this act; and it shall be the duty of the major to see that the laws and ordinances of the city and the resolutions and orders of the council are enforced, and that the peace and good order of the city are preserved, and that the persons and property therein are protected. The mayor shall have such other authority and powers that are otherwise enumerated and given by this act.

Sec. 13. In addition to the municipal authorities mentioned in section four of this act, the city may, by ordinance duly adopted, have a city clerk, treasurer, police judge, city attorney, chief of police, chief of fire department, city engineer, and such other officers as are now or may be created and established by ordinance. The mayor shall have the right, power and authority to name and appoint all persons to fill the offices and places of employment provided by the city. All persons holding offices under the provisions of this section may be removed from office at the pleasure of the mayor.

Sec. 14. Every person qualified by law to vote for members of the legislature of the state shall be entitled to vote for candidates for city offices at all elections.

Sec. 15. Candidates to be voted upon for mayor and members of council shall be nominated on the first Tuesday in August in the year one thousand nine hundred thirty-four, and in

each two years thereafter, at primary elections at which candidates for county offices and members of the legislature are nominated, as provided by law. Names of candidates for city offices, including park board, shall be voted for on a separate ballot from the names of candidates for county and other offices being voted for at the same time, but under the supervision of the same election officers conducting the general election. The provisions of section fifteen, article three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, relating to primary elections in municipalities, shall not be binding upon the city of Huntington.

Sec. 16. All elections, whether primary or general, held under this act, shall be held under the general election laws of the state of West Virginia, as far as applicable thereto, and the registration of voters for such election shall be had and proceeded with as prescribed by the general election laws of the state for the registration of voters for such state elections, and in all the elections held for the city of Huntington under the provisions of this act, the county court of Cabell county, and the county court of Wayne county, respectively, shall be vested with all the powers and perform all the duties vested in and devolving upon the county courts under the general election laws of the state of West Virginia with respect to state elections; the clerk of the circuit court and the clerk of the county court, in each of said counties, respectively, in all elections of the city, held under the provisions of this act, shall be vested with all the powers and perform all the duties vested in and devolving upon the clerk of the county courts and the clerk of the circuit courts under the general election laws of the state with respect to state elections.

Sec. 17. On the Tuesday next after the first Monday in November, one thousand nine hundred thirty-four, there shall be elected, by qualified voters of the city, a mayor and thirteen councilmen, who shall hold their offices from the time of their qualification, on and from the first of January next succeeding, for the term of two years, and until their respective successors are elected and a majority thereof shall qualify; and on the general election day, every second year thereafter, there shall be elected, by the qualified voters of the city, a mayor and thirteen councilmen who shall hold their offices from the day of their qualification, on and from the first day

of January next succeeding, for the term of two years, and until their respective successors are elected and a majority qualified: *Provided, however,* That no member of the council shall hold any other position in municipal, county or state government.

Names of candidates for city offices, including members of park board, shall be on a separate ballot from that on which candidates for county and other offices are voted; but said candidates for city offices shall be voted for in the same way, at the same time, and under the same supervision, as such other candidates are voted for.

Sec. 18. At the election at which the mayor shall be elected, there shall also be elected by the qualified voters of each ward of the city of Huntington a member of the council from such ward, who shall at the time of such election be a resident of the ward from which he is elected, and three members of council at large who shall be elected by the voters of the whole city; and they shall hold their offices for the term prescribed in section seventeen of this act: *Provided,* That on and after the second Monday in June, one thousand nine hundred thirty-four, the members of the citizens board, as then constituted, shall be, and are, constituted the council, with all the powers thereof, as provided in this act, until the members of the new council shall have been elected and qualified, under the provision of section seventeen of this act, whereupon the citizens board, acting as such council, shall ipso facto cease.

The term of office of the two commissioners of the city shall terminate on the second Monday in June, one thousand nine hundred thirty-four. The mayor of said city shall hold his office until the second Monday in June, one thousand nine hundred thirty-four, and until his successor shall have been elected by the council (citizens board) and qualified, whereupon his term shall terminate. The council (citizens board) shall meet on the first day of June, one thousand nine hundred thirty-four, and, by a majority vote, shall elect a mayor of said city who shall qualify and function as such, under the provision of this act, until his successor shall have been elected and qualified as provided in section seventeen herein, provided no member of the council (citizens board) shall be eligible to hold the office of mayor during said interim. The council

(citizens board) shall not adjourn, but may recess, its meetings from day to day until a mayor shall be elected. All appointed officers of the city on the last day of May, one thousand nine hundred thirty-four, shall hold their respective offices until removed by the mayor.

Sec. 19. No person shall be eligible to the office of mayor or member of council unless entitled to vote at the election at which he was elected to such office.

Sec. 20. Contested elections shall be heard and decided by the county court of Cabell county as to wards one to nine inclusive, and Wayne county as to ward ten, as an election board, and the contest shall be made and conducted in the same manner as provided in such contests for county and district offices, and the county court shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in election cases: *Provided,* That the county court shall demand of the person or persons contesting said election on recount or otherwise, to deposit with the sheriff of Cabell county an amount of money sufficient, in the opinion of the county court, to cover the amount of costs and expenses involved in such contest, and the county court shall have the right, after the contest shall have been heard, to apportion the costs and expenses among the participants and persons involved in the contest as the county court may deem equitable; and each member of the county court shall be entitled to receive five dollars per day for his attendance upon such hearings, and such amount, if demanded, shall be taxed as a part of the costs.

In case of a tie vote between two persons for the same office, the county court shall decide which of the two shall be elected to hold the office.

Sec. 21. Elective officers, and others appointed to the offices named in section thirteen hereof, shall make oath, before someone authorized to administer oath, that they will support the constitution of this state and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not during their term of office become pecuniarily interested in any contract with the city or in the purchase of any supplies therefor. When the officers shall have filed such oath with the city clerk, and shall have given bond as required by this act, or

bond required by the council under the provisions of this act, he shall be considered as having qualified for the office to which he was elected or appointed: *Provided,* That if any person elected or appointed to an office shall not qualify for such office as herein prescribed, within thirty days after he shall have been officially declared elected thereto, said office shall by reason thereof become vacant, and said vacancy shall be filled in the manner provided in this act.

Sec. 22. The council may require the mayor, each member of the council, the city clerk, city treasurer, police judge, city attorney, chief of police, chief of fire department and city engineer, before entering upon the discharge of their duties, to give an official bond conditioned for the faithful performance of their respective duties, as prescribed in this act, or by any ordinance now or hereafter passed, in amounts deemed adequate by the council.

The council may require additional bond from the mayor or any of said appointive officers, and may likewise require a bond in whatever sum they may fix of any other appointive officer. All bonds of appointive officers shall, before their acceptance, be approved by the council, and the bond of the mayor shall be approved by the retiring council (by the citizens board after the election of one thousand nine hundred thirty-four). All other bonds of whatsoever kind shall not be accepted until first approved by the council. The minutes of the meeting of the council shall show all matters touching the consideration or approving of all bonds, and when said bonds are approved and accepted they shall be recorded by the city clerk in a well bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds as aforesaid shall be prima facie proof of their correctness, and they, as so recorded, shall be admitted as evidence in all courts of this state. The city clerk shall be the custodian of all bonds except those given by him, and as to them the mayor shall be custodian.

All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to the city of Huntington, and the respective corporations, or persons and their heirs, executors, administrators and assigns, bound thereby shall be subjected but not limited to the same

proceedings on such bonds, obligations or other writings, or enforcing the conditions of the terms thereof, by motion or otherwise, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of county levies. All bonds required by this act shall be paid for by the city.

Sec. 23. The government of the city may, by ordinance, be divided into departments; but until changed by ordinance the departments of government shall remain as now existing.

Sec. 24. The annual salary of the mayor shall be forty-five hundred dollars. The salary of a councilman shall be five dollars for each meeting of council attended by him in each month: *Provided,* That he shall not receive more than ten dollars in any one calendar month. The council shall, by ordinance, fix the salary of all the appointive officers and members of the fire and police departments: *Provided,* The mayor shall have the right to make recommendations thereabout.

Laborers by the day and those doing special work, as required by the mayor and department heads working under him, may be paid reasonable wages without fixing the price therefor by ordinance.

Sec. 25. The council shall meet at the city hall at times provided by ordinance or rules adopted by it: *Provided,* The council shall hold at least one regular meeting in each month, which, if not otherwise fixed by ordinance or the rules governing the council shall be held on the second Monday of each month at seven-thirty P. M.

Special meetings of the council may be called by the mayor, or any three members of the council, by personal notice given to the other members thereof, or by like notice by at least one publication in two daily newspapers of the city of opposite politics, and such notice shall state the time and object of the meeting; and no business, except that stated in said notice, shall be considered or acted upon at such meeting, except by the unanimous consent of all the members elected to the council. All meetings of the council shall be open to the public. The holding of a special meeting shall be prima facie evidence that the notice required therefor was given as prescribed in this section.

Sec. 26. The vote upon any question or motion before the council may be viva voce when unanimous, but if the ques-

tion or motion does not receive the unanimous vote of the members present, then the vote shall be taken by roll call of the members and made a part of the minutes of the meeting; and when the vote is unanimous the minutes shall so state.

Sec. 27. The city clerk shall be ex officio clerk of the council. The council shall cause detailed minutes of its meetings and proceedings to be kept by the city clerk in a well-bound book for that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection. The minutes of every regular or special meeting shall be read publically at the next regular meeting of the council, and, after being corrected, shall be signed by the mayor and city clerk and, if thus recorded and signed, they shall be admitted as evidence in any court record in this state.

Sec. 28. The council in the exercise of its respective powers and the performance of its duties, as prescribed by this act and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths to such witnesses in the same manner and with like effect, and under the same penalties as notaries public, justices of the peace and other officers of the state authorized to administer oaths under state laws; and said council shall have such power to punish for contempt as is conferred on county courts by the revised code of West Virginia, one thousand nine hundred thirty-one. All process necessary to endorse the powers conferred by this act on the council shall be signed by the mayor, and shall be executed by any member of the police force.

Sec. 29. The mayor shall purchase all the supplies for the departments of the city government at the lowest price possible considering the quality and grade of the supplies desired. When practicable, he shall advertise by reasonable notice in at least two daily newspapers of opposite politics, for bids on supplies to be furnished, and shall award contract thereon (unless all bids are rejected) to the lowest bidder, taking from such bidder a written contract, and bond therein, to be approved by the council, for the faithful performance of said contract: *Provided, however,* That no supplies shall be purchased until the clerk or other officer designated by the council has made requisition for same, which shall also be approved by the mayor. All bills or vouchers for the purchase of supplies

or other things for the city, and all contracts involving the expenditures of money, shall be filed with the city clerk, which shall be open for public inspection, and the council may require them to be brought before it, from time to time, for its inspection.

Sec. 30. The police judge, who shall be an attorney and a resident of Huntington for five years, shall be ex officio a justice of the peace, with authority to issue warrants or other process for all offenses committed within the police jurisdiction of the city of Huntington of which a justice of the peace has jurisdiction under the state laws, and for all violations of any city ordinances, and as such shall have the authority to impose such fines and collect such fees as justices of the peace are authorized to do under the state law, which fees shall be transferred to the sheriff of Cabell county, as ex officio treasurer of the city of Huntington, and become a part of the general fund of said city. In order to preserve the peace and good order of the city, and protect the persons and property therein, riotous and disorderly persons in the city may be arrested and detained before issuing any warrant therefor. The police judge may, with the same fees or other compensation allowed justices of the peace, commit persons charged with felony or misdemeanor to jail, or take bond for their appearance before the grand jury of the court having jurisdiction thereof, and he shall have power to issue execution for all fines, penalties and costs imposed by him. And he may require the immediate payment thereof, and, in default of such payment, may commit the person so in default to jail until the fine and penalty and costs shall be paid or satisfied, and to be employed during the imprisonment as provided by this act. If any person is sentenced to imprisonment, or any person or corporation is assessed with a fine of ten dollars or more, such person or corporation shall be allowed an appeal from said decision of the police judge to the common pleas court of Cabell county, upon the execution of an appeal bond, with surety deemed sufficient by the police judge, in a penalty of at least two hundred dollars and costs, conditioned that the person proposing to appeal will perform and satisfy any judgment which may be recorded against him by the appellate court on such appeal, and in no case shall a fine less than ten dollars be given by the police judge if the defendant, his agent or attorney demand that

such fine be made as much as ten dollars. If such appeal be taken the warrant of arrest, the transcript of the judgment, the appeal bond and other papers of the case shall be forthwith delivered by the police judge to the clerk of the appellate court which shall proceed to try the case as upon indictment or presentment and render such judgment, including that of cost, as the law and evidence may demand: *Provided, however,* That not until January first, one thousand nine hundred thirty-seven, shall any of the powers herein granted to the police judge to act in any manner or capacity as a justice of the peace, or in any manner or capacity relating to or affecting the civil or criminal jurisdiction of justices of the peace, or to collect the fees which justices of the peace are or may be authorized to collect, or to require fees or fines collected through proceedings had by or under the police judge or police court to be paid to the sheriff of Cabell county for the benefit of said city of Huntington, become operative or effective, and that the jurisdiction of justices of the peace shall until said effective date be exclusive in said matters.

Sec. 31. Publication of notice to present a franchise and other preliminaries prescribed by the laws of the state relating thereto, shall be had in the manner prescribed by state laws, before the council shall act on any such franchise; but the passage of any franchise shall be prima facie proof that such notice was given as prescribed by law.

The word "franchise", whenever used in this act, shall include every special privilege in, under and over the streets, highways and public grounds of the city which belong to the citizens generally by common right.

Sec. 32. The style of any ordinance enacted by the board of commissioners shall be, "Be it ordained by the council of the city of Huntington."

Sec. 33. Concerning anything for which a state license is required to be done within the state or county, but not limited thereto, the council may require a city license therefor, and may impose a tax thereon for the use of the city; and the council shall have the power to grant, refuse or revoke any such license of owners or keepers of hotels, carts, wagons, drays, automobiles, automobile trucks and conveyances, and every other description of wheeled carriages kept or used for hire in said city, and to levy and collect tax thereon, and to subject

the same to such regulations as the interest and convenience of the inhabitants of said city, as in the discretion of the council, may be required. The council may require from the person so licensed a bond, with approved surety, payable to said city in such penalty and with such conditions as it may think proper, and may revoke such license at any time if the condition of the bond is broken; and the council shall have authority to subject any person or persons, who without having paid the tax imposed by the council for the privilege, shall do any act or follow any employment of business in the said city upon which the council is or shall be authorized to impose a tax, to a fine or imprisonment which it is or may be authorized to impose or inflict for the enforcement of its ordinances.

Sec. 34. Council may, by ordinance, provide for a full time public health officer for the city who shall be in charge of the administration and enforcement of all laws of the state applicable to the city of Huntington relating to public health, and of all ordinances of the city designed to secure or promote the public health. Such health officer shall be qualified to receive a license to practice medicine and surgery in the state of West Virginia, and he shall have engaged in the practice of medicine and surgery for at least five years or have had not less than five years' experience in public health work. All regulations for the protection or promotion of the public health, additional to those established by law and for the violation of which penalties are imposed, shall be made by ordinance. The council of said city shall have authority to abate and remove all nuisances in said city. It may compel the owners, agents, assignees, occupants, or tenants of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same by orders therefor, and by ordinance provide a penalty for the violation of such orders.

Said council may also, by its own officers, appointees and employees abate and remove nuisances. It may, by ordinance, regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cesspools, sinks, plumbing, drains, yards, pens, stables and other places, where offensive or dangerous substances or liquids are, or may accumulate, and provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agents, assignee,

occupant or tenant, of any premises or structure where such violation occur.

If the owner, agent, tenant, assignee or occupant of any such premises, lot, property, building or structure as is mentioned herein, shall fail or refuse to abate or remove any such nuisance as mentioned herein, or to comply with the provisions of any such ordinance, and the regulations herein contained, the said council may have said nuisance abated or the provisions of said ordinance or ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of its intentions so to do, and collect the expense thereof, with one per centum per month interest added from the date of said notice, from the said owner, occupant, tenant, agent or assignee, by distress or sale, in the same manner in which taxes levied upon real estate for the benefit of said city are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, and the same as taxes levied upon real estate in said city; which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. In case of nonresident owners of real estate such notice may be served upon any tenant, occupant, assignee, or rental agent, or by publication thereof for not less than two consecutive weeks in two newspapers of opposite politics, published in said city.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property, or amount due said owner from said agent, and such agent, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

Any expense incurred by the council as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act. The abatement or removal of any such nuisance by the council at the expense of said city, as herein provided, shall be prima facie proof that the said notice to the owner, occupant, tenant, agent or assignee, was given as herein prescribed.

Sec. 35. The council may require all owners, tenants and occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewerage, which the said city may construct, own or control, to connect with such sewer or system of sewerage, all privies, water closets, cesspools, drains, or sinks located upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewerage.

Sec. 36. The council is authorized and empowered to cause to be put down a suitable curb of brick, stone or other materials along and for the footways and sidewalks of the avenues, streets, roads or alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the council may determine; and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the council may determine; and to require the owners or occupiers of the land or lots or part of lots abutting upon said avenues, streets, roads, or alleys to keep such sidewalks clean and in good repair, and to grade the plot of ground on either side of the sidewalks between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of the land or lots abutting upon such avenues, streets, roads or alleys shall not lay any sidewalks, curb or gutter, or plant such shade trees, unless specially required to do so by resolution adopted by said council, and then only in the manner prescribed by said council; but said city may lay such sidewalks, curb or gutter, and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work or such part thereof as the council may direct shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessments shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The amounts so assessed against any land or lot shall also be a debt against the owner of such land or lot, which may be collected as other debts are collected, in any court having jurisdiction, and shall be due

and payable in ninety days from the completion and acceptance of such work as certified to by the council, with six per cent interest thereon from the date of such record acceptance. And in ascertaining the amount to be assessed against any corner lot for the cost of laying any such sidewalk and planting trees in front or alongside thereof, the council may assess the total cost of laying such sidewalks, and planting trees, in front or alongside said lot and extended to the curb or gutter of the intersections of the avenues, streets, roads or alleys at that point.

When such work is done by the city, and not let to contract, the council shall certify such assessments to the treasurer of the city for collection, who shall account for the same as directed by the council or by ordinance; and the treasurer shall accept payment, when tendered, of the amount of said assessment with interest to the date of payment, and unless said assessment shall have been paid within ninety days from the date of assessment, then a copy of such report shall be certified by the city clerk to the clerk of the county court of the county of Cabell, who is hereby required to record and index the same in the proper trust deed book in the name of each person against whose property assessments appear therein. If any such assessment shall not be paid when due, the council shall cause to be enforced the payment of said assessment and interest in all respects as herein provided for the collection of taxes due the city; and said assessments shall be a lien upon the property liable therefor, the same as for taxes, which lien may be enforced in the same manner as provided for the sale of the property for the nonpayment of taxes and tax liens; and the liens herein provided for shall have priority over all other liens except those for taxes due the state and the county, and shall be on a parity with taxes and assessments due the city. When such assessments have been paid in full, and a lien therefor shall be of record in the county clerk's office, the treasurer shall execute and deliver to the owner of said property a release of said lien, which may be recorded in the office of the county clerk as other releases or liens are recorded.

The council may, if it so elect, let said work to contract, and certificates may be issued for the amount of said assess-

ments which may be sold to the contractor doing the work, or other person, in full of the total cost, in the same manner as provided for paving certificates, in this act: *Provided,* That the city, in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the council as expressed by resolution of record before such sale. Said certificates, to be signed by the mayor or clerk or other person or persons designated of record by the council, shall bear date as of the time when such work is accepted and certified by the council, and shall be due and payable in ninety days from date thereof, with six per cent interest. When the council shall have received said work, it shall at the same time make said assessment upon written report; and at the end of ninety days from date thereof, upon the demand in writing filed with the city clerk, of the holder or holders of the unpaid certificates issued to cover said assessments, said clerk shall certify a copy of said report, only insofar as it relates to the owners against whom said exhibited certificates remain unpaid to the clerk of the county court of Cabell county, or Wayne county, depending upon the county in which the real estate is located, who shall record and index the same as other liens of like kind are recorded and indexed, and the same shall be and remain a lien upon the real estate against which said assessments are made, as set out in said certified report, and said lien may be enforced, in the name of the holder of such certificate, in the same manner as set out in this act.

Before letting such work to contract, the council shall advertise the same once a week for two successive weeks in two newspapers of opposite politics published in the city of Huntington, or in one paper in case publication cannot be had in two such papers, setting out the time and place for receiving proposals for such work and referring to the plans and specifications made therefor; and the city reserves the right, whether stated in such notice or not, to refuse any and all bids for the work. On refusal of said papers to publish said notice at reasonable rates, the council may, by resolution, direct how such notice may be given. The fact that such contract shall be awarded for said work shall be prima facie proof that said notice was given as required herein. Such lien, as represented by certificates, may be released of record in the office of the

county clerk in the same manner as paving liens, represented by certificate, are released of record as provided for in this act; and in no event shall such assessment be and remain a lien of record for a longer period than one year from the date set out in said certified report so recorded in the office of the county clerk unless at the end of said one year period a suit shall be pending for the enforcement of said lien, or the amount thereof, shall, in some way, be involved in a suit pending at the end of said one year period.

All such work, whether done by the city direct, or through contractors, shall be under the supervision of the street department of the city, or some person designated for that purpose by the council.

If the owner or occupier of any such lot or land shall be required by the council to lay, or relay, clean or repair any such sidewalk between the street curb and the property line, and keep the same sodded and free from weeds or obstruction, and otherwise in good condition and repair, written or published notice shall be given to such owner or occupier in the manner provided by ordinance or resolution adopted by the council, and neglect or refusal of such owner or occupier to do the work, in the manner and within the time required by the council, as set out or referred to in said notice, shall be an offense and may be punished as provided by ordinance; and after the expiration of the time set out in said notice for the the doing of said work, and the same remains undone, the council may do, or cause to be done, said work and assess and collect the cost thereof in the manner, upon either plan, and to the full extent as set out in this section. The council is authorized and empowered to require the owners and occupiers of any lot or tract of land to keep the same free from weeds and other vegetation which may be unsightly or noxious, and, to that end, may pass suitable ordinances with penalties to be inflicted on the owners and occupiers of such lots who may fail to comply with the provisions of such ordinances; and in addition thereto, upon the failure of such owners and occupiers of said lots to comply therewith, the city may do the work necessary in keeping said lots or lands free from weeds and other vegetation which may be unsightly or noxious and charge the total costs thereof against the owner of such lots or lands, which amount or amounts shall be a debt against such

owner, with which he is charged with interest thereon, from the time of the completion of said work, and the expense shall remain a lien upon said lots or lands, or any part thereof, the same as taxes levied upon real estate in said city, and which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced, and in addition thereto, such costs or expense, with interest may be collected from the owner, occupant, tenant, agent or assignee, by distress or sale in the same manner in which taxes levied against real estate are herein authorized to be collected. And the costs or expense, with interest thereon, for the cleaning of said lots or land of weeds and other noxious vegetation, as well as the costs or expense, with the interest thereon, for the laying of sidewalks, planting of trees, etc., as set out in this section, which may remain unpaid at the time of the making out of tax tickets covering the taxes due in any year by such owner of said lots or lands, shall be placed on the tax ticket for that year along with the statement of other taxes due by such owner, and the treasurer shall collect such amounts at the time and in the same manner as the other taxes are collected by him from such owner, but without allowing any discount thereon, and upon failure to pay the same on or before the last day of that year, there shall be added thereto the same interest penalties which are provided for the failure to pay other taxes assessed at such time against such owner; and the sheriff, upon the failure to pay said amounts, shall return the real estate, against which said amount is a lien, delinquent for the nonpayment of taxes for such year the same as in the case of returning such lands delinquent for the nonpayment of other taxes assessed against such owners and such real estate, and said real estate may be sold, at the time and in the manner, provided for in the case of delinquent lands for the nonpayment of taxes; and these remedies, when applicable, are in addition to all other remedies provided for in this act.

Notices to owners and occupiers of lots or lands requiring them to clean said premises of weeds and other noxious vegetation, may be given in the same way and to the same effect as provided in section thirty-four of this act, and tenants and agents shall have the same rights and remedies against such owners as therein provided. The council may, by gen-

eral or special ordinance, delegate the ministerial duties required in this section, to the mayor of the city.

Sec. 37. The council shall annually, before the laying of taxes provided for and authorized by this act, ascertain the total expense of said city to be provided for by levy for the fiscal year in which said levy is made, and it shall ascertain the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, and what amounts it shall expend for the support of its various departments and for the improvements of its streets, alleys, avenues, and public grounds, or for its contingent expense; and before making such levy it shall apportion the rate thereof among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of said council and a copy of a statement thereof shall be annually published by direction of said council as soon as the same is recorded, in at least two newspapers of said city of opposite politics. And the council shall do and perform such other duties, in relation to the things mentioned in this section, as are required by state law.

Sec. 38. The council shall have authority to levy and collect an annual tax on real estate and personal property in said city, and to impose a tax upon all other subjects of taxation, under the several laws of the state, all of which taxes shall be uniform as to class with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal and mixed, and on capital, on which the state imposes a tax: *Provided,* That no greater levy shall be laid by the council, except the levy authorized by section forty-seven of this act and the ten cents levy authorized hereinafter by this section, relating to a revolving fund, on the taxable property of said city than is now permitted to be laid under the state law relating to municipalities, except, however, that the council may, by a two-thirds vote of its members, by ordinance, lay an additional levy not to exceed twenty cents on the one hundred dollars of all the taxable property within said city.

For the purpose of creating a revolving fund by and with which to promote and expedite permanent street and sewer improvements, the city is authorized and empowered to levy and collect for a period not longer than ten years, a special

annual tax, in addition to all other taxes, during all or any part of said period, not exceeding ten cents on each one hundred dollar valuation, on all taxable property in said city, and which levy shall also be in addition to that now permitted by street or sewer improvement bonds provided for in section of state law relating to municipalities. Such levy shall not be laid except by ordinance duly adopted by the two-thirds vote of all of the members of the council.

No part of said revolving fund shall be used for any purpose other than to pay for permanent improvements of streets, avenues, roads, alleys and public grounds, and the construction of sewers, and only then by the purchase of street or sewer improvement bonds or assessment certificates, provided for in this act, and for which assessment against real estate are made to cover the amount of such bonds or certificates as provided in said sections; and when and as such bonds or certificates so purchased out of this revolving fund shall be paid, the amount thereof shall be and become a part of such revolving fund, and thereby prevent any dimunition of the fund.

When said fund, or any considerable part thereof is not being used, or in contemplation for immediate use, the city shall keep the same invested to the best advantage in securities of the kind permitted by state law for the investment of sinking funds, or in the discretion of the council, the same may be deposited, for a fixed time, at the highest rate of interest and to the best protection of the city, in some bank or banks, or may be directed by the council to be deposited in the manner set out in section forty-two for the deposit of other funds of the city. The council, as pertains to things mentioned in this section, shall proceed in the manner provided by state laws thereabout.

Sec. 39. All taxes assessed upon the real estate within the said city, shall remain a lien thereon from the time the same are so assessed, which shall have priority over all other liens, except for taxes due the state, county or district, and all taxes whether assessed upon realty or personalty or otherwise may be enforced and collected in the same manner and by the same remedies as is now or may hereafter be provided by law for the enforcement of liens and levies for state and county taxes, or in such manner as the council may by ordinance prescribe.

And in levying taxes and collection thereof, and the return of property delinquent for nonpayment of taxes, the duties of the city clerk shall be similar to the duties of the county clerks of the state in that behalf; the duties and powers of the sheriff of Cabell county in wards one to nine inclusive, and the sheriff of Wayne county in ward ten, in the collection of taxes on real and personal property, or other kind, licenses and money due the city, and accounting for the same, and the return of property delinquent for the nonpayment of taxes, shall be similar to the duties of the sheriffs of the state in their collection of state and county taxes, except the council may make such further regulations and ordinances prescribing the duties of the city clerk and said sheriffs and their manner of performance as the council may deem necessary. And the council shall, through itself and such officers and employees as it may appoint or employ under such regulations and ordinances as it may enact (not contrary to the laws of this state), have such authority and power as may be necessary for the levying and collection of taxes, tithables, fines, licenses, sewer and paving assessments owing the city with power and authority to enforce the collection of such fines by imprisonment in the city or county jail. For performing the duties prescribed in this act the sheriff of Cabell county, and as ex officio treasurer of the city of Huntington, which office is hereby created, and the sheriff of Cabell county designated, ex officio, as said treasurer for all time, shall receive one hundred dollars per month to be paid out of the funds of the city of Huntington.

Sec. 40. No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads, or for the support of the poor of Cabell or Wayne counties, outside of said corporate limits, for any year in which it shall appear that said city shall at its own expense provide for its own poor and keep its own roads, streets and bridges in good order. And the county court of Cabell county, and Wayne county, and the authorities of the districts in which said city is situated, shall not have or exercise jurisdiction within the corporate limits with relation to the roads, streets, alleys, bridges, wharves, docks, ferries, but the same (except schools, schoolhouses and school properties which shall remain under exclusive jurisdiction of the

county school board), shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city.

Sec. 41. There shall be a tax of two dollars annually assessed on each and every male inhabitant of said city, over twenty-one years of age, by the council, and the same shall be collected by the assessor of Cabell county, and Wayne county, as the case may be, at the time and in the same manner provided by the laws of the state for the collection of capitation taxes, and for the collection of such city capitation taxes the assessors shall receive the percentage thereof as provided by state law, and the balance of which shall forthwith be paid to the sheriff of Cabell county, ex officio treasurer of the city of Huntington. All money collected under this section shall go into the street fund, or like fund, to be expended upon the roads, streets, and alleys, sidewalks, crosswalks, drains, gutters, wharves and bridges of said city.

Sec. 42. It shall be the duty of the sheriffs of Cabell and Wayne counties to keep all funds of the city in some bank or banks within said city which shall pay three per cent per annum interest on such deposits, payable quarterly, based on the average daily balance of such funds in all accounts. If no bank within said city is willing at any time to receive deposits of the sheriffs and to pay such interest thereon, the sheriffs shall report this fact to the council, who shall thereupon designate a bank or banks in which he shall deposit said funds for the time being and until some bank in said city will receive such deposits on such terms. Before receiving any such deposits said bank or banks shall give bond in a penalty prescribed by the council, and with sureties to be approved by said council, conditioned for the prompt payment, whenever lawfully required, of all the city money, or parts thereof which may be deposited with them, which bonds shall be renewed at such times as the council may require.

The sheriff of Cabell county and the sheriff of Wayne county, each, shall execute a bond for the faithful performance of his duties as required under this act, including properly and punctually accounting for all moneys collected for and on behalf of said city, which accounting shall be made on the fifteenth day of each month for the moneys collected for the preceding month, and at the same time make payment of such

amount to the sheriff of Cabell county as ex officio treasurer of the city of Huntington. The city shall pay the cost of such bonds.

Sec. 43. (a) Whenever the council of the city of Huntington shall deem it expedient, it may order and cause any avenue, boulevard, street, road or alley therein, to be graded or regraded, curbed or recurbed, paved or repaved, surfaced or resurfaced, macadamized or remacadamized, or otherwise improved or reimproved, or repaired, in a permanent manner and in accordance with plans and specifications adopted therefor, and under such manner and supervision as may be directed by ordinance or resolution, upon the lowest responsible bid to be obtained by advertising for proposals therefor, except the city may do such work without letting it to contract, as is hereinafter provided for in (d) of this section, and the said city shall have the power to purchase and condemn land for opening and widening any avenue, boulevard, street, road or alley to be so improved or reimproved. The entire cost or any part thereof, of such improvement, or reimprovement, together with the cost of purchase or condemnation of any land necessary therefor, as provided for in the ordinance or resolution authorizing the same, may be assessed to and required to be paid by the owners of the lands, lots, or fractional parts thereof, fronting or bounding on said improvement or reimprovement, except as otherwise provided for in (c) and (g) of this section.

(b) Payment for such work shall be made by all of the owners of the properties fronting or abutting on each side of such avenue, boulevard, street, road or alley so improved or reimproved, or repaired, in such proportion to the total cost as the frontage in feet of the abutting land bears to the total frontage of all the land abutting or abounding on said improvement or reimprovement, less the portion, if any, chargeable to any street railway or other railway company. In case any such avenue, boulevard, street, road or alley be occupied by street car tracks, or the tracks of any other railroad, then such street railway company, or other railroad company, shall pay the costs of said improvement or reimprovement, or repair, for the distance between the rails of the tracks thereof and two additional feet outside of each rail thereof. The said costs and expenses of said improve-

ment or reimprovement including the costs and expenses of purchasing rights-of-way, or the condemnation thereof for the opening and widening thereof shall not include any portion of the amount paid for the improvement or reimprovement or the repair of intersections of any avenue, boulevard, street, road or alley, unless the work be done and the assessment therefor and payment thereof be made as is provided for in (c) and (g) of this section.

(c) *Provided,* That whenever the council shall deem it expedient it may order and cause any work to be done, and any improvement or reimprovement and repair to be made, as is set out in (a) of this section, and in addition to the assessments provided for in (a) of this section, the council may assess proportionately the property abutting and abounding on such improvement, or reimprovement, with the total cost of the same, which cost may include the cost of all grading, regrading, curbing, recurbing, paving, repaving, surfacing, resurfacing, macadamizing, remacadamizing, engineering, abstracting of all property to be assessed or acquired by purchase or condemnation, installing drains and sewers, the building and construction of retaining walls and culverts, and everything necessary for the successful completion of said work of improvement or reimprovement. If the council shall order such improvement or reimprovement to be made under this clause of this section, they shall first adopt an ordinance or resolution setting forth the work and the improvement or improvements proposed to be done, and adopt plans and specifications for the same, which are to be filed in the city engineer's office, and set out therein the extent of said improvement or reimprovement and the manner of paying for the same; which ordinance or resolution shall be published once a week for two successive weeks in two newspapers of opposite politics, published and of general circulation in said city. The published notice of said ordinance or resolution shall be sufficient, if it contain the title of the same, with a statement of the purpose of the ordinance or resolution, setting out between what points the improvements or reimprovements are proposed to be made, and the adoption of the plans and specifications therefor, which are on file in the city clerk's office, and the method under which the assessments are to be levied and the payment therefor made, and

further, the time at which objections or protests thereto may be made, which time shall be at least two weeks from the date of the first publication of the same. Objections and protests may be made against the proposed improvement or reimprovement, or repairs, by the owners of the property against which said assessments will be levied, by reason of the said improvements or reimprovements, or repairs, and if, at or before such time set out in said published notice, the bona fide owners of more than three-fifths in lineal feet of the property abutting on said improvement or reimprovement, shall file, separately or jointly, their written protest under oath, setting forth that they are the owners of the said property, and their reasons for their objections to said improvement or reimprovement, with the city clerk, or the council, at any regular or special meeting of the same. When any such protest may have been filed, the council at its next regular meeting, or at a special meeting called for that purpose, shall hear such protest and shall adjudicate their determination of said objection, and if it appears that three-fifths in lineal feet of the bona fide owners of the abutting or abounding owners of the abutting or abounding property, object to said improvement or reimprovement, and have complied with all the provisions hereof, then the council shall proceed no further hereunder, and shall order said improvement or reimprovement discontinued, and shall enter an order to that effect upon the records of said city. If the owners of more than three-fifths of the said property abutting or abounding upon said improvement or reimprovement do not file any objection or protest, as herein provided for, then the council may immediately, by ordinance or resolution, order and direct said work to be proceeded with and the assessments levied against said property to be assessed therewith in the manner as herein set out. All objections and protests to said improvements or reimprovements shall be deemed waived, unless presented at the time and in the manner herein specified.

(d) The council on behalf of the city itself, after any improvement or reimprovement, or repair, is finally ordered to be done or made, in the manner and form provided for in this act, may, at its election, do such work and make such improvement or reimprovement, or repairs, and assess the

costs thereof and collect the same in the manner set out in this act, and the decision of the council to do such work or to make such improvement or reimprovement, or repairs, may be without further notice, other than notice to contractors as provided for in (h) of this section, or after the rejection of all bids for doing the same.

(e) The costs of grading, regrading, curbing, recurbing, paving, repaving, surfacing, resurfacing, macadamizing, remacadamizing, or otherwise improving or reimproving, or repairing the intersections, or portions or intersections, of any or all avenues, boulevards, streets, roads, or alleys, and the plans adopted for said improvement or reimprovement for such work, shall be paid by the city, except as otherwise provided in this act.

(f) If any such avenue, boulevard, street, road or alley be occupied by street car tracks, or other railroad tracks, the cost of said improvement, or reimprovement, or repairs, between the rails and two additional feet outside of each rail, shall be assessed, and the amount of said assessment shall be borne and paid by the person or company owning or operating such street car or other railway line. In case any person or company is the owner of such street car line, or other railway line, abutting or abounding on said improvement, or reimprovement either in fee, or by grant of easement, the said person or company owning or operating same, is liable for assessment the same as any other property owner.

(g) The council, if they so elect, may order and cause any avenue, boulevard, street, road or alley, including the intersections thereof, public parks, parkways, or public places to be widened, graded, regraded, curbed, recurbed, paved, surfaced, resurfaced, macadamized, remacadamized, repaired, or otherwise improved, including the construction of retaining walls, culverts, sewers, drains, water pipes, water mains or water courses, in connection therewith, and may purchase and condemn land as provided in this act, for any public avenue, boulevard, street, road or alley, or part thereof, or park or parkway, or for any other public purposes, and the council may assess all or any part of the entire cost of such improvement or reimprovement or the repair thereof, and the costs of the purchase or condemnation of land necessary therefor, against the abutting, adjacent, con-

tiguous, and other lots or lands especially benefited by such improvement or reimprovement. The council, when they decide to order the improvement or reimprovement under this provision, shall first adopt an ordinance or resolution setting forth the work and improvement or reimprovement proposed to be done and that plans and specifications for the same had been duly adopted and filed in the city engineer's office, the extent of said improvement or reimprovement and the manner of paying for the same, and the approximate amount of the total cost of the same, and the said resolution or ordinance shall fix the approximate amount of the special benefit to be derived from said improvement or reimprovement, and the names of the owners of said lots or lands so specially benefited shall be set up therein of each of the abutting, adjacent, and contiguous, and other specially benefited lots or lands to be assessed, with the cost of said improvement or reimprovement, together with the approximate amount of the assessment for each lot or tract of land therein, and the council, in fixing the amount of said assessment for said inprovement or reimprovement, shall not assess the same with a greater amount than twenty-five per cent of the assessed value of said lots or lands as fixed by the assessor for the last taxable year for state and county purposes. Said ordinance or resolution shall be published once a week for two consecutive weeks in two newspapers of opposite politics, published and of general circulation in said city, in which publication a time shall be fixed of at least two weeks from the date of the first publication thereof, in which objections and protests may be made against the proposed improvement or reimprovement, and the approximate cost of the same, and against the approximate amount of the assessment proposed to be levied therefor by the bona fide owners of the property against which said assessment will be levied, by reason of said improvement or reimprovement. The said property owner or owners so objecting and protesting, shall file separately or jointly, their written protests and objections under oath setting forth that they are the bona fide owners of said property and their reasons for their objections and protests to the said improvement or reimprovement. Said objections and protests may be filed with the city clerk or the council at any regular or special meeting

of the same, and when said objections and protests are so filed, the council at regular meeting, or at a special meeting called for that purpose, hear such objections and protests and shall adjudicate and determine the same. In case said objections and protests are overruled, the said parties, objecting and protesting shall have the right within thirty days from the action of the said council in overruling the same, to proceed by writ of certiorari to the circuit court of Cabell county, or Wayne county, depending on the location of said real estate, as is provided by section two, article three, chapter fifty-three of the code of West Virgina, one thousand nine hundred thirty-one, and during the time given therefor, and after the same has been so filed in said court, and until the same has been finally determined therein, no further procedure under such ordinance or resolution shall be had.

(h) Whenever any work of improvement or reimprovement, or repair, has been ordered constructed, as contemplated hereunder, a notice for bids or proposals for doing the same shall be published for at least two consecutive weeks in two newspapers of opposite politics, published and of general circulation in said city. The notice shall state, briefly, the work contemplated; it shall refer to the plans and specifications for the same and their adoption, which are filed in the city engineer's office, and when and where and how the bids or proposals shall be made and the amount of the surety bond or certified check which is necessary to accompany each bid or proposal, and shall state that the city shall have the right to award said contract upon said bids or proposals to the lowest responsible bidder, and that the city shall also have the right to reject any and all bids and, whether stated in said notice or not, the city shall have the right to reject any and all bids for the said improvement or reimprovement. The city, in awarding said contract, shall consider the fitness, responsibility and capacity of the contractor to perform the work.

(i) The cost of said grading, regrading, curbing, recurbing, paving, repaving, surfacing, resurfacing, macadamizing, remacadamizing, or any improvement or reimprovement, may be paid for in one of two ways provided for in this

act, and said method of payment shall be specified in the ordinance or resolution authorizing the same.

(j) If the abutting land on any such avenue, boulevard, street, road, or alley, sought to be improved or reimproved, under any of the methods herein prescribed, is not laid off into lots or subdivided by a map of record, the council may, for the purpose of making the assessments provided for herein, and in other sections hereof, lay said land and lots of land off into lots of such width and depths as it may deem advisable for the purpose of laying the proper assessment for said improvement, or reimprovements, and such assessment map shall be adopted by the council and placed of record in the county clerk's office in the county wherein the improvement is made.

Sec. 44. (a) The council may contract, or the city, if the council may so elect, may do the work of improvement, reimprovement, or repair, itself, as set out in section forty-three, and shall have the power to acquire land by purchase, condemnation, or otherwise, for the same, as aforesaid, and the council may stipulate that the costs thereof, either in whole or in part, shall be paid by the abutting and bounding property owners as provided for in (a), (b), or (c) of section forty-three of this act, in installment payments, as hereinafter set out, and whether the city do such work, or let the same to contract, the council may stipulate that the costs thereof, in whole or in part, shall be paid by the abutting, adjacent, contiguous, and otherwise specially benefited property owners, as provided for in (g) of section forty-three of this act, in installment payments as hereinafter set out.

(b) The said installment payments shall not exceed five in number, unless otherwise provided for herein, and shall be in equal or nearly equal amounts, and when practicable, in multiples of ten, the cents and odd amounts to be included in the first installment, which installment payments shall be evidenced by a certificate issued therefor against each separate lot or tract of land, setting out the total amount of such assessments against the same, and payable in not more than five installments, except as hereinafter provided, as follows: The first installment in thirty days after the date of the certificate, the second installment on the first day of May of the year following the year in which the certificate is issued, and the remaining

installments on the first day of May of the succeeding years respectively. The date of the certificates shall be the day on which the city received and accepted said work from the contractor or from the time the work was completed, in case the city performed the work itself, and said certificates shall bear interest at the rate not to exceed six per cent per annum, payable the due date of each principal installment, which certificates are to be signed in person by the mayor and the city clerk, or other person or persons designated of record to sign the same. Said certificates shall bear coupons designated "principal installment coupon" representing the respective amounts of the installments to be paid under the same, and which coupons shall be due and payable on the dates provided for the payment of the installments in this section, and said certificates shall also bear coupons designated "interest installment coupon," representing the interest to be paid on said assessments, and which said interest coupons shall be due and payable at the same time the principal installment coupons are due and payable and shall bear interest at six per cent after the due date thereof. Upon the due date of any principal installment coupon, excepting the first, the accrued interest, on so much of said assessment as remains unpaid, shall be due and payable and shall be represented by interest coupons as hereinabove set out. The interest on the first principal installment coupon shall be paid when the said principal installment coupon is paid, and likewise upon the succeeding coupons attached thereto. Both the principal and interest installment coupons shall be signed by the mayor and the city clerk, or other person or persons designated of record for that purpose, either in person or by stamp bearing a facsimile of the written name of the person authorized to sign the same, or lithographer in facsimile on said principal and interest installment coupons.

(c) The certificates herein provided for may be sold either to the contractor doing the work of improvement, or reimprovement, or the same may be held and collected by the city, or the same may be sold to any other person, and the amounts thereof shall cover and include the entire cost of such work provided for in the ordinance or resolution, including the cost of grading, regrading, curbing, recurbing, paving, repaving, surfacing, resurfacing, macadamizing, remacadamizing, en-

gineering, abstracting, installing drains and drainage, the building and construction of retaining walls and culverts and the expense of purchasing and acquiring land by condemnation, and other things pertaining thereto.

(d) When the entire amount to be assessed against any lot, piece, or parcel of ground under the provisions of this section does not exceed fifty dollars, then such amount shall be covered by only one set of said coupons, payable thirty days after the date of issue of the certificates; if over fifty dollars, and not more than one hundred dollars, then such amount shall be covered by only two principal and interest installment coupons payable in thirty days after the date of the certificate and on the first day of May of the year succeeding the year in which the certificate was issued, respectively; if over one hundred dollars, and not more than one hundred and fifty dollars, then such amount shall be covered by only three principal installment and interest installment coupons, payable in thirty days from the date of the certificate, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one year thereafter, respectively; if over one hundred and fifty dollars, and not more than two hundred dollars, then such amount shall be covered by only four principal and interest installment coupons, payable in thirty days after the date of the certificate and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter, respectively; if more than two hundred dollars, then such amount shall be covered by five principal and interest installment coupons, payable in thirty days after the date of the certificate, on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, respectively.

(e) The certificates and coupons covering the amounts of the assessments and interest shall be paid by the owner or owners of the land, lots, or fractional parts thereof, so assessed, for the cost of said improvement or reimprovement, on such avenue, boulevard, street, road or alley. The amount specified in said assessment certificate, together with interest, shall be a lien in the hands of the holder thereof, upon the

lands, lots, or parts thereof, so assessed, and shall also be a debt against the owner of such real estate, and said amount shall bear interest from the date of said certificate, payable on the due dates of each principal installment coupon, and said interest installment coupons shall bear interest from the due dates thereof. In case any installment of principal or interest is not paid when due, and such default continue for a period of sixty days from the date the same became due and payable, then the owner and holder of said certificate shall have the right to declare the total amount of said certificate and the coupons thereof, together with interest due thereon, due and payable, without further notice or demand, and may institute suit thereon to collect the whole or any part of the same, either against the owner of said real estate for a personal judgment or to subject the land assessed therewith to the payment of the whole or any part of the said assessment, and the payment of said assessment certificate may be enforced in any other manner as provided by law for the collection of debts or the lien of such assessment certificate may be enforced in the name of the holder of such assessment certificate in the same manner provided by law for the enforcement of other liens against real estate.

(f) When said improvement or reimprovement, or a stipulated part thereof, shall have been completed, and the costs of acquiring or taking land, by purchase, condemnation, or otherwise, has been ascertained, the city engineer shall report in writing to the council the total cost of said improvement or reimprovement, the names of the property owners abutting and bounding thereon (and if the work is done under (g) of section forty-three, the names of the abutting, adjacent, contiguous or other specially benefited property owners) said improvement (the names of the property owners shall be considered for all intents and purposes hereafter as they appear as the record owners of record in the county clerk's office in the county where such improvement or reimprovement, is made), the city engineer shall include in said report a brief description of the lots and lands as to location, frontage and depth, liable for such assessments, together with the amount to be assessed against each lot and the owner thereof, calculated in the manner provided for under this act. It shall be the duty of the council to examine

and compare such assessments, amounts and names, so certified to it, and thereupon give notice by publication once a week for two successive weeks in two newspapers of opposite politics published and of general circulation in said city, that an assessment under this act is about to be laid against the abutting or abounding property (and if the work is done under (g) of this section forty-three against the abutting, adjacent, contiguous, or other specially benefited property) for the improvement or reimprovement done on said avenue, boulevard, street, road or alley describing the location of such improvement or reimprovement, and any owner or owners thereof shall have the right to appear before said council within two weeks from the date of the first publication thereof and move to correct any apportionment or assessment excessively or improperly charged, which correction said council shall have the power to make according to the intent of this act, and if found to be correct, or when corrected by the council, as aforesaid, it shall enter the same, together with a description of the lots or land, as to location, frontage, depth, and ownership, so far as the same may be ascertained, upon its records and shall state in its records that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them, respectively. And all objections and protests to said improvement or reimprovement, and the assessments therefor, shall be deemed waived unless protested at the time, and in the manner herein specified. It shall be the duty of the city clerk to certify to the clerk of the county court of either Wayne or Cabell county, wherein said improvement or reimprovement has been made, a certified copy of said assessment roll and the clerk of said county court of the respective counties shall record and index the same in the proper trust deed books in the name of each person against whose property assessments appear therein, and said assessments or liens, when so recorded, shall be a continuing tax lien upon the lots or ground against which the assessment is made until the certificates as aforesaid, are paid, except as hereinafter provided in this act, and the same shall have priority over all other liens, except county, state and municipal taxes and shall be of equal dignity and on a parity with other assessments for public improvements made under this act. Any property owner shall have the right to pay

the whole amount of any such assessment against his property as soon as the same shall have been ascertained, but before the day on which the city clerk files such assessment of record, in the county clerk's office, and such payment shall be made to the city clerk who shall give proper receipt therefor, and such assessment, so paid, shall not be included in the certified assessment roll to be recorded in the office of the county court clerk, as set out herein, and the amount so paid to the clerk shall forthwith be paid to the contractor or other person entitled thereto, which shall operate as a full discharge of the amount of such indebtedness, and in full satisfaction of the lien of said assessment on such property.

(g) The city, in case it negotiates and sells such certificates to the contractor, or any other person, shall not be held as a guarantor of, or in any way liable, for payment thereof, except upon the direct action of the council as expressed by resolution of record: *Provided, however,* That the city of Huntington shall be liable to the contractor performing said contract of improvement or reimprovement, in case the assessment certificate appears to be erroneous as to the person and property assessed or as to the amount thereof, unless it issue and deliver to the contractor or other person entitled thereto, a properly corrected and valid assessment certificate as hereinafter provided for.

(h) Whenever any assessment shall be void or voidable by reason of errors, irregularities, or defects in the proceedings under which such improvement or reimprovement shall have been made, or in case such assessment shall have been made against the wrong person or property, it shall be the duty of the council within two years after any court shall have declared such assessment invalid, or within two years after such error has been discovered by the owner and holder of said certificates, to cause notice to be given to any person against whom the cost of such improvement might properly have been assessed under this act, of its intention to lay such assessment against him, and fix a time and place at which he may appear and show cause, if any, why such assessment should not be made. Said notice shall be published as provided in this act, (or in any other manner provided by law, for an order of publication, if the person is a nonresident of the city, or cannot be found), or by service of such notice

upon such person giving him a reasonable time in which to appear before said council. At the time and place fixed for a hearing upon the notice aforesaid, the council shall proceed to lay and levy an assessment for the cost of such improvement or reimprovement in such manner as would have been lawful under proper procedure at the time the said improvement or reimprovement was made, unless the person so notified shall show good cause why the same should be not laid, and no further notice of such assessment shall be necessary. The assessment so laid shall be a lien in the hands of the owner and holder thereof upon the lands, lots, or parts thereof, so assessed and shall also be a debt against the owner of such real estate, and shall be recorded in the same manner as herein provided, and may be collected and enforced in the same manner as herein provided.

(i) The assessment certificate and principal installment and interest coupons herein provided for may be made in the following form, or to the same effect.

No..... $.....

THE STATE OF WEST VIRGINIA

(State Coat of Arms)

CITY OF HUNTINGTON

PAVING ASSESSMENT CERTIFICATE

This certifies that....., as the owner of a lot, piece or parcel of real estate, situate in the City of Huntington, West Virginia, known and designated as Lot No.....in Block No....., has been duly assessed in the sum of.....Dollars, with interest from this date at the rate of six per centum per annum, payable on the due date of each principal installment coupon, as hereinafter set out, which assessment has been made to pay the cost of the public improvement hereinafter recited.

This certificate is one of a series issued pursuant to the provisions of the charter of the City of Huntington, West Virginia, and the laws of the State of West Virginia, to pay the cost of improving or reimproving, by grading, curbing and paving etc., of.....from ....to.....in the city of Huntington, West Virginia.

The Charter of the City of Huntington, West Virginia,

requires assessments for such improvements to be made payable in installments as follows:

(a) If not more than fifty dollars, in one installment due in thirty days after date of certificate;

(b) If more than fifty dollars, and not more than one hundred dollars, in two installments due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued;

(c) If more than one hundred dollars, and not more than one hundred and fifty dollars, in three installments, due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May one year thereafter;

(d) If more than one hundred and fifty dollars, and not more than two hundred dollars, in four installments, due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter respectively;

(e) And if more than two hundred dollars, in five installments due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, respectively.

Said assessment to draw interest at the rate of six per centum per annum, payable on the due date of each principal installment.

This paving assessment certificate is negotiable under the laws of the State of West Virginia, and is payable by installments, and the installments of this certificate, therefor, are evidenced by.....principal installment coupons hereto attached which show the amount of such installments, the due date thereof, and are signed by the mayor and the clerk of the City of Huntington, West Virginia.

The interest on this certificate and the installments thereof are evidenced by interest coupons hereunto attached, which show the amount of such interest, and the due date thereof which interest coupons shall bear interest from the due dates thereof until paid, and which interest coupons are signed by the mayor and the clerk of the City of Huntington, West Virginia.

Upon the due date of any principal installment coupon,

excepting the first, the accrued interest on so much of said assessment as remains unpaid, shall be due and payable in accordance with, and as evidenced by interest coupons hereto attached. The interest on the first principal installment coupon shall be paid when the said principal installment coupon is paid.

The said several principal installment and interest coupons respectively, are payable at the office of the treasurer of the City of Huntington.

The amount of the assessment represented by this certificate and principal installment coupons attached has been duly levied, equalized and confirmed, and along with accrued interest is a lien upon the real estate herein mentioned, and is a lien prior to all other liens, except county, state and municipal taxes, and is of equal dignity and on a parity with other assessment liens for public improvements, and is also a debt against the owner of said real estate and the holder or bearer of this certificate may enforce the debt evidenced thereby, as provided thereby, as provided by law.

In case any installment of principal or interest is not paid when due, and such default continue for a period of sixty days from the date the same became due and payable, then the owner and holder of this certificate shall have the right to declare the total amount of said certificate due and payable without further notice or demand, and may enforce the debt and lien hereof as provided by law.

It is certified and recited that all the acts, conditions and things required to be done precedent to and in the letting of the contract for said improvement, the equalization and making of said assessment, and the issuing of this certificate, have been done and performed in regular and due manner and form as required by the charter of the City of Huntington, West Virginia, and the constitution and laws of the State of West Virginia.

IN TESTIMONY WHEREOF, The City of Huntington, a municipal corporation, created and existing under the laws of the State of West Virginia, has caused this certificate to be signed by its mayor and clerk and the principal installment and interest coupons respectively, hereunto attached, to be signed by its mayor and clerk, this.....day of....., 19.....

.....

Mayor

.....

Clerk

PRINCIPAL INSTALLMENT COUPON

No..... $.....

On the .....day of.....19....., there will be due and payable to the bearer hereof, from..... the sum of.....Dollars, being the.....installment on Certificate No..... of the City of Huntington, West Virginia, for the curbing, grading, and paving of.....from..... to.....

.....

Mayor

.....

Clerk

INTEREST COUPON

No..... $.....

On the.....day of.....19....., there will be due and payable to the Bearer hereof, from .....the sum of..... Dollars, representing interest at six per centum from .....to.....on Certificate No....., on Installment No..... of the City of Huntington, West Virginia, for curbing, grading, and paving of.....to.....

.....

Mayor

.....

Clerk

Sec. 45. (a) Wherever the council of the city of Huntington shall deem it expedient, it is authorized and empowered to order and cause to be constructed in said city, or part within and part outside of the limits of the said city, a public sewer or sewers, which may be trunk or lateral, or both, for either sanitary or storm purposes, or both, for the benefit of the health and sanitation and convenience of the said city, or any part thereof, and its inhabitants, in accordance with plans and specifications adopted therefor, and under such manner and supervision as may be directed by ordinance or resolution.

The term sewer, as used herein, shall be treated in a comprehensive sense, so as to include all mains, laterals, connections, traps, incinerating and disposal plants, and other necessary and convenient accessories to a modern, sanitary and efficient sewerage system. The entire cost, or any part thereof, together with the cost of purchase or condemnation of any land, right-of-way, or easement necessary therefor, as provided for in the ordinance or resolution authorizing the same, may be assessed to and required to be paid by the owners of the land, lots, or parts thereof, abutting thereon, or abutting upon any avenue, boulevard, street, road, or alley in which such sewer shall be constructed, or abutting on any land, right-of-way, or easement therein especially procured for the purpose of the construction of said sewer therein, including the cost of such sewer at any cross-intersection at avenues, boulevards, streets, roads or alleys adjacent thereto.

(b) The council, on behalf of the city itself, after any public sewer or sewers is finally ordered to be constructed or built, in the manner and form provided for in this act, may, at its election, do such work and assess the costs thereof, and collect the same, in the manner set out in this act, and the decision of the council to do such work or to build such sewer or sewers may be without further notice, other than the notice to contractors, as provided for in (e) of this section, or after the rejection of all bids for doing the same.

(c) If any such avenue, boulevard, street, road, or alley, or any right-of-way, or easement therein, especially procured for the purpose of constructing said sewer or sewers therein, be occupied by any street car track, or other railway tracks, and the said street car tracks, or other railway tracks, abut upon said sewer or sewers, then the person, or company, owning or operating such street car tracks or other railway lines shall be assessed with the proportionate part of the costs of the same, unless otherwise provided in the ordinance or resolution authorizing the same.

(d) The council, if it so elect, may order and cause to be constructed in said city, or part within and part outside of the limits of the said city, a public sewer or sewers, which may be trunk or lateral, or both, for either sanitary or storm purposes, or both, for the benefit of the health, sanitation and convenience of said city, or any part thereof, and its inhabitants, in

accordance with plans and specifications adopted therefor, and on file in the city engineer's office, and under such manner and supervision as may be directed by ordinance or resolution. The entire cost, or any part thereof, together with the cost of purchase or condemnation of any land, right-of-way or easement necessary therefor, may be assessed against the abutting, adjacent, contiguous or other lots of land especially benefited thereby. Such work and improvement shall be done and the assessments laid therefor in the same manner and form as set out in (g) of section forty-three of this act, (relative to the improvement or reimprovement of streets, etc., by paving, etc.)

(e) Whenever any sewer or sewers have been ordered constructed, as contemplated hereunder, a notice for bids or proposals for doing the same, shall be published for at least two consecutive weeks in two newspapers of opposite politics published and of general circulation in the city. The notice shall state, briefly, the work contemplated, and shall refer to the plans and specifications for the same and their adoption, which are filed in the city engineer's office, and when, where and how bids or proposals shall be made and the amount of the surety bond or certified check which is necessary to accompany each bid or proposal, and shall state that the city shall have the right to award said contract upon said bids or proposals to the lowest responsible bidder, and that the city shall also have the right to reject any and all bids, and whether stated in said notice or not, the city shall have the right to reject any and all bids for the said construction of said sewer or sewers. The city in awarding said contract shall consider the fitness, responsibility, and capacity of the contractor to perform the work.

(f) The cost of the construction of said sewer or sewers may be paid for in either one of two ways provided for in this act, and said method of payment shall be specified in the order or resolution authorizing the same.

(g) If any of the abutting land on any such avenue, boulevard, street, road or alley, in which such sewer shall be constructed, or abutting on any land, right-of-way, or easement therein, especially procured for the purpose of the construction of said sewer or sewers therein, under the methods herein prescribed has not been laid off into lots or subdivisions by a map

of record, the council may for the purpose of making the assessment provided for herein, and in other sections hereof, lay said land and lots of land off into lots or parcels of such width and depth as it may deem advisable for the purpose of laying the proper assessments for said sewer or sewers, and such assessment map shall be adopted by the council and placed of record in the county clerk's office in the county or counties wherein said sewer or sewers are constructed.

Sec. 46. (a) The council may contract, or the city, if the council may so elect, may do the work of constructing said sewer or sewers itself as is set out in section forty-three, and shall have the power to acquire land by purchase, condemnation, or otherwise for the same, as aforesaid, and the council may stipulate that the costs thereof, either in whole or in part, shall be paid by the abutting and bounding property owners, as provided in (c), of section forty-three (relating to improvement or reimprovement by paving, etc.) in installment payments, as hereinbefore set out, and whether the city do such work, or let the same to contract, the council may stipulate that the costs thereof, in whole or in part, shall be paid by the abutting, adjacent, contiguous, or otherwise, especially benefited property owners, as provided for in (g) of section forty-three of this act, (relating to improvement or reimprovement by paving, etc.) in installment payments, as hereinafter set out.

(b) The said installment payments shall not exceed five in number, unless otherwise provided for herein, and shall be in equal or nearly equal amounts, and when possible, in multiples of ten, the cents and odd amounts to be included in the first installment, which installment payments shall be evidenced by a certificate issued therefor against each separate lot or tract of land, setting out the total amount of such assessments against the same, and payable in not more than five installments, except as hereinafter provided, as follows:

The first installment in thirty days after the date of the certificate; the second installment on the first day of May of the year following the year in which the certificate is issued, and the remaining installments on the first day of May of the succeeding years, respectively. The date of the certificates shall be the day on which the city received and accepted said work from the contractor or from the time the work was

completed, in case the city performed the work itself, and said certificates shall bear interest at the rate not to exceed six per centum per annum, payable on the due date of each principal installment, which certificates are to be signed in person by the mayor and the city clerk, or other person or persons designated of record to sign the same. Said certificates shall bear coupons designated "principal installment coupon" representing the respective amounts of the installments to be paid under the same, and which coupons shall be due and payable on the dates provided for the payment of the installments in this section, and said certificates shall also bear coupons designated "interest installment coupon", representing the interest to be paid on said assessments, and which said interest coupons shall be due and payable at the same time the principal installment coupons are due and payable, and shall bear interest at six per centum after the due date thereof. Upon the due date of any principal installment coupon, excepting the first, the accrued interest, on so much of said assessment as remains unpaid, shall be due and payable, and shall be represented by interest coupons as hereinabove set out. The interest on the first principal installment coupon shall be paid when the said principal installment coupon is paid, and likewise upon the succeeding coupons attached thereto. Both the principal and interest installment coupons shall be signed by the mayor and the city clerk, or other person or persons designated of record for that purpose, either in person or by stamp bearing a facsimile of the written name of the person authorized to sign the same, or lithographed in facsimile on said principal and interest installment coupons.

(c) The certificates herein provided for may be sold either to the contractor doing the work of constructing said sewer or sewers, or the same may be held and collected by the city, or the same may be sold to any other person and the amounts thereof shall cover and include the entire cost of such work provided for in the ordinance or resolution, including the cost of the construction of said sewer or sewers, and the expense of purchase or condemnation of any land, right-of-way, or easement necessary therefor, and other things pertaining thereto for the successful completion of the same.

(d) When the entire amount to be assessed against any lot, piece, or parcel of ground, under the provisions of this section

does not exceed fifty dollars, then such amount shall be covered by only one set of said coupons, payable thirty days after the date of issue of the certificates; if over fifty dollars, and not more than one hundred dollars, then such amount shall be covered by only two principal and interest installment coupons, payable in thirty days after the date of the certificate and on the first day of May of the succeeding year in which the certificate was issued respectively; if over one hundred dollars, and not more than one hundred and fifty dollars, then such amount shall be covered by only three principal installment and interest installment coupons, payable in thirty days from the date of the certificate, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one year thereafter, respectively; if over one hundred and fifty dollars, and not more than two hundred dollars, then such amount shall be covered by only four principal and interest installment coupons, payable in thirty days after the date of the certificate, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter, respectively; if more than two hundred dollars, then such amount shall be covered by five principal and interest installment coupons, payable in thirty days after the date of the certificate, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May, in one, two and three years thereafter, respectively.

(e) The certificates and coupons covering the amounts of the assessments and interest shall be paid by the owner or owners of the land, lots or fractional parts thereof, so assessed, for the cost of said sewer or sewers, on such avenue, boulevard, street, road or alley, and the amount specified in said assessment certificates, together with interest, shall be a lien in the hands of the holder thereof, upon the lands, lots, or parts thereof, so assessed, and shall also be a debt against the owner of such real estate, and said amount shall bear interest from the date of said certificate, payable on the due dates of each principal installment coupon, and said interest installment coupons shall bear interest from the due dates thereof. In case any installment of principal or interest is not paid when due, and such default continue for a period of sixty days from

the date the same became due and payable, then the owner and holder of said certificate shall have the right to declare the total amount of said certificate and the coupons thereof, together with interest due thereon, due and payable, without further notice or demand, and may institute suit thereon to collect the whole or any part of the same, either against the owner of said real estate, for a personal judgment, or to subject the land assessed therewith to the payment of the whole or any part of the said assessment, and the payment of said assessment certificate may be enforced in any other manner as provided by law for the collection of debts or the lien of such assessment certificate may be enforced in the name of the holder of such assessment certificate in the same manner provided by law for the enforcement of other liens against real estate.

(f) When said sewer or sewers or a stipulated part thereof, shall have been completed, and the cost of purchase or condemnation of any land, right-of-way or easement necessary therefor, and other things pertaining thereto, has been ascertained, the city engineer shall report in writing to the council the total cost of said construction of said sewer or sewers, the names of the property owners abutting and abounding thereon (and if the work is done under (g) of section forty-three, the names of the abutting, adjacent, contiguous or other especially benefited property owners; and the names of the property owners shall be considered for all intents and purposes hereafter as they appear as the record owners of record in the county clerk's office in the county wherein such work of constructing such sewer or sewers is done), and the city engineer shall include in said report a brief description of the lots and lands, as to location, frontage and depth, liable for such assessments, together with the amount to be assessed against each lot, and the owner thereof, calculated in the manner provided for under this act. It shall be the duty of the council to examine and compare such assessments, amounts and names, so certified to it, and thereupon give notice by publication once a week for two successive weeks in two newspapers of opposite politics published and of general circulation in said city, that an assessment under this act is about to be laid against the abutting or abounding property (and if the work is done under (g) of section forty-three against the abutting,

adjacent, contiguous or other specially benefited property), for the construction of said sewer or sewers in said avenue, boulevard, street, road or alley, describing the location of such sewer or sewers; any owner or owners thereof shall have the right to appear before said council within two weeks from the date of the first publication thereof and move to correct any apportionment or assessment excessively or improperly charged, which correction said council shall have the power to make according to the intent of this act, and if found to be correct, or when corrected by the council, as aforesaid, it shall enter the same, together with a description of the lots or land, as to location, frontage, depth, and ownership, so far as the same may be ascertained, upon its records, and shall state in its records that such owners and lots be assessed and chargeable with the amounts so ascertained to be borne by them, respectively. And all objections and protests to said construction of sewer or sewers, and the assessments therefor, shall be deemed waived unless protested at the time, and in the manner herein specified. It shall be the duty of the city clerk to certify to the clerk of the county court of either Wayne or Cabell county, wherein said sewer or sewers have been laid, a certified copy of said assessment roll, and the clerk of said county court of the respective counties shall record and index the same in the proper trust deed books, in the name of each person against whose property assessments appear therein, and said assessments liens, when so recorded, shall be continuing tax liens upon the lots or ground against which the assessments are made until the certificates, as aforesaid, are paid, except as hereinafter provided in this act, and the same shall have priority over all other liens except county, state and municipal taxes, and shall be of equal dignity and on a parity with other assessments for public improvements made under this act. Any property owner shall have the right to pay the whole amount of any such assessment against his property as soon as the same shall have been ascertained, but before the day on which the city clerk files such assessment of record in the county clerk's office, and such payment shall be made to the city clerk who shall give proper receipt therefor, and such assessment, so paid, shall not be included in the certified assessment roll to be recorded in the office of the clerk of the county court, as set out herein, and the amount so paid to the

clerk shall forthwith be paid to the contractor or other person entitled thereto, which shall operate as a full discharge of the amount of such indebtedness, and in full satisfaction of the lien of said assessment on such property.

(g) The city, in case it negotiates and sells such certificates to the contractor, or any other person, shall not be held as a guarantor of or in any way liable for payment thereof, except upon the direct action of the council as expressed by resolution of record: *Provided, however,* That the city of Huntington shall be liable to the contractor performing said contract for the constructing of said sewer or sewers, in case the assessment certificate appears to be erroneous either as to the person and property assessed or as to the amount thereof, unless it issue and deliver to the contractor or other person entitled thereto, a properly corrected and valid assessment certificate as hereinafter provided for.

(h) Whenever any assessment shall be void or voidable by reason of errors, irregularities, or defects in the proceedings under which such sewer or sewers shall have been constructed, or in case such assessment shall have been made against the wrong person or property, it shall be the duty of the council within two years after any court shall have declared such assessment invalid, or within two years after such error has been discovered by the owner and holder of said certificates, to cause notice to be given to any person against whom the cost of such improvement might properly have been assessed under this act, of its intention to lay such assessment against him, and fix a time and place at which he may appear and show cause, if any, why such assessment should not be made. Said notice shall be published as provided in this act, (or in any other manner provided by law for an order of publication, if the person is a nonresident of the city, or cannot be found), or by service of such notice upon such person giving him a reasonable time in which to appear before said council; at the time and place fixed for a hearing upon the notice aforesaid, the council shall proceed to lay and levy an assessment for the cost of the construction of such sewer or sewers in such manner as would have been lawful under proper procedure at the time said sewer or sewers were constructed, unless the person so notified shall show good cause why the same should not be laid, and no further notice of such assessment shall

be necessary. The assessment so laid shall be a lien in the hands of the owner and holder thereof upon the lands, lots, or parts thereof, so assessed, and shall also be a debt against the owner of such real estate, and shall be recorded in the same manner as herein provided, and may be collected and enforced in the same manner as herein provided.

(i) The assessment certificate and principal installment and interest coupons herein provided for may be made in the following form, or to the same effect:

THE STATE OF WEST VIRGINIA

(State Coat of Arms)

CITY OF HUNTINGTON

SEWER ASSESSMENT CERTIFICATE

No..... $.....

This certifies that....., as the owner of a lot, piece or parcel of real estate, situate in the City of Huntington, West Virginia, known and designated as Lot No..... in Block No..... has been duly assessed in the sum of.....Dollars, with interest from this date at the rate of six per centum per annum, payable on the due date of each principal installment coupon, as hereinafter set out, which assessment has been made to pay the cost of the public improvement hereinafter recited.

This certificate is one of a series issued pursuant to the provisions of the charter of the City of Huntington, West Virginia, and the laws of the State of West Virginia, to pay the cost of improving by the construction of a..... sewer in..... from ..... to ..... in the City of Huntington, West Virginia.

The charter of the city of Huntington, West Virginia, requires assessments for such improvements to be made payable in installments as follows:

(a) If not more than fifty dollars, in one installment due in thirty days after date of certificate;

(b) If more than fifty dollars, and not more than one hundred dollars in two installments due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued;

(c) If more than one hundred dollars, and not more than one hundred and fifty dollars, in three installments, due in

thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May one year thereafter;

(d) If more than one hundred and fifty dollars, and not more than two hundred dollars, in four installments, due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one and two years thereafter, respectively;

(e) And if more than two hundred dollars, in five installments due in thirty days, and on the first day of May of the year succeeding the year in which the certificate was issued, and on the first day of May in one, two and three years thereafter, respectively.

Said assessment to draw interest at the rate of six per centum per annum, payable on the due date of each principal installment.

This sewer assessment certificate is negotiable under the laws of the State of West Virginia, and is payable by installments and the installments of this certificate, therefore, are evidenced by.....principal installment coupons hereto attached which show the amount of such installments, the due dates thereof, and are signed by the mayor and the clerk of the City of Huntington, West Virginia.

The interest on this certificate and the installments thereof are evidenced by interest coupons hereunto attached, which show the amount of such interest, and the due date thereof, which interest coupons shall bear interest from the due dates thereof until paid, and which interest coupons are signed by the mayor and the clerk of the City of Huntington, West Virginia.

Upon the due date of any principal installment coupon, excepting the first, the accrued interest on so much of said assessment as remains unpaid, shall be due and payable in accordance with, and as evidenced by interest coupons hereto attached. The interest on the first principal coupon shall be paid when the said principal installment coupon is paid.

The said several principal installment and interest coupons, respectively, are payable at the office of the treasurer of the City of Huntington.

The amount of the assessment represented by this certificate and the principal installment coupons attached, has been duly levied, equalized, and confirmed, and, along with accrued in-

terest, is a lien upon the real estate herein mentioned, and is a lien prior to all other liens, except county, state, and municipal taxes, and is of equal dignity and on a parity with other assessment liens for public improvements, and is also a debt against the owner of said real estate and the holder or bearer of this certificate may enforce the debt evidenced thereby as provided by law.

In case any installment of principal or interest is not paid when due, and such default continue for a period of sixty days from the date the same became due and payable, then the owner and holder of this certificate shall have the right to declare the total amount of said certificate due and payable without further notice or demand and may enforce the debt and lien hereof as provided by law.

It is certified and recited that all the acts, conditions and things required to be done precedent to and in the letting of the contract for said improvement, the equalization and making of said assessment, and the issuing of this certificate, have been done and performed in regular and due manner and form as required by the charter of the city of Huntington, West Virginia, and the constitution and laws of the state of West Virginia.

IN TESTIMONY WHEREOF, The City of Huntington, a Municipal Corporation, created and existing under the laws of the State of West Virginia, has caused this certificate to be signed by its Mayor and Clerk and the Principal Installment and interest coupons respectively, hereunto attached, to be signed by its Mayor and Clerk, this.....day of.....

.....19.....

.....

..... Mayor

Clerk

PRINCIPAL INSTALLMENT COUPON

No..... $.....

On the.....day of.....19.....,

there will be due and payable to the bearer hereof, from

.....the sum of.....

.....Dollars, being the installment on Certificate No.....of the City of Huntington, West Virginia,

for the construction of a .....sewer in.....

from..... to .....

.....

..... Mayor

Clerk

INTEREST COUPON

No..... $.....

On the.....day of....., 19....., there will be due and payable to the bearer hereof from..... .....the sum of..... .....Dollars, representing interest at six per centum from..... to ..... of Certificate No.....on..... Installment No.....of the City of Huntington, West Virginia, for the construction of sewer in..... from..... to .....

.....

Mayor

.....

Clerk

Sec. 47. (a) The city of Huntington, when the council deems it expedient, is hereby authorized to issue its bonds, for the purpose of providing for the costs of grading, regrading, curbing, recurbing, paving, repaving, surfacing, resurfacing, macadamizing, remacadamizing, or otherwise improving or reimproving, in a permanent manner, any avenue, boulevard, street, road, or alley, and for the purpose of causing to be constructed in said city, or part within and part outside of the limits of said city, a public sewer or sewers, which may be trunk or lateral, or both, for sanitary or storm purposes, or both, for the benefit of the health and sanitation and convenience of the said city, or any part thereof, and its inhabitants, (the storm sewer as used herein, shall be treated in a comprehensive sense, so as to include all mains, laterals, connections, traps, incinerating and disposal plants, and other necessary and convenient accessories, to a modern, sanitary and efficient sewer system), and for the purpose of purchasing and condemning land, rights-of-way, or easements, necessary for any of the above purposes, and for the purpose of acquiring parks, parkways and park property, all of which shall be done in anticipation of such assessments to be assessed and levied against the property abutting or bounding on said improvement, or against the abutting, adjacent, contiguous, or other lots of land, especially bene-

fited thereby. Said bonds may be in such amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and said city is authorized to sell said bonds, but not below the par value thereof. The amount for which said bonds are to be issued, may be made of five bonds, payable in two, four, six, eight and ten years, respectively, from the date of their issue, and shall bear interest not to exceed six per centum per annum, payable annually; or may be of four bonds, payable in one, two, three and four years, respectively, from the date of their issue, and shall bear interest not to exceed six per centum per annum, payable annually, and the date of said bonds, when issued, shall conform, as nearly as can be, to the date of the assessments laid against the real estate for the purpose of procuring revenue for the retirement of said bonds: *Provided,* That the city shall have the right to redeem and pay off at any interest paying period, all, or any part of said undue bond provided for in this section. In the issuance and sale of said bonds, the said city shall be governed by the restrictions and limitations of the constitution of this state and of the laws of this state relating to the issuance and sale of bonds, so far as such state laws are not in conflict with the provisions of this act; and the assessments, as provided for and required to be paid herein, shall be applied to the liquidation of said bonds and the interest thereon, and if, by reason of the penalties collected upon the delinquent assessments as they are paid, there be any balance, after the payment of the bonds and all accrued interests and costs thereon, it shall be the duty of the city treasurer to pay said balance into the interest and sinking fund of said city.

(b) Said city shall not, by any bond issue, become indebted to an amount, including all other indebtedness, exceeding two and one half per centum of the value of the taxable property therein, as shown by the last assessment thereof, for state and county purposes, next prior to the issuing of said bonds, except for the purpose of grading, paving, sewering and otherwise permanently improving and reimproving its avenues, boulevards, streets, roads, or alleys, and for the purpose of constructing sewers and a sewerage system, as defined herein, and for acquiring and taking land, rights-of-

way, or easements, therein, for street sewerage and park purposes, as provided for in this act, may become indebted and issue bonds in an additional sum not exceeding two and one-half per centum of the value of the taxable property therein, ascertained as aforesaid, and which is provided by section three, article one, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one. For the purpose in estimating existing indebtedness, special assessment bonds heretofore issued or hereinafter issued, representing the cost of paving or other improvements of avenues, boulevards, streets, roads, or alleys, or the constructing of sewers and for the purpose of acquiring parks, parkways and park property, or acquiring or taking land for such purposes, and the cost of which is assessed against the abutting property, the abutting or bounding property, or abutting, adjacent, contiguous or other lots of land especially benefited thereby, shall not be included; and likewise the amount in any sinking fund, or the amount invested therefor, as provided by law, for the payment of outstanding bonds, shall not be included in the estimate of existing indebtedness: *Provided,* That the aggregate of the city's debt of every kind whatsoever, including such special street and permanent improvement bonds or sewer bonds, shall not exceed five per centum of the value of the taxable property therein.

(c) Whenever any such work of improvement or reimprovement of any avenue, boulevard, street, road or alley, or the construction of any sewer or sewers, as contemplated and defined under this act, is ordered done by the council, the same shall be done and the assessments levied and collected, for the retirement of the bonds issued hereunder, under the same conditions and according to the same provisions of section forty-three (for street improvements, etc.) or under section forty-five (for the construction of sewers, etc.) respectively, insofar as the several provisions thereof are not in conflict herewith, and in addition to the method of enforcing and collecting said assessments for the retirement of said bonds as set out herein, the same may be collected and enforced in the manner hereinafter set out.

(d) It shall be the duty of the council, after the completion and acceptance of said work, to immediately certify

such assessments to the city treasurer for collection, and he shall be charged with the number and amounts thereof, and he shall proceed to collect the same, and as such certificates and coupons are paid, he shall deliver the canceled certificates and coupons to the party paying the same, and when the entire amount of said assessment lien has been paid, together with any interest, or other penalties due thereon, the said treasurer shall deliver to the party paying the same, a proper release of said lien, which may be recorded in the office of the clerk of the county court in the county wherein said work was performed, as other releases of liens are recorded.

(e) The amount so assessed against said lots or parcels of land and the owners thereof, respectively, if assessed for the liquidation of the five bonds payable in two, four, six, eight and ten years, respectively, after date, that is to say, one-tenth of said amount, together with interest on the whole assessment for one year, shall be paid into the treasury of the city before the first day of the following January, and a like one-tenth part, together with interest for one year on the whole amount remaining unpaid, shall be paid before the first day of January of each succeeding year thereafter, until all shall have been paid, and the amount so assessed against said lots and owners thereof, respectively, if for the liquidation of the four bonds payable in one, two, three, and four years, respectively, after date, shall be paid in five payments as follows: That is to say, one-fifth of said amount, with interest, shall be paid in thirty days from date thereof; and one-fifth of said amount, together with interest on the whole of the unpaid assessment, shall be paid into the treasury of the city before one year from the date thereof; and a like one-fifth part, together with interest on the whole amount remaining unpaid, before two years from the date thereof, and a like amount in each succeeding year thereafter, until all shall have been paid. All of said installments shall bear interest at six per cent per annum, payable annually on the due dates thereof, from the date thereof: *Provided, however,* That the owner of said lot or part of land so assessed for the cost of any of the permanent improvements herein mentioned, shall have the right at any time to anticipate and pay the whole of such undue assessment and interest thereon, until the day on which the next undue assessment shall become

due, and have the lien against the property so assessed released as herein provided.

(f) If any assessment shall not be paid when due, then a penalty of four per centum per annum shall be added and collected on the amount of such assessment after it is due, until its payment, and such four per centum penalty shall be in addition to the six per centum interest which the assessment carries, and shall be a lien the same as the assessment, and the council shall cause to be enforced the payment of said assessment and interest and penalty in all respects as herein provided for the collection of taxes due the city; and said assessments shall be a lien upon the property liable therefor the same as taxes, and shall be a personal obligation of the owner of said lot or part of land, which lien may be enforced in the same manner as provided for the sale of property for the payment of delinquent taxes and tax liens; and the liens herein provided for shall have priority over all other liens, except those for county, state and municipal taxes, and shall be on a parity and of equal dignity with assessments for public improvements as called for and set out in this act.

(g) The contractor (if the work is let to contract) under this plan for the payment of the cost of such improvement or reimprovement of avenues, boulevards, streets, roads and alleys and the construction of sewer or sewerage system, etc., shall look only to the city for the payment for such work, and in no sense to the abutting land owners.

Sec. 48. (a) Whenever the council of the city of Huntington, shall deem it expedient, it may order and cause any avenue, boulevard, street, road, park or parkways to be improved or reimproved by an artificial lighting system, of monolites, standard arm lights, or other proper lighting system, for the purpose of improving, embellishing, ornamenting and lighting the same in accordance with plans and specifications adopted therefor, and on file in the city engineer's office, and under such manner and supervision as may be directed by ordinance or resolution, upon the lowest responsible bid to be obtained by advertising for bids or proposals therefor, except the city may do such work without letting it to contract, as provided for in this act under section forty-four relative to street improvement or reimprovement for paving, etc. The entire cost, or any part thereof, of such

improvement or reimprovement by said lighting system, as provided for in the ordinance or resolution authorizing the same, may be assessed and required to be paid by the owner or owners of the lands, lots or fractional parts thereof, fronting or bounding on said improvement or reimprovement of said lighting system: *Provided, however,* That the upkeep and maintenance of the same, and the cost of supplying electrical current for the operation thereof, shall be paid for by the city of Huntington.

(b) Whenever any such work of improvement or reimprovement by a lighting system, is contemplated hereunder, is ordered done by the council, the same shall be done and the assessments levied and collected therefor under the same conditions and in accordance to the same provisions as set out in section forty-three and section forty-four (for street improvements, etc.) insofar as the several provisions thereof are not in conflict herewith.

Sec. 49. (a) The release of any assessment lien for the improvement or reimprovement of any avenue, boulevard, street, road, or alley, or for the construction of any sewer or sewerage system, or for monolite, or other lighting system, or other permanent improvement or reimprovement, authorized by this act, shall be made in addition to the provisions for a release of the same as herein set out, in the following manner: On the presentation by the land or lot owner of any assessment certificate issued as aforesaid against him, or his predecessor in title to said lot, the clerk of the county court shall mark upon the margin of the trust deed book at which said assessment is recorded, that the lien is released to the land or lot mentioned in such assessment certificate to the extent of the amount and number of the coupons of said assessment certificate thus exhibited; and the county clerk shall thereupon write across the face of each of said coupons of said assessment certificate the date of their production to him for the release of said assessment lien, and shall sign his name thereto in his official capacity, for which shall be paid to the county clerk a fee of twenty-five cents; but if more than one of the said coupons of the same certificate number against the land or lot or lots shall be produced at the same time, the fee of the county clerk shall not exceed twenty-five cents for the release of the lien as to all of the coupons and

certificates thus produced and relating to the same real estate.

(b) It is further provided that the owner of any lot or land against which any assessment certificate is an unreleased lien of record, shall make and produce to the county clerk, or some person for such owner shall make and produce, an affidavit setting out herein that such coupons and certificate has been paid in full, and after diligent search, cannot be found, said county clerk shall, upon the payment of a fee of twenty-five cents, file and preserve said affidavit as a public document and shall forthwith noting release of said lien to the extent of said coupons and certificate exhibited to the county clerk, mark upon the margin of the trust deed book as aforesaid, opposite the lots or land against which same are a lien, the noting of the filing of said affidavit, and the same shall operate as a release of such lien to the extent of said marginal notation. If the affidavit so filed be false, the person making oath and subscribing thereto, shall be guilty of a felony, and, upon conviction thereof shall be fined not to exceed five hundred dollars, or sentenced to be confined in the penitentiary for a term of not more than one year, or both, in the discretion of the court passing sentence.

(c) Any assessment lien created under this act and for which an assessment certificate has been issued in pursuance of the provisions of this act, shall not be a lien against the lot or land or fractional part thereof against which said assessment has been levied, for a longer period than one year after the last installment of said assessment certificate shall have become due and payable, and the personal liability of the property owner assessed with said assessment, shall not extend for a longer period than five years after the date of the last installment thereof shall have become due and payable: *Provided, however,* That said lien against said property shall be barred within the aforesaid time, unless some suit or action at the termination of said one year period shall be pending for the enforcement of such lien, or unless the amount of the aforesaid lien or some part thereof, is in some way involved in a suit or action pending at the end of the said one year period.

(d) Any assessment lien created under this act and according to the provisions hereof, and the assessment roll for said work of improvement, for either the construction of

paving, sewers or sewerage system, monolite or lighting systems, shall be recorded in the county wherein said work has been done; that is to say, either in Cabell or Wayne county, respectively, as provided for in this act.

(e) All assessment certificates which may be issued under the provisions of this act, shall be made payable at the office of the treasurer of the city of Huntington, who shall receive payments thereon when due, if tendered to him, and interest thereon from the date of such payments when made to the said city treasurer, shall cease. The treasurer shall keep a separate and special record and bank account of all said sums of money received by him and he shall hold the said money in trust for the person who thereafter delivers to him for cancellation, any and all certificates, or the coupons thereof, on which said treasurer has received full payment as aforesaid, and the owner and holder of said assessment certificate or coupons, shall not be entitled to interest on said sum after the date of payment thereof to the treasurer. The said treasurer shall keep a record by number, amount and date, of all assessment certificates delivered to any contractor who is entitled thereto under the provisions of this act. When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or upon satisfactory proof to the city treasurer that all of said assessment certificate and the coupons thereto, have been paid in full, against any lot or fractional part thereof, said city treasurer shall, when demanded by the bona fide owner thereof, or the person obligated therefor, execute a release of said lien in the manner herein provided for.

Sec. 50. (a) The council of the city of Huntington is hereby authorized to refund by reissuing paving assessment certificates issued under authority of this act, subject only to the limitations prescribed in this act.

(b) Whenever it shall appear to the council that any paving assessment certificate issued pursuant to the provisions of this act, or the amendments thereof, to pay the cost of paving and otherwise improving or reimproving any avenue, boulevard, street, road or alley in said city, has matured, or remains unpaid, and which are not barred by the statute of limitations, provided for in this act, or if it shall appear to the said council that any principal or interest coupon or

coupons have matured on any such paving assessment certificate so issued, and the same remained unpaid, and are not barred by the statute of limitations provided for in this act, the said council is empowered to and may enter into a written agreement, on behalf of the city of Huntington, with the owner or owners of such paving assessment certificates, and the principal and interest coupons thereof, of the entire series on any project for which the same had been issued, for said improvement or reimprovement, and provide in such agreement for the cancellation of the original certificates and the coupons thereto attached of such group or series, together with the principal and interest coupons thereof, issued for said improvement or reimprovement, and cause a refunding thereof by a reissuance thereof, subject to the provisions of this act. The presentation of said paving assessment certificates, together with the unpaid principal and interest coupons issued thereon, under the authority of this act, shall be prima facie evidence of the ownership thereof, and when so presented by such person, firm, or corporation, to the council, the said city and the owner and holder of said certificates and the coupons thereof attached, shall have the right to enter into a written contract to provide for the refunding of said paving assessment certificates by the reissue of refunding certificates therefor; and said contract shall provide that the refunding paving assessment certificates shall be payable solely from reassessments levied against the property for the payment of said original assessment certificates, in the district and along said avenue, boulevard, street, road or alley theretofore improved in said city, for which said paving assessment certificates and the principal and interest coupons were issued; and the said contract shall further provide that in no instance shall any reassessment be made or levied against any property in said district abutting upon said former improvement or reimprovement, which has heretofore been paid in full, according to the terms of the original assessment levied therefor. Said contract shall further provide that all unmatured installments of paving assessment certificates issued to pay for such improvement or reimprovement heretofore issued, shall, until superseded by funding or refunding paving assessment certificates, as herein provided, but no longer, remain as liens against the property so

assessed, unless barred as provided for in this act. Such contract shall expressly provide that the city of Huntington shall in no event be liable for any loss or damage sustained by the owner or holder of such paving assessment certificates heretofore issued by reason of the refunding or reissuance thereof, as authorized in this act, and the city of Huntington shall not be held as guarantor, or in any way liable for said refunding or reissuance of paving assessment certificates, except upon direct action of the council as expressed by resolution of record, and as provided for in (g) of section forty-four of this act. Such contract may contain such other and suitable provisions as the parties thereto may agree with reference to the cancellation of such outstanding paving assessment certificates and the protection of the rights of the owners of the property liable to pay the assessments which have been matured.

(c) The contract providing for the refunding of said paving assessment certificates shall be authorized only when the owner or owners of all the unpaid assessment certificates and the coupons thereof of a particular series of the same date and group and issued for the same improvement or reimprovement, whether all or a part of the same be due or not, or whether all or any coupon thereof shall be in default of payment, join in such an agreement or contract.

(d) When the contract heretofore provided for by (b) of this section shall be entered into between the contracting parties, an ordinance or resolution shall be enacted or passed, ratifying the same.

(e) Upon the adoption of said ordinance or the passage of said resolution, the owner or owners of such unpaid assessment certificates as provided for herein, shall deposit the same, together with the unpaid coupons thereof, with the city treasurer to be retained until such time as the refunding paving assessment certificates are to be exchanged for such paving assessment certificates heretofore issued, or such paving assessment certificates with said coupons may be deposited in any duly incorporated bank or trust company in the city of Huntington, as may be designated by the contract between the city and such certificate owner or owners, to be retained by such depository until exchanged for such refunding paving assessment certificates.

Whenever the council has entered into a contract for refunding of paving assessment certificates and such series of the same date and group heretofore issued for the cost of any such improvement has fully matured, and the same, or any part thereof, remain unpaid, and has passed the ordinance or adopted the resolution provided for in (d) of this section, it shall be the duty of the council to cause the city treasurer to submit a complete statement, duly verified, from the owners or holders of said paving assessment certificates, showing the number of each certificate, the principal and interest coupons which are unpaid, and the total indebtedness due, according to the terms and tenor of said matured and unpaid coupons, which statement shall likewise show the several assessments remaining due and unpaid, and the year in which the same are due, together with the interest thereon; and the city treasurer shall likewise submit, at the same time, a statement setting forth the amount of the reassessments, which shall include the total amount of the unpaid assessments, with interest to date of the passage of the ordinance, or adoption of the resolution prescribed in (d) of this section, and there may be included in such reassessments the additional costs of the proceedings pro rated among the lots or tracts of land so to be assessed, unless otherwise provided, and which statement shall further contain the names of the owners of said property and a description of said property liable for the payment of such refunding assessment certificates, which statement shall be examined by the council and if found to be correct, shall be approved. Upon the approval thereof, it shall be the duty of the council to enact an ordinance or adopt a resolution declaring the amounts of the indebtedness due from each of said property owners and the property assessed therefor, by reason of such matured and unpaid certificates and the coupons thereto attached, and the amounts so found due, together with the aforesaid costs, shall be declared to be the basis of a reassessment, against the property liable to be assessed, to pay the costs and the assessments of such refunding certificates. The said ordinance, or resolution, shall further recite the date of the passage of the ordinance, or resolution, authorizing such work or improvement or reimprovement, the date of the assessments and the trust deed book and page number where the assessments are

recorded in either of the county court clerk's office of Cabell county or the county court clerk's office of Wayne county, depending in which county the real estate is located, and shall further declare the determination of the council to cause such paving assessment certificates to be refunded and to levy reassessments and issue refunding paving assessment certificates in the several amounts necessary to pay such refunding certificates against the several owners of the lots, pieces or parcels of land liable for the costs of the improvement for which said paving assessment certificates are so refunded. Said resolution or ordinance shall likewise recite that a full and complete statement, duly approved, showing the amounts of the various outstanding paving assessment certificates and interest thereon, together with the delinquent assessments for principal and interest installment coupons, together with the owners and the property liable for the payment of said refunding certificates and the amounts to be reassessed is on file in the office of the city clerk. Such resolution or ordinance shall be published at least once a week for two successive weeks in two newspapers of general circulation and of opposite politics published in the city. Any person, firm, or corporation interested or liable shall have the right to file written protests with the city clerk or the council against the amount chargeable in such statement within two weeks from the date of the first publication of said ordinance or resolution, and failure to file such written protests or objections shall be deemed and considered a waiver of any right which such person, firm or corporation may have or claim. When any such protest may have been filed the council shall, at its next regular meeting, or at a special meeting called for that purpose, hear such protest and shall adjudicate and determine the said objection and shall make such order as may seem proper, and said council may revise and correct the amount of such unpaid or unmatured assessments, and raise or lower the same as to any lot or lots or tracts of land, as it shall deem just, but shall assess no greater amount against any lot or lots, or tracts of land, than the amount then delinquent or remaining unpaid, save and except the necessary costs of this proceeding may be added thereto as set out in (f) and said council shall then confirm the same as so revised or corrected by them: *Provided, how-*

ever, That no objection to the legality of the proceedings with reference to the making of the improvement or the validity of the amount of any assessment originally made shall be considered by the council, and all other objections to any reassessment shall be deemed waived, unless presented at the time and in the manner specified.

(g) In all such cases where the council shall undertake to refund paving assessment certificates of the same date and group which have not matured and which contain unmatured installment assessment coupons, the owner of the property liable to pay the costs of such unmatured assessments shall have the right to pay the same, up to the time the council passed the ordinance or resolution providing for the refunding of said paving assessment certificates as provided for in (d) of this act; and shall likewise have the right to continue to pay the several installments of the assessments as the same mature without regard to the refunding of the said outstanding series of the same date and group; however, said owner of said real estate against which installment assessments remain unpaid may elect, by notice to the council, to exercise such right or rights to any time prior to the passage of the ordinance or resolution hereinafter provided for levying the assessments and to pay such refunding paving assessment certificates as provided for herein. Upon failure to exercise such election and privilege, the council shall make reassessments against the property in said improvement district with like force and effect as if the said installments and assessments had matured.

(h) The council shall, by ordinance or resolution, levy assessments in accordance with said apportionment as corrected and confirmed by the council, and said ordinance or resolution shall provide that the proper owners shall have the privilege of paying the amounts of their respective assessments with interest at six per cent within thirty days from the date of the publication of said ordinance or resolution, but before the day on which the said assessments are entered of record, and such payments shall be made to the city clerk, who shall give proper receipts therefor, and such assessments so paid shall not be entered in the report to be recorded and said clerk shall pay said amount to the owner of said certificate. Said ordinance or resolution, setting out the names of

the property owners and a description of the property so reassessed with the amount of the reassessments thereof, shall be published once a week for two successive weeks in two newspapers of opposite politics published in said city. The amounts in said refunding assessment certificates, together with interest, shall be a lien of the holder thereof upon the lands, lots or parts thereof, so assessed, and shall also be a debt against the owner of such real estate, and said amount shall bear interest from the date of said reassessment certificate payable on the due dates of each principal installment coupon, and said interest installment coupon shall bear interest from the due dates thereof, and said lien shall be a continuing tax lien prior to all other liens, save county, state and municipal taxes, and shall be on a parity and coequal with special assessment liens issued under this act. In case any installment of principal or interest is not paid when due, and such default continue for a period of sixty days from the date the same became due and payable, then the owner and holder of said certificate shall have the right to declare the total amount of said certificate and the coupons thereon, together with interest due thereon, due and payable, without further notice or demand, and may institute suit thereon to collect the whole or any part of the same, either against the owner of said real estate for a personal judgment, or to subject the land assessed therewith to the payment of the whole or any part of said assessment; and the payment of said assessment certificate may be enforced in any other manner as provided by law for the collection of debts, or the lien of such assessment certificate may be enforced in the name of the holder of such assessment certificate in the same manner provided by law for the enforcement of other liens against real estate: *Provided, however,* That the same shall not remain as a lien upon said lot or lots, or tracts of land for a longer period than one year after the last principal coupon on said assessment certificate shall have become due and payable, unless some suit or action at the termination of said one year period, shall be pending for the enforcement of such lien, or unless the amount of said lien, or some part thereof, is involved in a suit or action pending at the ending of said one year period. The same shall not remain as a personal obligation of the property holder assessed there-

with after five years after the last principal coupon of said assessment certificate shall have become due and payable.

(i) Thirty days after the first publication of said assessment ordinance or resolution, the city clerk shall certify said assessments and record a copy of said roll assessment in the county clerk's office of either Cabell or Wayne county wherein the original improvement or reimprovement was made and the same shall be recorded in the proper trust deed book and indexed in the names of the owners of the property so assessed. When said reassessments have been so made and the copy of said certificate of assessments thereof filed, as above directed, the county clerk shall mark as "cancelled", the records of said county in which the original assessments are recorded, insofar only as reassessments are made therefor and that have not formerly been released. The lien or liens of said reassessment may be released in the same manner and form as provided for original assessments in this act.

(j) The said assessments shall be evidenced by certificates issued therefor and dated as of the date of the first publication of the ordinance or resolution confirming said reassessment against each lot or tract of land, setting out the total amount of such assessment against the same, payable in ten equal annual installments and bearing interest at the rate not to exceed six per centum per annum payable on the due date of each principal installment. The first installment of both principal and interest shall become due and payable on the first day of May after the date of said certificate and the said installments of both principal and interest shall become due and payable on the first day of May of each succeeding May until the entire amount of said certificate, together with interest shall have been paid. If any installment of said assessment shall not be paid when due, then a penalty of four per centum per annum shall be added on the amount of each installment after it is due until its payment, and such four per centum penalty shall be in addition to the six per centum interest which the assessment carries and shall be a lien the same as the assessment. Said certificates shall be designated as "refunding paving assessment certificate", and shall be signed in person by the mayor and clerk of said city, or other person designated of record by the council. Said certificate shall bear coupons designated "principal installment coupon",

representing the respective amounts of the installments to be paid on the principal under the same, and which shall be due and payable on the dates provided for the payments of the installments in this section, and said certificate shall also bear coupons designated "interest coupon", representing the amounts of interest to be paid upon the assessment and which coupons shall be due and payable at the same time the principal installment coupons are due and payable. Both principal and interest installment coupons shall be signed by the mayor or clerk or other person so designated of record by the council, or bear a facsimile of the signature of said mayor or clerk. The said certificates issued hereunder shall recite that they are issued under the laws of the state of West Virginia, and that they are refunded in pursuance of this act, and shall further recite the date of the certificate theretofore issued. The refunding paving assessment certificates and the principal and interest installment coupons herein provided for may be made in the following form or of the same effect:

No..... $.....

STATE OF WEST VIRGINIA

(State Coat of Arms)

CITY OF HUNTINGTON REFUNDING

PAVING ASSESSMENT CERTIFICATE

This certifies that.....

is the owner of a lot, piece or parcel of real estate, situate in the City of Huntington, West Virginia, known and designated as Lot No. ..... in Block No. ..... and has been duly assessed in the sum of.....Dollars, ($.....), with interest from the date hereof at the rate of six per cent per annum, which amount of principal and interest is due and payable on the due date of each principal and interest installment coupon, as hereto attached, which assessment has been made to pay the costs of public improvement heretofore made under the authority of the Council of the City of Huntington, West Virginia, and by virtue of the charter of the said city, and the laws of the State of West Virginia.

This refunding certificate is negotiable under the laws of the State of West Virginia, and is one of a series issued pursuant to the provision of section ..... of the charter of the City of Huntington, West Virginia, to refund and pay paving

certificates heretofore issued by said city by virtue of its charter and the laws of the State of West Virginia, and dated the ..... day of ....., 19..... The amount of this certificate is payable in ten equal installments and bears interest at six per cent per annum payable on the due date of each principal installment. The first installment of both principal and interest shall become due and payable on the first day of May after the date of this certificate and the remaining installments of both principal and interest shall become due and payable on the first of each succeeding May until the entire amount of this certificate is paid in said ten installments. If any installment shall not be paid when due, then a penalty of four per cent per annum shall be added to the amount of any assessment after it has become due until its payment and said penalty of four per cent shall be added in addition to the six per cent which this certificate carries. The amount of this certificate, together with interest and any penalty that may be due hereon, shall be a lien of the holder thereof upon the lands, lots or parts thereof, so assessed, and shall also be a debt against the owner of such real estate, and said amount shall bear interest from the date of said reassessment certificate payable on the due dates of each principal installment coupon, and said interest installment coupon shall bear interest from the due dates thereof, and said lien shall be a continuing tax lien prior to all other liens, save county, state and municipal taxes, and shall be on a parity and coequal with special assessment liens issued under this act. In case any installment or principal or interest is not paid when due, and such default continue for a period of sixty days from the date the same became due and payable, then the owner and holder of said certificate shall have the right to declare the total amount of said certificate and the coupons thereon, together with interest due thereon, due and payable, without further notice or demand, and may institute suit thereon to collect the whole or any part of the same, either against the owner of said real estate for a personal judgment, or to subject the land assessed therewith to the payment of the whole or any part of said assessment; and the payment of said assessment certificate may be enforced in any other manner as provided for by law for the collection of debts, or the lien of such assessment certificate may be enforced in

the name of the holder of such assessment certificate in the same manner provided by law for the enforcement of other liens against real estate.

Installments of this certificate, therefore, are evidenced by ten principal installment coupons and ten interest installment coupons hereto attached, which shows the amounts of such installments, the due date thereof, and bear a facsimile signature of the mayor and the clerk of the City of Huntington, West Virginia.

The said several principal and interest coupons respectively are payable at the offices of the treasurer of the City of Huntington, West Virginia.

The amount of the assessment represented by this certificate and principal and interest installment coupons attached, has been duly levied, equalized and confirmed, and all acts, conditions, and things required to be done precedent to the issuance of this refunding certificate, the equalization and reassessment hereof, have been done, and performed, in regular and due manner and form as required by the charter of the City of Huntington and the constitution and laws of the State of West Virginia.

This refunding paving assessment certificate in no event becomes a liability of the City of Huntington, West Virginia.

IN TESTIMONY WHEREOF, The City of Huntington, a municipal corporation, created and existing under the laws of the State of West Virginia, has caused this certificate to be signed by its mayor and clerk, and the principal installment and interest installment coupons respectively hereto attached, to be signed by a facsimile signature of its mayor and clerk, this the ..... day of ....., 19.....

.....

Mayor.

.....

Clerk.

PRINCIPAL INSTALLMENT COUPON

No..... $.....

On the first day of May, 19....., there will be due and payable to the bearer hereof, from.....

the sum of.....Dollars,

being the installment on Certificate No. ..... of the City of Huntington, for refunding paving assessment certifi-

cate issued on the ..... day of ....., 19.....

.....

Mayor.

.....

Clerk.

INTEREST INSTALLMENT COUPON

No..... $.....

On the first day of May, 19....., there will be due and payable to the bearer hereof, from..... the sum of.....Dollars, representing interest at six per cent per annum from the ..... day of ..... to the ..... day of ....., on Certificate No. ..... on installment No. ..... of the City of Huntington, West Virginia, for refunding paving assessment certificate dated the ..... day of ....., 19.....

.....

Mayor.

.....

Clerk.

(k) Such refunding paving assessment certificate in such amount as represents the unpaid assessments as provided for in this act, shall be delivered to the owner or owners of such original paving certificates, pursuant to the terms of the contract provided for in this act: *Provided, however,* That upon delivery of such refunding paving assessment certificates, all original paving assessment certificates and heretofore deposited as in this act is provided, shall be cancelled and a record of such cancellation so made by the city clerk.

(l) No suit shall be sustained to set aside any reassessment or to enjoin the council of said city from levying any such reassessments or issuing refunding paving assessment certificates or contesting the validity thereof on any grounds, or for any reason other than for the failure of the council to adopt and publish the ordinances or resolutions as provided for herein, which are required herein to be published: *Provided, however,* That in the event any reassessment shall be found to be invalid or insufficient in whole or in part, for any reason whatsoever, the council may at any time in such manner provided for herein, proceed to cause a new assessment to be

made and levied which shall be of like force and effect as an assessment provided for herein.

(m) This act shall not be construed to validate any void assessment heretofore made or any paving assessment certified heretofore issued, nor shall any proceeding hereunder operate to make bearing upon any property owner any previous invalidation, but every defense available against the original assessment shall be preserved to and be available against any issue of refunding paving assessment certificates issued hereunder.

Sec. 51. (a) If any section or portion of this act relating to any improvement or reimprovement of any avenue, boulevard, street, road or alley, by paving, etc., or relating to construction of sewers or sewerage system, or relating to improvement or reimprovement by lighting with monolites, or other lighting system, or relating to assessment of the costs of the same, and the issuance of certificates or bonds therefor, as provided herein, and the collection thereof, or relating to the issuance of refunding of paving assessments, shall be held to be unconstitutional or void, by any court of competent jurisdiction, such holding shall not affect the remaining portions of this act, relating to the same subject and purposes, as set out in this act.

(b) All prior acts or portions of acts inconsistent with this act, relative to any improvement or reimprovement of any avenue, boulevard, street, road or alley by paving, etc., or relating to the construction of sewers or sewerage system, or relating to the improvement or reimprovement by lighting with monolites, or other lighting system, or relating to the assessment of the cost of the same and the issuance of assessment certificate or bonds therefor or relating to the collection thereof, or relating to the issuance of refunding paving assessment certificates, as provided for in this act, shall be, and the same are hereby repealed: *Provided, however*, That by the passage of this act, nothing herein shall affect the validity of any contract heretofore entered into, or the cause of any such work heretofore performed, or the assessment of the collection of any assessment certificates heretofore issued or the rights of the owner and holders thereof, heretofore given, prior to the passage hereof, and the provisions of this act shall be effective only from the date of the passage hereof.

Sec. 52. The city shall create a board to be styled "the civil service board," consisting of four members and the mayor, a member ex officio. The mayor shall preside at all meetings of the board, but shall have the right to vote only in case of a tie on any question arising before the board. The mayor shall appoint two members of the board from each of the dominant political parties of the city, and they shall be appointed and confirmed. In this manner, the mayor shall transmit to the council the names of the persons whom he appoints to the civil service board; and the council may, at its next regular meeting, or special meeting called for that purpose, or at any adjournment thereof for not more than five days, reject any or all of said appointments so made by the mayor by majority vote of the members of council present at such meeting. If any one of such appointees is rejected by the council, the action thereabout shall be transmitted to the mayor, who shall, without delay, transmit to the council the name of another person or persons, as the case may be, for such office, and action thereon by the council shall be in the same manner as in the first instance, and, if rejected, then the mayor shall transmit another name, or other names, for members of said board until the council shall not have, in the manner herein provided, rejected the person or persons so appointed by the mayor for said board. All such appointments by the mayor shall stand approved and as final, unless rejected by the council at the time and in the manner herein prescribed.

A member of the civil service board may be removed from office in the manner and for the causes provided for the removal of the mayor by section ten of this act. The term of office of the members of said board shall be the same as that for which the mayor was elected: *Provided,* That the members of the present civil service board shall hold their positions on said board until their successors shall have been named, in the manner herein provided, by the mayor elected at the general election in one thousand nine hundred thirty-four.

The duties of the civil service board shall be to examine and certify all applications for positions in the police department or fire department, except the chiefs thereof; to hear and determine all appeals made by members of either of those departments, who are under civil service; to hear evidence, summons witnesses and render judgments in all cases in which charges

have been preferred against any officer of either of those departments; to make promotions of members of either of the departments when it is deemed advisable for increased efficiency; to make rules and regulations governing the actions of the board and to keep the same in the records of its proceedings.

The civil service board shall hold meetings for the purpose of examining and certifying the eligibles to the appointment of the police department and fire department, and to that end shall give at least ten days public notice of the time, place and purpose of such meetings. The board may be called into special session by the mayor or by a majority of its members for the purpose of disposing of any matters coming within its purview. The board shall hold at least two meetings during any calendar year, and as many more meetings as may be necessary to meet the requirements for the efficient management of its affairs.

The city clerk shall be ex officio clerk of said board.

Appointments to the police department and fire department shall be made, by the civil service board, from the applicants for said respective positions, which applicants, under civil service examinations, receive an average grade of sixty or more, giving preference to the applicant receiving the highest grade and whose grade certificate is the oldest, and likewise making such appointments so as not to give either of the dominant political parties in the city, as nearly as may be, more than one-half of the total number of men under civil service in either department. The mayor shall appoint special officers, if any, for either or both of said departments, from the approved civil service lists for said departments, respectively, keeping political division as hereinbefore set out; provided no person shall serve, as a special officer, for more than thirty days in any one calendar year. When the list of names of applicants who are eligible as prescribed in this section shall have been exhausted, or when either dominant political party shall be entitled to appointment and there shall be no member of such party eligible on the list, then such appointment may be made from the list of persons who may apply therefor, disregarding those applicants who stood the civil service examination and received thereon a grade below sixty.

Hereafter all appointments to the police department or the fire department shall be made for the term of five years, subject to suspension and dismissal as provided herein; and at the expiration of said five-year term, the officer may be re-enlisted for another term of five years, upon the recommendation of the mayor and approval by the civil service board, by a majority vote; and so on and in like manner every five years.

All persons now under civil service in either of said departments shall have advantage of civil service and shall continue in office unless removed for cause and in the manner provided in this section.

Policemen and firemen now in office, and those hereafter appointed, shall obey all the rules and regulations promulgated by the mayor for the organization and operation of the respective departments which, when posted at the headquarters of the respective departments, shall be notice thereof. Any violation of said rules by any member of the departments shall be sufficient cause for his suspension or dismissal in the manner provided in this section.

The mayor, or chief of either the police department or fire department by and with the mayor's consent, may, as a matter of discipline, suspend, without pay, for a period of not exceeding thirty days, any officer or member of either of those departments, for just cause, by giving such officer or member written notice of such suspension, defining the cause or causes therefor. Such suspended officer or member shall have the right, within ten days, but not later, to appeal to the civil service board, if he deems such suspension unjust. If such accused officer or member, upon a hearing before the civil service board, is found not guilty, then he shall immediately report for duty, and he shall be paid for the time lost by his suspension. The mayor may, upon evidence of reasonable cause therefor, dismiss any member of the police department or fire department, by giving written notice to such person, clearly defining the charges preferred against him, and fixing a time, not later than ten days from that time, on which such member may appear for trial before the civil service board; and should the board, upon trial, find him guilty of the charges preferred, the dismissal by the mayor shall stand affirmed, without pay from the time of his dis-

missal by the mayor. But if such person shall be acquitted of the charges preferred by the mayor, he shall be reinstated to his position and shall be paid for the time lost by him because of his dismissal by the mayor. The action of the civil service board thereabout, in either of the event of suspension or dismissal by the mayor or the board as aforesaid, shall be final, and no appeal therefrom shall lie.

The civil service board may make reasonable rules governing the conduct of all persons while on duty and off duty, who are under civil service, in addition to the rules promulgated by the mayor; and the violation of such rules may be cause for suspension or dismissal as provided in this section; but causes for suspension or dismissal, as herein provided, is not limited to the violation of said rules promulgated by the board.

In making examinations and determining the fitness and qualifications for positions the civil service board shall take into consideration the size, health, physical appearance, habits and moral surroundings of the applicant; and after such examinations the board shall at once place on record in the minutes of the civil service board the result of such examination, giving the names of the applicants, positions sought by them, and their respective percentages based on one hundred, and stating the political party, if any, to which the applicant holds allegiance.

Sec. 53. In letting contracts for paving, sewering and other public work for the city, the council may make it a part of the contract that the contractor procuring such work shall be required to employ laborers on the work who reside in the city of Huntington: *Provided,* That efficient labor is procurable in the city at the customary scale of wages in said city for like work.

Sec. 54. The council may adopt, by ordinance, a code of laws and ordinances, which when adopted shall be printed in book form, or it may be adopted as a whole after it is printed, and said code shall be the law and ordinances of said city, and shall be received as such in all the courts of this state, and the laws, ordinances, franchises, and rules, when printed therein shall be prima facie proof of their correctness.

Sec. 55. Whenever any notice is required to be given, or any summons, warrant or other process is required to be

served or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department of said city in the same way or manner in which the laws of the state prescribe for executing summonses and subpoenas by the state officers, unless otherwise provided by this act.

Sec. 56. Whenever the word "street" (whether or not followed with the words, "avenues, roads, alley or public ground") is used in this act, it shall be inclusive of and construed to mean any public street, avenue, alley or ground in the city, unless the language thereabout is such that the intent is clearly otherwise. Whenever the word "treasurer" is used in this act, it shall have the same meaning as "the sheriff of Cabell county, ex officio treasurer of the city of Huntington", or part thereof.

Sec. 57. All acts and parts of acts coming within the purview of this act, and inconsistent herewith, and not included in the provisions of this act, are hereby repealed; except this act does not intend to repeal or in any way amend chapter twenty-six, acts of the legislature, one thousand nine hundred twenty-five (municipal charters), creating a park board for the city of Huntington, or any amendment thereof.

*CHAPTER 162

(House Bill No. 119—By Mr. Norton)

AN ACT to amend section eleven, chapter twenty-six (municipal charters), acts of the Legislature of West Virginia, one thousand nine hundred twenty-five, relating to the charter of the board of park commissioners of the city of Huntington.

[Passed December 14, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
11. Annual levy by board of park commissioners; amount, by classifications and time of laying of levies; certification to, and extension of levies by, city treasurer; deposit and expenditure of levies; payment by board of proportional part of cost to county assessor for copies of land and personal books.

Be it enacted by the Legislature of West Virginia:

That section eleven, chapter twenty-six (municipal charters), acts of the Legislature of West Virginia, one thousand nine hundred

*Amended by chapter one hundred sixty-three, acts of this session.

twenty-five, relating to the charter of the board of park commissioners of the city of Huntington, be amended to read as follows:

Section 11. For the purpose mentioned in the foregoing section, the board of park commissioners is hereby given the power to and is required annually to levy on each one hundred dollars of the assessed valuation of the property taxable in said district, according to the last assessment thereof for state and county purposes as follows: On class one property, one and one-half cents, on class two property, three cents, on class four property, six cents; except that the board of park commissioners may levy a lesser amount, in which case the above levies shall be reduced proportionally. These levies shall be made at the time and in the manner provided by article eight, chapter eleven of the code, as amended by the acts of one thousand nine hundred thirty-three, regular session, and as further amended by the acts of one thousand nine hundred thirty-three, second extraordinary session, by house bill number sixty-three, passed December ninth, one thousand nine hundred thirty-three, insofar as the same are applicable, except that the levies shall be included in the maximum rates for the city of Huntington, established by section eleven, article eight, chapter eleven of the code as amended by the acts of one thousand nine hundred thirty-three, regular session, and as further amended by the acts of one thousand nine hundred thirty-three, second extraordinary session, by house bill number sixty-three, passed December ninth, one thousand nine hundred thirty-three. After the board of park commissioners has made the levy, it shall certify to the treasurer of the city of Huntington the amount of the said levy, and the said city treasurer shall thereupon extend the levy upon the tax tickets, and all levies made by the said board of park commissioners shall be collected and held by the city treasurer, who is hereby made treasurer of the board of park commissioners, and who is required to deposit all park funds received or collected by him in a special deposit to his credit as treasurer of the board of park commissioners, and to pay out such money upon vouchers drawn upon the order of the board of park commissioners on the city treasurer, which orders are to be signed by the city president of the board of park commissioners, and countersigned by its secretary: *Provided,* That inasmuch as the city of Huntington annually pays to the

county assessor, certain fees for making out for its use copies of the land and personal property books, the board of park commissioners shall hereafter contribute to the payment of this amount such a proportional part thereof as the amount of the levy made by the said board of park commissioners bears to the amount of the levy made by the city of Huntington.

CHAPTER 163

(House Bill No. 275—By Mr. Norton)

AN ACT to amend and reenact chapter one hundred twenty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, relating to the charter of the board of park commissioners of the city of Huntington, so as to comply with the provisions of house bill number two hundred thirty-four, passed at the second extraordinary session, one thousand nine hundred thirty-three.

[Passed January 26, 1934; in effect from passage. Approved by the Governor.]

SEC.		SEC.	
11.	Annual levy by board of park commissioners; amount, by classifications, and time of laying levies; certification to, and extension of levies by city treasurer; deposit and expenditures of levies.		

Be it enacted by the Legislature of West Virginia:

That chapter one hundred twenty, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 11. For the purpose mentioned in the foregoing section, the board of park commissioners is hereby given the power to and is required to annually levy on each one hundred dollars of the assessed valuation of the property taxable in said district, according to the last assessment thereof for state and county purposes, as follows: On class I property, one and one-half cents; on class II property, three cents; on class IV property, six cents; except that the board of park commissioners may levy a lesser amount, in which case the above levies shall be reduced proportionately. These levies shall be made at the time and in the manner provided by article eight, chapter eleven of the code of West Virginia, one thousand

nine hundred thirty-one, as amended by house bill number two hundred thirty-four, passed by the Legislature, January nineteen, one thousand nine hundred thirty-four, insofar as the same are applicable, except that the levies shall be included in the maximum rates for the city of Huntington, established by section eleven, article eight, chapter eleven of said code, as amended, by said house bill number two hundred thirty-four.

After the board of park commissioners has made the levy, it shall certify to the treasurer of the city of Huntington the amount of the said levy, and the said city treasurer shall thereupon extend the levy upon the tax tickets and all levies made by the said board of park commissioners shall be collected and held by the city treasurer who is hereby made treasurer of the board of park commissioners and who is required to deposit all park funds received or collected by him in a special deposit to his credit as treasurer of the board of park commissioners, and to pay out such money upon vouchers drawn upon the order of the board of park commissioners on the city treasurer, which orders are to be signed by the city president of the board of park commissioners, and countersigned by its secretary.

CHAPTER 164

(House Bill No. 337—By Mr. Lantz)

AN ACT to authorize and empower the town of Hundred, a municipal corporation in Wetzel county, West Virginia, to levy and impose a franchise and privilege tax upon all persons engaging in businesses, professions, trades, occupations and/or callings, except utility corporations, exercised within the corporate limits of said town, and prescribe the amount of such tax and the method of collecting same.

[Passed February 28, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Town of Hundred authorized to impose a franchise and privilege tax, except upon utility corporations; amount of tax and use of proceeds.
2. Act an emergency act; length of time effective.

Be it enacted by the Legislature of West Virginia:

Section 1. That the town of Hundred, a municipal corporation in the county of Wetzel, West Virginia, is hereby authorized

and empowered to levy and impose a franchise and privilege tax upon all persons, firms or corporations engaging in any business, profession, trade, occupation and/or calling except utility corporations, exercised within the limits of said town, and prescribe the amount of such tax, which tax shall not exceed two per cent of the gross income of such business, profession, trade, occupation and/or calling and to prescribe the method and manner of collecting the same. The amount of said tax to be collected shall not exceed in the aggregate the sum of five thousand dollars, and the proceeds thereof shall be used for the purchase of, and payment for, a fire truck, ladder, hose, chemicals and other fire-fighting apparatus, and/or the payment therefor, or any balance due thereon, if same has been purchased.

Sec. 2. This is an emergency act and shall be and remain in effect for twelve months from the date it becomes effective and as much longer thereafter as may be sufficient to collect the said sum of five thousand dollars, and no longer.

CHAPTER 165

(House Bill No. 371—By Mr. Newman, by request)

AN ACT to authorize the city of Moundsville, Marshall county, West Virginia, a municipal corporation, to borrow money from any agency of the federal government authorized to make loans, or from any other source, for the purpose of constructing, equipping, maintaining and operating a community and municipal building or buildings upon a self-liquidating basis, and to execute a lien, or liens, to secure said loan, or loans, upon any real estate owned by said city and upon the building or buildings erected with the proceeds of said loan, or loans, and upon any building owned by said city.

[Passed March 24, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. City of Moundsville authorized to borrow money from federal governmental agency to construct, etc., a community and/or municipal building; lien for loan.
2. Council to provide for payment of loan, but no tax or assessment to be laid; no liability on city or taxpayers for loan.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Moundsville, Marshall county,

West Virginia, a municipal corporation, by its council, shall have the power and authority to erect a community and municipal building or buildings for such purposes as shall be designated by council. That council of said city shall have power and authority to borrow a sum or sums of money from any federal governmental agency authorized to make loans, or from any other source, to be used to pay the costs of constructing and equipping said building or buildings, and shall have the power to execute a lien, or liens upon real estate and building or buildings to secure the payment of such loan, or loans, and may do any and all things required by said federal governmental agency, or other source, necessary and proper to obtain such loan or loans, to secure the payment thereof and to construct and equip said building or buildings.

Sec. 2. The council of said city shall make provisions for the payment of such loan, or loans, from the income from said building or buildings, but in no event shall it incur any indebtedness or issue any evidence of obligation imposing any liability upon the said city or its taxpayers with respect thereto or impose any tax or assessment to provide for the payment of such loan, or loans.

CHAPTER 166

(House Bill No. 73—By Mr. Newman)

AN ACT to authorize the city of Moundsville, Marshall county, West Virginia, to transfer all funds now in the street paving fund to the general fund.

[Passed December 8, 1933; In effect from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	City of Moundsville authorized to transfer funds, by order of council entered of record, from		street paving fund to general city fund.

Be it enacted by the Legislature of West Virginia:

Section 1. That the city of Moundsville, Marshall county, West Virginia, is hereby authorized to transfer such funds as it deems necessary, from the street paving fund of said city to the general fund of said city; said transfer to be made by order of the city council of said city, duly entered of record.

CHAPTER 167

(Senate Bill No. 128—By Mr. Abbot)

AN ACT to authorize the city of Mount Hope, Fayette county, West Virginia, a municipal corporation, to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned stadium in or near said city upon a self-liquidating basis; to issue such bonds, or other evidences of indebtedness as may be required by such federal governmental agency, payable solely from the revenue from said stadium; and to promulgate such ordinances as may be necessary for the construction, operation and maintenance of such stadium, and as may be necessary to provide for the amortization and liquidation of such indebtedness from the income of such stadium.

[Passed March 8, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. City of Mount Hope authorized to borrow money from federal governmental agency for construction, etc., upon a self-liquidating basis, of a municipally owned stadium; revenue bonds or other evidences of indebtedness for loan; cost payable solely from revenues of project.
2. Board of directors of city authorized to do all things necessary to carry out provisions of act and repay loan from income of stadium.

Be it enacted by the Legislature of West Virginia:

Section 1. The city of Mount Hope, Fayette county, West Virginia, a municipal corporation, is hereby authorized to borrow funds from the public works administration, or other federal governmental agency authorized to make loans, for the purpose of constructing, equipping, maintaining and operating a municipally owned stadium in or near said city upon a self-liquidating basis. Said city is authorized to issue revenue bonds or other evidences of revenue indebtedness as may be required by said public works administration or other federal governmental agency, and to do any and all things required by said public works administration, or other federal governmental agency from which such loan is obtained, or necessary and proper to obtain said loan, to secure the same, and to construct, equip, maintain and operate said stadium: *Provided, however,* That no general obligation of the city of Mount Hope shall be incurred and that the bonds or other evidences of indebtedness

given, upon their face, expressly provide that the same are payable solely from the revenue from the improvement for the construction of which the obligations were incurred.

Sec. 2. The board of directors of said city of Mount Hope is hereby empowered to undertake and do all things necessary to carry out the preceding section of this act, to promulgate such ordinances, rules and regulations as may be necessary, and by appropriate action of said board provide for the re-payment of said loan and/or amortization of said bonds, out of the income realized solely from the operation of such stadium.

CHAPTER 168

(Senate Bill No. 72—By Mr. Fleming)

AN ACT to amend and reenact an act of the Legislature of West Virginia passed on the thirtieth day of January, one thousand nine hundred twenty-nine, relating to the charter of the city of Parkersburg, and being chapter one, acts of the Legislature of West Virginia, one thousand nine hundred twenty-nine, relating to municipal charters, as amended by an act of the Legislature of West Virginia passed on the twenty-third day of November, one thousand nine hundred twenty-nine, relating to the charter of the city of Parkersburg, being chapter one, acts of the Legislature of West Virginia, one thousand nine hundred twenty-nine, extraordinary session, as amended by an act of the Legislature of West Virginia passed on the first day of February, one thousand nine hundred thirty-three, by adding thereto section fifty-two-(a), authorizing the city of Parkersburg to construct repairs, betterments, improvements, extensions and additions to the Camden-Clark Memorial hospital, a hospital owned and operated by the said city of Parkersburg, in said city, and to furnish and equip the same, and to borrow funds by means of bonds payable from the revenues of said hospital as now existing, and as so repaired, extended and improved, together with the betterments and additions thereto, and the furnishings and equipment thereof, or otherwise, and the real estate upon which said hospital is situate, and the appurtenances thereof, and/or to accept grants from any governmental agency for the construction of the said hos-

pital and the said furnishing and equipment thereof, and repealing all other acts or parts of acts inconsistent or in conflict herewith.

[Passed January 17, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
52-(a). City council authorized to construct additions, etc., to its municipally owned Camden-Clark Memorial hospital; estimate of, ordinance and revenue bonds for, cost; form, negotiability and lien of bonds; hospital fees to be sufficient to pay for maintenance and bond charges; negotiability of, and signatures on, bonds; payment and lien of bonds; enforcement of lien; receivership; special fund established to be remitted to state sinking fund commission; additional bonds; transfer of surplus accumulated in certain funds to other funds of hospital; council authorized to borrow from federal governmental agency and to do all things required or necessary to carry out provisions of act; act as additional authority; provisions of act separable.

Be it enacted by the Legislature of West Virginia:

That an act of the Legislature of West Virginia passed on the thirtieth day of January, one thousand nine hundred twenty-nine, relating to the charter of the city of Parkersburg, being chapter one, acts of the Legislature of West Virginia one thousand nine hundred twenty-nine, relating to municipal charters, as amended by an act of the Legislature of West Virginia passed on the twenty-third day of November, one thousand nine hundred twenty-nine relating to the charter of the city of Parkersburg, being chapter one, acts of the Legislature of West Virginia, one thousand nine hundred twenty-nine, extraordinary session, and as amended by an act of the Legislature of West Virginia passed on the first day of February, one thousand nine hundred thirty-three, be amended by the addition of a new section thereto designated and numbered fifty-two-(a), to read as follows:

Section 52-(a). The council shall have the authority to erect and construct repairs, betterments, improvements, extensions and/or additions to the Camden-Clark Memorial hospital, the municipal hospital owned and operated by the city, and to furnish and equip the same, and to maintain and operate the said hospital.

Whenever the council shall determine to erect and construct repairs, betterments, improvements, extensions and/or additions to the said hospital, and to furnish and equip the same, it shall cause an estimate to be made of the cost thereof, and shall, by ordinance, provide for the issuance of revenue bonds under the provisions of this section, which

ordinance shall set forth a brief description of the contemplated repairs, betterments, improvements, extensions and/or additions, and/or furnishings and equipment, the estimated cost thereof, the amount, rate of interest, time and place of payment and details in connection with the issuance of the bonds. Such bonds shall be in such form and shall be negotiated in such manner and upon such terms as the council may by ordinance specify. All such bonds shall be exempt from taxation by the state of West Virginia, or any county, district or municipality therein. Such bonds shall bear interest at not more than six per cent per annum, payable semi-annually, and shall be payable at such times and place not exceeding thirty years from their date as shall be prescribed in the ordinance providing for their issuance. Such ordinance shall also declare that a statutory mortgage lien shall exist upon the said Camden-Clark Memorial hospital, and its furnishings and equipment, together with the real estate upon which it is situate as now existing, together with all repairs, betterments, extensions and/or additions so constructed thereto, and all furnishings and equipment thereof, and all real estate and appurtenances thereunto belonging, or in any wise appurtaining, and shall pledge the revenues derived from the operation of the said hospital, together with its said repairs, betterments, improvements, extensions and/or additions thereto, and the furnishings, equipment and appurtenances thereof, including said real estate, which pledge shall definitely fix and determine the amount of revenues which shall be necessary to be set apart and applied to the payment of the principal of, and interest on the bonds, and the proportion of the balance of such revenues which are to be set aside as a proper and adequate depreciation account, and the remainder shall be set aside for the reasonable and proper operation of the said hospital, such ordinance shall also provide that the rates to be charged for service in said hospital shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof, as and when the same become due, and to provide for the operation and maintenance of the said hospital, and to provide an adequate depreciation fund.

Bonds herein provided for shall be issued in such amounts

as may be necessary to provide sufficient funds to pay all costs of the construction of said repairs, betterments, improvements and extensions and/or additions to the said hospital, and for the furnishings and equipping thereof, including engineering, legal and other expenses connected therewith, together with interest to date six months subsequent to the estimated date of completion. Bonds issued hereunder are hereby declared to be negotiable instruments, and shall be signed in the corporate name of the city of Parkersburg by its mayor and countersigned by its clerk, and sealed with the corporate seal of the city, and each of the coupons attached to said bonds shall bear the facsimile signature of its mayor, and in case any officer whose signature appears on the bonds or coupons shall cease to be such officer before delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if said officer had remained in office until such delivery. Said bonds shall not be negotiated at a price lower than a price which computed to maturity upon standard tables of bond values will bring a net rate of six per cent per annum to the purchaser upon the amount paid therefor.

Bonds issued under the provisions of this section shall be payable solely from the revenues derived from said hospital, together with the said repairs, betterments, improvements, extensions and/or additions thereto, and furnishings, equipment and appurtenances thereof, and all real estate upon which said hospital is situate, together with its appurtenances, and such bonds shall not in any event constitute an indebtedness of the city of Parkersburg within the meaning of any constitutional, statutory or charter provisions or limitations, and it shall be plainly stated on the face of each bond that the same has been issued under the provisions of this section, and that it does not constitute an indebtedness of the city of Parkersburg within any constitutional, statutory or charter limitation.

There shall be, and there is hereby created a statutory mortgage lien upon the said hospital, and any and all repairs, betterments, improvements, extensions and/or additions thereto, and furnishings and equipment thereof, and upon the real estate upon which said hospital is situate, together with its appurtenances, which shall exist in favor of the

holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and said hospital and any and all repairs, betterments, improvements, extensions and/or furnishings and equipment thereof, and the said real estate upon which the same is situate, together with its appurtenances, shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of any of the bonds issued under the provisions of this section, or of any coupons representing interest accrued thereon, may, either at law or in equity, by proper suit, enforce the statutory lien hereby conferred, and/or may compel the performance of the duties of the council, or of any of the officials of the city, under the provisions of this section, as such duties are imposed by this section, or by the ordinance pursuant to which such bonds were issued. If there be default in the payment of the principal of and/or interest upon any of such bonds, any court having jurisdiction in any proper action may appoint a receiver to administer said hospital, together with said repairs, betterments, improvements, extensions and/or additions, and furnishings and equipment thereof, and the real estate upon which the same is situate, together with its appurtenances, on behalf of the city, with power to charge and collect rates for services sufficient to provide for the retirement of the bonds and to pay the interest thereon, and for the payment of the bonds and the payment of the interest thereon, and for the payment of the operating expenses, and such receiver shall apply the income and revenues therefrom in conformity with this section and the ordinance pursuant to which said bonds have been issued.

The council shall, so long as any such bonds remain outstanding, operate and maintain the said hospital, together with all repairs, betterments, improvements, extensions and/or additions thereto, and all furnishings and equipment thereof, and the real estate and appurtenances thereunto belonging, as hereinafter provided, and shall charge, collect and account for revenues therefrom as will be sufficient to pay all operating costs, provide a depreciation fund and retire the bonds and pay the interest requirements of the bonds as the same become due. The amounts as and when so set apart into said special fund for the bond requirements

shall be remitted to the state sinking fund commission to be retained and paid out by the said commission consistent with the provisions of this section, and the ordinance pursuant to which such bonds have been issued. The bonds hereby authorized shall be issued in such amounts as may be determined necessary to provide funds for the purpose for which they are authorized, and in determining the amount of bonds to be issued it shall be proper to include interest on the bonds for a period not beyond six months from the estimated construction period for the improvement. If the proceeds of the bonds, because of error or otherwise, shall be less than the cost of said repairs, betterments, improvements, extensions and/or additions, furnishings and equipment for which authorized, additional bonds may be issued to provide the amount of such deficit, and such additional bonds shall be deemed to be of the same issue and shall be entitled to payment from the same fund and in the same manner without preference or priority over the bonds first authorized and issued. If the proceeds of the bonds shall exceed the cost of the said repairs, betterments, improvements, extensions and/or additions, furnishings and equipment, the surplus shall be converted into the fund for the retirement of the bonds and payment of the interest thereon.

If any surplus shall be accumulated in the operating and maintenance fund of the said hospital, as herein defined, then any such surplus may be transferred to either the depreciation account, or to the bond and interest redemption account, and if any surplus shall be accumulated in the depreciation account, over and above that which the council shall find may be necessary to maintain, such surplus may be transferred either to the operating and maintenance fund, or to the bond and interest redemption account, and if any surplus shall exist in the bond and interest redemption account, the same shall be applied insofar as possible in the purchase or retirement of outstanding revenue bonds payable from such account.

The council is hereby authorized and empowered to borrow money by means of the revenue bonds herein authorized, from the reconstruction finance corporation, federal emergency administration of public works, or any other govern-

mental agency authorized to make loans, sufficient and necessary to pay all of said costs of erection and construction of said repairs, betterments, improvements, extensions and/or additions to the said hospital, and for the furnishing and equipping of the same, including engineering, legal and other expenses connected therewith, together with interest to date six months subsequent to the estimated date of completion, and/or to accept grants in part payment therefor from the said reconstruction finance corporation, federal emergency administration of public works or any other governmental agency authorized to make any such grant or grants, and to enter into, make, execute and deliver all contracts, agreements and covenants between the city of Parkersburg and/or the said council, and the said reconstruction finance corporation, federal emergency administration of public works or other governmental agency necessary for the loan of the said funds and securing the payment thereof, and for the procuring of the said grant or grants; and to do and perform any and all acts and enter into and make all contracts necessary for the erection and construction of the said repairs, betterments, improvements, extensions and/or additions to the said hospital, and the furnishing and equipping of the same, and the issue, sale and delivery of the said revenue bonds, and the procuring of the said funds and of the said grant or grants and necessary to effectuate the general purposes of this section.

This section shall, without reference to any other section or provision of the charter of the city of Parkersburg, or of any other statute, be deemed full authority for the erection and construction of the said repairs, betterments, improvements, extensions and/or additions to the said hospital, and for the furnishing and equipment of the same herein provided for, and for the issuance and sale of the bonds authorized by this section, and shall be construed as an additional and alternative method therefor, and for the financing thereof, by the said city of Parkersburg, and by the council thereof, and no petition, proclamation, or election, or other or further proceeding in respect to the erection and construction of the said repairs, betterments, improvements, extensions and/or additions to the said hospital, and the furnishing or equipping of the

same, or to the issuance or sale of bonds under this section shall be required, except such as are prescribed by this section.

If any provisions of this act shall be invalid, it shall not affect any other provisions of this act.

All acts and parts of acts inconsistent or in conflict with this act, are hereby repealed.

CHAPTER 169

(House Bill No. 91—By Mr. Marsh, of Ohio)

AN ACT to amend and reenact section thirty-six of that part entitled "The Greater Wheeling Charter", chapter twenty-one, acts of the Legislature of West Virginia, one thousand nine hundred fifteen (municipal charters), approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred fifteen; to authorize the city of Wheeling to improve the Center Wheeling market by constructing a new building on the present site, and to equip, operate and maintain the same, which building when constructed is to be used for the purpose of conducting a public market, recreation center and playground; to authorize the city of Wheeling to lease and contract for the use of the said building, or any part thereof; to authorize the said city of Wheeling to issue revenue bonds payable solely from the revenues of said building, and to make such bonds exempt from taxation, and to authorize the said bonds to be secured by the said new building and improvements and/or the income therefrom.

[Passed January 19, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
36. City council authorized to establish and maintain markets and to improve center Wheeling market by erection of new building; use, leasing and admission fees; revenue bonds to pay cost payable solely from revenues; powers of council as to contracts, employment of engineers, etc.; advertising contracts; what ordinance concerning market building to show; publication of ordinance, form, negotiability, tax exemption and lien of revenue bonds; additional bonds; payment and repayment of necessary preliminary expenses; lien, by ordinance, of bondholders on income of building; trust indenture to secure bondholders; before bonds issued council to create sinking fund for payment; act as additional and alternative method; enforcement of lien of bonds; transmission to and powers of state sinking fund commission; statutory mort-

SEC.
gage lien of bondholders; enforcement; receivership; market to be operated as long as bonds outstanding; revenues of market set aside as special fund; provisions of act separable.

Be it enacted by the Legislature of West Virginia:

That section thirty-six of that part entitled "Greater Wheeling Charter", chapter twenty-one, acts of the Legislature of West Virginia, one thousand nine hundred fifteen (municipal charters), approved by the majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May, one thousand nine hundred fifteen, be amended and reenacted so as to read as follows:

Section 36. The council may establish markets in and for said city, maintain or authorize the maintenance of any already established, appoint the time and places for holding the same, provide suitable buildings therefor, and ordain and enforce such regulations respecting the markets as in its opinion the convenience or interests of the inhabitants of said city shall require, among others such regulations as it shall deem necessary or proper to prevent forestalling therein.

That the city of Wheeling is hereby authorized and empowered to improve the Center Wheeling market by the construction of a new building on the present site and to equip, operate and maintain the same, which building when constructed shall be used for the purpose of conducting a public market, recreation center and playground; that the said city of Wheeling is hereby authorized to lease, rent or contract for the use of the said building, or any part thereof, and to charge fees for admission to the said building, or any parts thereof; that the said city of Wheeling is authorized and empowered to issue revenue bonds to pay for the costs of construction and equipping the said building, and no obligation shall be incurred by the said city in such construction except such as is payable solely from the funds provided under the authority of this act.

The construction, improvement, equipment, custody, operation and maintenance of said new building, which when constructed shall be used for the purpose of conducting a public market, recreation center and playgrounnd and the collection of revennes therefrom, shall be under the supervision and control of the council of said city of Wheeling.

The council of said city of Wheeling shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties in the execution of its powers under this act.

The council of the said city of Wheeling may employ engineers, architects, attorneys, inspectors, a superintendent, a manager, collectors and such other employees as in its judgment may be necessary in the execution of its powers and duties in the construction, improvement, equipment, custody, operation and maintenance of said new building, and may fix their compensation, all of whom shall do such work as the said council shall direct. All said compensation and expenses, including all preliminary expenses incurred prior to the adoption of the ordinance hereinafter provided, shall be paid solely from the funds provided for under the authority of this act. No contract or sub-contract for material or labor exceeding one thousand dollars, shall be made without advertising for bids, with power in said council to reject any or all bids.

Before the city of Wheeling shall construct any such building the council of said city shall enact an ordinance which shall (1) set forth description of said building; (2) set forth the cost of said building, which shall include cost of construction, engineering and legal expense; (3) order the construction of said building; (4) direct that revenue bonds of the said city shall be issued pursuant to this act in such amount as may be found necessary to pay the cost of the building; (5) contain such other provisions as may be necessary in the premises.

After such ordinance shall have been adopted it shall be published once a week for two successive weeks in two Wheeling newspapers, stating that the ordinance has been adopted and that the said city will issue bonds as described in the ordinance, that any person interested may protest within six days from the last publication of the notice. If thirty per cent or more of the owners of real estate in said municipality file a protest, then council shall not proceed unless three-fourths of the said council assent thereto.

Such bonds shall bear interest at not more than six per cent per annum and shall mature as may be determined by the

ordinance. Such ordinance shall determine the form and details of the bonds and fix their denomination and places of payment, which may be at any bank or trust company within or without the state.

The bonds shall contain a statement on their face that the said city shall not be obligated to pay the same or the interest thereon except from the special fund provided from the net revenues of said new building.

All said bonds shall have all the qualities and incidents of negotiable instruments. Said bonds shall be exempt from all taxation, state, county and municipal.

Any surplus of bond proceeds, over and above the cost of said building, shall be placed in the sinking fund hereinafter provided.

In case of error or miscalculation or otherwise, and the proceeds are less than the cost of the building, additional bonds may be issued to provide the amount of the deficit, said bonds to be secured equally with all other bonds issued pursuant to this act, and shall be deemed to be of the same issue, and said council may also provide in said ordinance for additional bonds for the purpose of extending or improving said building.

All moneys received from any bonds, pursuant to the act, shall be applied solely to the cost of said building and improvement and there is hereby created a lien upon such moneys, until so applied, in favor of the holder of the bonds or trustees hereinafter provided.

All necessary preliminary expenses, actually incurred by said council in making plans, estimates of costs and any other necessary expenses of whatsoever nature, necessary to be paid prior to the issue and delivery of the revenue bonds pursuant to the provisions of this act, may be paid out of the general funds of the said city or a temporary transfer may be made from other funds: *Provided*, That any funds from which such payments are made shall be fully paid by said council out of the first proceeds of the sale of the revenue bonds herein provided. In the event that the said necessary preliminary expenses shall not have been paid out of said general funds or no transfers from other funds have been made, then said city shall pay said necessary preliminary expenses out of said first proceeds derived from the sale of the said revenue bonds.

The council of the said city of Wheeling may, by ordinance, create a lien on the income and revenues received from said building, improvements, or any part thereof, in favor of the said bondholders. Said bonds may be further secured by a trust indenture by and between the city of Wheeling and a corporate trustee, which may be any bank or trust company in the city of Wheeling, and said trust indenture may convey all of the said building and equipment in trust to secure the said bondholders. The said trust indenture may provide for the payment of the proceeds of the sale of the bonds and revenue obtained from said building to be paid to the said trustee and for the custody and disbursement thereof, and such trust indenture may contain such other provisions for protecting and enforcing the rights and remedies of the said bondholders as may be reasonable and proper.

Before the issuance of any such bonds, council shall, by ordinance, create a sinking fund for the payment of the bonds as they fall due and the interest when due and expenses incidental thereto, and shall pledge a sufficient amount of net revenues, after payment of reasonable expenses of operation and maintenance, to be set aside at intervals provided by the ordinance. The said sinking fund shall contain a margin for safety and for the payment of premiums upon bonds retired by call or purchase, which margin together with any unused surplus of such margin carried forward from the preceding year, shall equal at least ten per cent of all other amounts required to be paid in said sinking fund. Said council may by ordinance, before the issuance of the bonds, direct that such sinking fund, or a part thereof, may be used to purchase any of the said outstanding bonds at the market price, but not exceeding the price which the same shall in the same year be payable or redeemable, and all bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued. After the payments into the said sinking fund as herein required, said council may, at any time, in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by said council sufficient for operation, repair and maintenance for an ensuing period of twelve months and for depreciation, into the sinking fund or into a fund for improvements and additions to the said building.

This act shall, without reference to any other statute, be deemed full authority for the construction, acquisition, improvement, equipment, maintenance, operation and repair of the said Center Wheeling market herein provided and for the issuance and sale of the bonds by this act authorized, and shall be construed as an additional and alternative method therefor and for financing thereof, and no petition or election or other further proceedings in respect to the construction of said building or issuance or sale of said bonds shall be required, except such as are prescribed by this act, any provisions of other statutes of the state to the contrary notwithstanding.

Any holder of any such bonds herein provided, or any coupons attached thereto, and the trustee, if any, may, except as restricted by said ordinance or trust indenture, enforce and protect any and all rights hereunder, either at law or in equity by action, suit, mandamus or other proceeding. The sinking fund provided for herein shall be transmitted to the state sinking fund commission at such intervals as shall be provided by ordinance and said commission is hereby authorized to act as fiscal agent for such sinking fund under any ordinance passed pursuant to the provisions of this act and shall invest all such sinking fund, as provided by general law.

In the event bonds issued under the provisions of this act are not secured by a mortgage or deed of trust on the project constructed and/or acquired from the sale of such bonds, there shall be, and there is hereby, created a statutory mortgage lien upon the project so acquired or constructed from the proceeds of bonds authorized to be issued, which shall exist in favor of the holder of said bonds, and each of them, and to and in favor of the holder of the coupons attached to said bonds, and such project and equipment connected therewith, shall remain subject to such statutory mortgage lien until payment in full of the principal and interest of said bonds. Any holder of bonds issued under the provisions of this act, or of any coupons representing interest accrued thereon, may, either at law or in equity, enforce the statutory mortgage lien hereby conferred and may, by proper suit, compel the performance of the duties of the officials of the city of Wheeling set forth in this act. If there be default in the payment of the principal of and/or interest upon any of said bonds, any court having

jurisdiction in any proper action may appoint a receiver to administer said project on behalf of the city of Wheeling, with power to charge and collect rates, rents, fees or other income to provide for the payment of said bonds and interest thereof, and for the payment of the operating expenses and to apply the income and revenues in conformity with this section and the order or ordinance providing for the issuance of said bonds.

Said city shall, so long as any bonds issued under the provisions of this section remain outstanding, operate and maintain such Center Wheeling market so as to provide, charge, collect and account for revenues therefrom as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds and pay the interest requirements thereon as the same may become due. The ordinance pursuant to which any such bonds are issued shall pledge the revenues derived from the project to the purposes aforesaid and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts, as and when so set apart into said special fund for the bond requirements, shall be remitted to the state sinking fund commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this section and the ordinance pursuant to which such bonds have been issued.

The provisions of this act are separable and if any of the provisions, or parts thereof, are for any reason illegal, it is the intention that the remaining provisions, or parts, shall remain in full force and effect.

CHAPTER 170

(House Bill No. 100—By Mr. LaFon)

AN ACT to provide for financial relief, care and comfort of Harry E. Brown, a native and resident of Monroe county, state of West Virginia, who was permanently injured by the unlawful acts of prohibition officers of the state, on April nineteenth, one thousand nine hundred twenty-five, by the payment to, and for his use of the sum of five hundred dollars for his immediate relief and need and the sum of seven hundred

twenty dollars per annum payable monthly, from the time this act becomes effective, for his maintenance, support, care and attention, from month to month, during the remainder of his life, and appropriate the necessary funds from the state treasury not otherwise appropriated, or that may remain in the treasury unexpended, to accomplish the object and purpose of this act, and to appropriate revenue raised by this session of the Legislature for said purpose.

[Passed December 9, 1933; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Legislative declarations and preamble.
2. Immediate and annual appropriation from state treasury for Harry E. Brown.
3. Appropriation of unexpended funds to meet appropriation; subsequent appropriations to be included in budget bill.

Be it enacted by the Legislature of West Virginia:

Section 1. Whereas, Harry E. Brown, a native and resident of Monroe county, this state, while driving his automobile in a lawful manner along state highway number three in Greenbrier county, on April nineteenth, one thousand nine hundred twenty-five, at about the hour of nine forty-five p. m. on said day, was fired upon by prohibition officers, namely Harry Sheppard and others, at which time the said Harry E. Brown was hit in the back by a thirty-eight caliber bullet, which severed his spinal cord at the sixth vertebrae, which injury produced paralysis of the body of the said Harry E. Brown below said vertebrae, and from which time the said Harry E. Brown has been and now is a helpless invalid and dependent upon the help, aid and assistance of others for every care and physical comfort; and

Whereas, The said Harry E. Brown, at the time of the unlawful act of said prohibition officers, was innocent of any violation of law and was conducting himself as a peaceful and law-abiding citizen, and who recovered from the officer who assumed the responsibility for the unlawful use of the deadly weapon the penalty of his bond, which amount so recovered has long since been used and expended for hospital services and medical care rendered the said Harry E. Brown, and who since said injury has been and is now without means or income to provide for his physical comfort and maintenance and support as aforesaid.

Sec. 2. It is therefore hereby enacted and provided that there be paid to the said Harry E. Brown from the state treasury the sum of five hundred dollars for the immediate relief and physical comfort of the said Harry E. Brown, and the further sum of seven hundred twenty dollars annually, payable monthly commencing ten days from the time this act becomes effective, for the care, support and maintenance of the said Harry E. Brown during the remainder of his lifetime. And the auditor of the state is hereby authorized and directed to draw requisition upon the treasurer of the state, payable to the said Harry E. Brown, for the amounts and in the manner as hereinbefore authorized.

Sec. 3. And sufficient funds from any revenue of the state not otherwise appropriated, or remaining unexpended for any cause, and from revenue raised by this session of the Legislature, are hereby appropriated to pay the amount authorized aforesaid. And the budget commission is directed to report for payment in any budget bill hereafter submitted to the Legislature for consideration, the amount herein authorized to be paid to the said Harry E. Brown, which at the time of the submission of said report remains unpaid or not provided for.

CHAPTER 171

(Senate Bill No. 88—By Mr. Henderson)

AN ACT to relieve Earl L. Davis, clerk of the circuit court, Doddridge county, from the payment of certain sums of money paid him as costs and deposited by him in the Doddridge county bank, of West Union, West Virginia.

[Passed February 19, 1934; in effect ninety days from passage. Became a law without the approval of the Governor.]

SEC.		SEC.	
1.	Clerk of circuit court of Doddridge county relieved from payment of certain moneys advanced to him as costs.	2.	Relief limited to moneys due state, the county or its political subdivisions.

Be it enacted by the Legislature of West Virginia:

Section 1. That Earl L. Davis, clerk of the circuit court of Doddridge county, West Virginia, be and he is hereby relieved from the payment of any money advanced as costs of litigation now or heretofore pending in the circuit court of Doddridge

county, West Virginia, and by the said Davis deposited in the Doddridge county bank, of West Union, West Virginia, subject to the provisions of section two hereof.

Sec. 2. The provisions of this act shall apply only to moneys due the state of West Virginia, Doddridge county, West Virginia, and all political subdivisions thereof.

CHAPTER 172

(House Bill No. 101—By Mr. Lester)

AN ACT to relieve S. S. Plymale, clerk of the circuit court of Wayne county, from the payment of certain sums of money paid him as costs and deposited by him in the Peoples State Bank of Wayne, West Virginia.

[Passed January 26, 1934; in effect from passage. Became a law without the approval of the Governor.]

SEC.
1. Clerk of circuit court of Wayne county relieved of payment of certain moneys advanced to him as costs.
2. Relief limited to moneys due state, the county or its political subdivisions.
3. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Section 1. That S. S. Plymale, clerk of the circuit court of Wayne county, West Virginia, be and he is hereby relieved from the payment of any money advanced as costs of litigation now or heretofore pending in the circuit court of Wayne county, West Virginia, and by the said Plymale deposited in the Peoples State Bank of Wayne, West Virginia, subject to the provisions of section two hereof.

Sec. 2. The provisions of this act shall apply only to moneys due the state of West Virginia, Wayne county, West Virginia, and all political subdivisions thereof.

Sec. 3. All acts in conflict herewith, in whole or in part, are hereby repealed.

RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 2

(BY MR. COTTRILL)

[Adopted November 21, 1933.]

Relating to joint rules of the Senate and House of Delegates.

Resolved by the House of Delegates, the Senate concurring therein:

That the joint rules of the Senate and House of Delegates for the first extraordinary session of the Legislature, one thousand nine hundred thirty-three, are hereby adopted and shall govern the proceedings of this extraordinary session.

HOUSE CONCURRENT RESOLUTION NO. 3

(BY MR. DUNN)

[Adopted November 21, 1933.]

Providing for a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 3:00 o'clock P. M., this day, to hear the address of His Excellency, Governor H. G. Kump.

HOUSE CONCURRENT RESOLUTION NO. 5

(BY MR. MARSH, of Ohio)

[Adopted November 22, 1933.]

Providing for the appointment of a joint committee to draft legislation relating to the foreclosure of liens and mortgages on homes.

WHEREAS, It has been forceably brought to the attention of the

home owners of the state of West Virginia who desire to liquidate the liens or mortgages on their homes, that a great number of the lien and mortgage holders will not accept the bonds issued under the federal plan to pay said liens or mortgages; and

WHEREAS, This failure to cooperate with the national administration has made it the duty of this Legislature to provide a means of relief for such home owners; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of three members of the House of Delegates be appointed by the Speaker and three members of the Senate be appointed by the President of the Senate, to be known as the Committee on Home Relief, to draft the necessary remedial measures to relieve this deplorable situation.

HOUSE CONCURRENT RESOLUTION NO. 6

(BY MR. GOODWIN)

[Adopted November 24, 1933.]

Relating to providing revenue for support of school system.

WHEREAS, There is wide-spread fear over the state that our schools will be forced to close in the immediate future because of lack of funds; and

WHEREAS, The only hope for the continuation of our schools will be for the Legislature in its wisdom to provide additional state aid, in order that the thousands of the children of this state shall not be deprived of that educational training which is justly due them; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we, the law making body of the state of West Virginia, are aware of the educational crisis which is now upon us, and, be it

Further resolved, That we shall make every effort to find the needed revenue to carry on the schools of the state, in the quickest possible time, and ask all teachers, parents, societies and associations to bear with us and lend us their support.

HOUSE CONCURRENT RESOLUTION NO. 7

(BY MR. LESTER)

[Adopted December 19, 1933.]

Memorializing Congress to pass an old persons pension law.

WHEREAS, A great many old persons are now dependent on the charities of relatives, friends and the public, either county or state; and

WHEREAS, The states and nation have pensioned many classes of persons no more deserving than the old and dependent citizens of our country who have given the best of their lives for the benefit of the younger generations; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia respectfully requests and petitions the Congress of the United States to formulate and pass, as soon as possible, such a just and equitable old persons pension law as will afford such persons reasonable comfort during the short remainder of their life; and, be it

Further resolved, That the clerks of the Senate and House of Delegates have copies of this memorial sent to the President of the United States; the President of the United States Senate; the Speaker of the House of Representatives, and the United States Senators and members of the House of Representatives from West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 8

(BY MR. HINER)

[Adopted November 24, 1933.]

Providing for the appointment of a joint committee to draft legislation to carry out the provisions of the Tax Limitation Amendment.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee of ten members, five from the House of Delegates, to be appointed by the Speaker thereof, and five mem-

bers of the Senate, to be appointed by the President thereof, be raised to consider legislation made necessary by the decision of the Supreme Court of Appeals affecting chapter thirty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-three, being House Bill No. 314 of that session, and such other legislation as shall be necessary to carry out the provisions of the Tax Limitation Amendment, which committee shall report back its recommendations to the Legislature not later than December 6, 1933, accompanied by bills to make its recommendations effective. The President of the Senate and the Speaker of the House of Delegates shall be ex officio members of said committee.

Said committee shall incur no expense to the state in its work, unless it shall receive specific authorization from the Legislature therefor.

HOUSE CONCURRENT RESOLUTION NO. 9

(By Mr. Hiner)

[Adopted November 24, 1933.]

Providing for a recess of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That when the Senate and House of Delegates adjourn today, they shall adjourn until Wednesday, December 6, 1933, at 2:00 o'clock P. M.

HOUSE CONCURRENT RESOLUTION NO. 10

(By Mr. Matthews)

[Adopted December 6, 1933.]

Raising a joint assembly to hear address of Honorable John J. Cornwell.

Whereas, The House of Delegates has adopted H. R. No. 7 and the Senate has adopted S. R. No. 5, both resolutions inviting the Honorable John J. Cornwell to appear before the respective houses and give them information in respect to the Prince Plan for consolidation of railroad systems; and

WHEREAS, The Honorable John J. Cornwell is in the city of Charleston and will address the Legislature in joint assembly at 2:30 o'clock P. M. this day, if the Legislature so desires; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 2:30 o'clock P. M., to hear the address of Mr. Cornwell, and that the Speaker of the House of Delegates appoint a committee of two and the President of the Senate appoint a committee of two, to wait upon the Honorable John J. Cornwell and notify him that the Legislature will be pleased to have him address it at 2:30 o'clock P. M.

HOUSE CONCURRENT RESOLUTION NO. 11

(BY MR. GOODWIN)

[Adopted December 6, 1933.]

Extending sympathy of the Legislature on the death of the Honorable J. Luther Wolfe.

WHEREAS, The Honorable J. Luther Wolfe died at his home at Ripley, Monday, November 27, 1933; and

WHEREAS, The deceased was not only an eminent lawyer, but was also an influential business man, ardent churchman and fraternalist, and a capable and worthy public official, having held a number of political offices in his county, served as an assistant attorney-general of this state and was a member of the House of Delegates in the sessions of 1915 and 1919, serving as Speaker in the 1919 session; and

WHEREAS, Possessing the rare combination of the knowledge of and sympathy with mankind, coupled with his ability as a leader, and being tolerant, tactful, fair and honest, he was an outstanding wielder of the gavel while Speaker; and

WHEREAS, Due to his marked ability and the utter loyalty he always showed in the discharge of his duties as a public officer, as well as his desire to always do all the good he could for others, the state has suffered a great loss; and

WHEREAS, He was an outstanding leader in the Republican party, loved by his friends and respected by political enemies; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That we, the members of the Legislature of West Virginia here assembled, realizing the irreparable loss sustained, do extend to his widow and to his family our deepest and most profound sympathy in their bereavement; and do extend the comfort of the thought of Longfellow that:

"There is no Death! What seems so is transition;
This life of mortal breath
Is but a suburb of the life Elysian,
Whose portal we call death."

and; be it

Resolved further, That this resolution be adopted by a rising vote, and that a copy of same be transmitted to his widow, Mrs. Edith Miller Wolfe.

HOUSE CONCURRENT RESOLUTION NO. 13

(BY MR. HOLT)

[Adopted December 7, 1933.]

Raising a joint assembly to hear address of the Honorable Howard O. Hunter.

WHEREAS, The relief problem is one of the outstanding problems to be met by this session of the Legislature; and

WHEREAS, The Federal government is an integral part of this relief work; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Honorable Howard O. Hunter, of the Federal Relief Administration, be invited to appear before a joint session of the Senate and House of Delegates to be held Thursday, December 14, at 2:30 o'clock P. M. to discuss the relief program of the federal government.

HOUSE CONCURRENT RESOLUTION NO. 14

(By Mr. Marsh, of Ohio)

[Adopted December 7, 1933.]

Opposing Prince Plan for consolidation of railroads.

WHEREAS, The Hon. Joseph B. Eastman, Federal Coordinator of Railroads, has announced that he is making a study of the so-called Prince Plan for the consolidation of railroads to determine whether he shall recommend it to the President and to the Congress for adoption; and

WHEREAS, Said plan provides for but two railroad systems between the Mississippi River on the west and the Hudson River on the east; and

WHEREAS, Said plan definitely proposes to remove from the Class I roads in West Virginia, their connecting and affiliated lines, all through freight and passenger business; to tear up some of the lines of some of said roads; to reduce to single track railroads some of said roads; thereby reducing said roads to the status of No. 2 branch lines, with only branch line service, with the consequent reduction of employment due to suspension of through service, removal of tracks, abandonment of terminals and closing of shops; and

WHEREAS, The consummation of the plan would place an insurmountable barrier against the industries located on the railroads in this state, impoverishing them or obliging them to remove to other states and would reduce, by many millions of dollars, the taxable values of the railroad and of other property in the state; and

WHEREAS, The Prince Plan likewise proposes changes with respect to all railroads in the state of West Virginia, which would be against the best interests not only of said railroads, but also against the interests of the state of West Virginia and the citizens thereof, and restrict the continued and future growth and development of said state, and seriously restrict the development and growth of the business enterprises, the manufacturing and mining industries of this state; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia, respectfully but emphatically, opposes the Prince Plan as it applies to the railroads operating in the state of West Virginia and earnestly requests the Coordinator, the Hon. Joseph B. Eastman to reject the plan, believing that any such wholesale and ruthless destruction of property which would result from the adoption of said plan and closing of established trade routes would be disastrous to this state and drastically impair the investments built up along these routes and harmful to the citizens of this state and to the country as a whole; and, be it

Resolved further, That the Secretary of State of West Virginia be and he is hereby directed to furnish properly authenticated copies of this resolution to the President of the United States, to the Vice-President of the United States, to the Speaker of the House of Representatives, to each Senator and Member of Congress from this state, and to the Hon. Joseph B. Eastman, Coordinator of Railroads, and to the Hon. George B. McGinty, Secretary of the Interstate Commerce Commission.

HOUSE CONCURRENT RESOLUTION NO. 15

(By Mr. Beacom)

[Adopted December 8, 1933.]

Relating to paying basic salaries of teachers.

WHEREAS, The House of Delegates, on November 23rd, passed a resolution expressing confidence in the public school system of our state; and

WHEREAS, The teachers of West Virginia have been loyal to their duties during the present financial crisis; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Board of Public Works be requested to continue their efforts to raise the necessary funds to pay the basic salary of the teachers for the third month.

HOUSE CONCURRENT RESOLUTION NO. 17

(BY MR. SHAHAN)

[Adopted December 9, 1933.]

Relating to unemployment relief.

WHEREAS, There is still a vast number of unemployed within the state of West Virginia; and

WHEREAS, This Legislature has been called into session to provide, among other things, for the relief of these men and women, who through no fault of their own, have been prevented from securing employment; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That this Legislature shall do everything within its power to provide relief for the unemployed people of this state.

HOUSE CONCURRENT RESOLUTION NO. 18

(BY MR. BEACOM)

[Adopted December 12, 1933.]

Endorsing the North-South West Virginia high school football game.

WHEREAS, The North-South charity football game will be played at Laidley field in Charleston on New Year's day, 1934, between two picked teams representing the high schools of northern and southern West Virginia; and

WHEREAS, The proceeds of the game will be used for charity and will do much to help the needy and destitute of the state; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby endorses the object and purpose of this game, and it is the sense of the Legislature that the game be given hearty public support.

HOUSE CONCURRENT RESOLUTION NO. 19

(BY MR. LUBLINER)

[Adopted December 14, 1933.]

Requesting the Governor to expend from the emergency appropriation, moneys necessary to temporarily augment the facilities of the office of the Attorney General.

WHEREAS, On account of the recent serious fiscal conditions in the country at large, certain banking institutions have ceased to do business in the state of West Virginia, and large sums of money of the state of West Virginia are now held in closed banks; and

WHEREAS, It is the sense of the Legislature of West Virginia that without avoidable delay the condition of such deposits and the security therefor should be investigated and ascertained, and such further steps should be taken as may be necessary to preserve to the fullest possible extent such securities and such assets of the state; and

WHEREAS, It is the sense of the Legislature of West Virginia that the condition and security of the investments of the irreducible school fund should, likewise, be investigated and ascertained, and such further steps be taken as may be necessary to preserve to the fullest possible extent such investments and securities; and

WHEREAS, The extensive changes in the taxing system and laws of the state, occasioned largely by the recent amendment to section one, article ten of the constitution, have given rise to considerable litigation and further litigation may be expected; and

WHEREAS, It is the sense of the Legislature of West Virginia that the facilities of the office of the Attorney General are temporarily inadequate to expeditiously discharge these unusual responsibilities along with all of the usual and routine duties of the office; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Governor be, and he is hereby requested, he being willing thereto, to expend from the emergency appropriation made by section thirty-a, chapter one, acts of the Legislature of West Virginia, first extraordinary session, one thousand nine hundred

thirty-three, so much thereof as in his judgment may be reasonably necessary to augment, for such time as he deems reasonably necessary, the present facilities of the office of Attorney General, as the necessity may arise.

HOUSE CONCURRENT RESOLUTION NO. 20

(BY MR. NEAL)

[Adopted January 24, 1934.]

Directing the auditor to pay the claim of Nancy Reedy against the state.

WHEREAS, At the last session of the Legislature the House of Delegates adopted a resolution authorizing the payment of $137.00 to Nancy Reedy, a soldier's widow, for certain services due her husband and which the state of West Virginia acknowledges as just and due; and

WHEREAS, When said claim is acknowledged and paid by the state of West Virginia the federal government will reimburse the state for the amount paid; and

WHEREAS, Said Nancy Reedy is now ninety years of age and in need of the compensation due her; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the said claim is hereby acknowledged by the state of West Virginia and the auditor is hereby authorized and directed to pay said amount of one hundred thirty-seven dollars out of any moneys in the treasury not otherwise appropriated, to Nancy Reedy, for services of her husband during the Civil War.

HOUSE CONCURRENT RESOLUTION NO. 24

(BY MR. MELROSE)

[Adopted December 20, 1933.]

Providing for a recess of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That when the Senate and the House of Delegates adjourn on Thursday, December 21, 1933, they shall adjourn until Wednesday, January 3, 1934, at 2:00 P. M.

HOUSE CONCURRENT RESOLUTION NO. 26

(BY MR. LANTZ)

[Adopted January 4, 1934.]

Requesting State Road Commission to designate state route number seven as the Lewis Wetzel Trail.

WHEREAS, Lewis Wetzel was the best known scout and Indian fighter along the western border of West Virginia; and

WHEREAS, The service he rendered the pioneer settlers in northern West Virginia was their best guarantee of safety from attack by the Indians and constitutes a debt of gratitude that can never be paid; and

WHEREAS, Wetzel county was named in his honor and State Route No. 7, extending from New Martinsville through Wetzel, Monongalia and Preston counties, was the scene of his greatest activities; and

WHEREAS, It is fitting, proper and right that his services be recognized and his name be remembered by the descendants of the people he safeguarded and befriended; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That State Route No. 7 be named and known as the Lewis Wetzel Trail, and that the State Road Commission be requested and directed to properly designate it as such on all road maps issued by said commission.

HOUSE CONCURRENT RESOLUTION NO. 27

(BY MR. SHAHAN)

[Adopted January 5, 1934.]

Relating to present tax crisis and maintaining an adequate term of school.

WHEREAS, The schools of this state must close unless an immediate solution is found for the present tax situation; and

WHEREAS, The Legislature has labored faithfully toward an equitable solution of this problem; and

WHEREAS, Education must be carried on to preserve the integrity, welfare and development of the oncoming generation, who will be the citizens and lawmakers of tomorrow; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature acknowledges, on behalf of the people of the state, its obligation to those teachers, officials, and employees of the public school system whose loyalty and personal sacrifices have made it possible to continue the public school system thus far during the present fiscal year, and further

That it is the hope of the Legislature that all public schools may be continued without interruption during the present crisis, with the assurance that the Legislature will make every effort forthwith to solve the present difficulties in order that the boys and girls of the state may not be deprived of having an adequate school term.

HOUSE CONCURRENT RESOLUTION NO. 28

(BY MR. LUBLINER)

[Adopted January 6, 1934.]

Requesting the Attorney General to petition the Supreme Court of Appeals of the state for a rehearing upon House Bill number sixty-four.

WHEREAS, The Supreme Court of Appeals of West Virginia, by an opinion handed down on December 29, 1933, declared unconstitutional house bill number sixty-four of the second extraordinary session of the Legislature of one thousand nine hundred thirty-three, authorizing the state to pay the interest and sinking fund requirements of county and district bonds for roads and schools; and

WHEREAS, The opinion of the court was reached by a majority of three members, with two members thereof dissenting; and

WHEREAS, The members of the Legislature are of the opinion that the merits of this bill with respect to the present fiscal situation of the subdivisional units of government of this state are such as to warrant a further examination of its constitutional status; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Tax Commissioner, the Honorable Fred L. Fox, as a defendant in said case, by his counsel, the Honorable Homer A. Holt, Attorney General of West Virginia, be requested to petition the Honorable Court for a rehearing of the said case, with the request to the court that its action upon the petition be taken as speedily as consistent with the court's proper consideration of the same.

HOUSE CONCURRENT RESOLUTION NO. 30

(BY MR. LUBLINER)

[Adopted January 11, 1934.]

Requesting the Attorney General of the state of West Virginia to appear before the Supreme Court of the United States with reference to the "Hawes-Cooper Act."

WHEREAS, The West Virginia State Penitentiary at Moundsville has been receiving an income of approximately twelve thousand dollars a month from the operation of the factories located within its walls, which income has been applied to defraying a portion of the expenses of said institution, and because of the passage of the "Hawes-Cooper Act" which becomes effective on the eighteenth day of January, one thousand nine hundred thirty-four, two of the said factories within the penitentiary have already closed, cutting off an income of ten thousand dollars per month and placing six hundred men in idleness, and since the state of Alabama, joined by several other states, will, on Tuesday, the ninth day of January, appear before the Supreme Court of the United States and ask said court to nullify the "Hawes-Cooper Act" on the grounds that it is unconstitutional; and

WHEREAS, Said ruling of said court may not be handed down for from three to six months; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature respectfully requests the Attorney General of the state of West Virginia to appear before the Supreme Court of the United States for the purpose of requesting that the "Hawes-Cooper Act" be held inoperative until the Supreme Court of the United States has rendered its decision upon the constitutionality of said act.

HOUSE CONCURRENT RESOLUTION NO. 31

(BY MR. BEACOM)

[Adopted January 10, 1934.]

Relating to a loan from the federal government, to the conservation commission of this state.

WHEREAS, In order to carry out the recommendations and policies of President Roosevelt, with reference to reforestation, flood control, game and fish propagation, the Legislature of West Virginia, on June 3, 1933, passed H. B. No. 116, effective from passage; and

WHEREAS, The conservation commission, created by the above bill, in keeping with article eight, sections one to eleven, chapter twenty of the code of West Virginia, requested a $200,000.00 loan from the public works administration, to be used for the purpose of buying cut-over timber land in West Virginia for reforestation, water shed protection, flood control, and game and fish purposes; and

WHEREAS, Since this loan has been pending before the public works administration since July of last year and, in the event the same is approved, it will enable the conservation commission to take full advantage of the federal emergency conservation work, more commonly known as the civilian conservation corps camps, which, to date, the state has been unable to do; and

WHEREAS, This loan will enable the state of West Virginia to continue the nine C. C. C. camps now under its direction and, in

addition to this, will be provided with as many more camps as the land to be acquired by the state can accommodate. These camps, in addition to furnishing employment for a minimum of two hundred C. C. C. enrollees in the camps, furnish employment to reserve officers who are called into active service from the ranks of the unemployed, and furnish employment for skilled laborers, such as carpenters, blacksmiths, engineers, etc., who otherwise would be on the relief rolls of our state; and

WHEREAS, If this loan is granted, it will enable the state of West Virginia, through the conservation commission, to do in part what the federal government is advocating on a larger scale through the U. S. department of agriculture and the division of forestry which are in hearty accord with this plan; and

WHEREAS, The conservation commission has been unofficially advised by the public works administration officials that this loan has merit but, due to legal complications, has not been granted; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby endorses and approves the purposes for which the state conservation commission requests this loan and requests the members of the congress from this state to take such steps as they may deem right and proper to secure said loan; and, be it

Further resolved, That a copy of this resolution be mailed to the United States senators and the members of the House of Representatives from this state and to the public works administration in Washington, D. C.

HOUSE CONCURRENT RESOLUTION NO. 32

(BY MR. SHAHAN)

[Adopted January 16, 1934.]

Requesting the Congress to continue the Civil Works Administration.

WHEREAS, The Civil Works Administration may be suspended shortly; and

WHEREAS, This plan as a public policy is working well in relieving the unemployed situation and is doing much for human contentment and happiness; and

WHEREAS, Private industry cannot at this time absorb the vast number of people now dependent upon the program of the Civil Works Administration; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Congress is hereby requested and urged to enact the necessary legislation to continue the Civil Works Administration; and, be it

Further resolved, That the Clerk transmit a copy of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to the Senators and members of the House of Representatives from this state.

HOUSE CONCURRENT RESOLUTION NO. 34

(BY MR. LUBLINER)

[Adopted January 17, 1934.]

Providing for a joint assembly.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 3:00 o'clock P. M., this day, to hear an address by His Excellency, Governor H. G. Kump.

HOUSE CONCURRENT RESOLUTION NO. 37

(BY MR. HINER)

[Adopted January 25, 1934.]

Providing for a recess of the Legislature.

Resolved by the House of Delegates, the Senate concurring therein:

That when the Senate and House of Delegates adjourn this week,

they shall adjourn until Monday, February 5, 1934, at 2:00 o'clock P. M.

HOUSE CONCURRENT RESOLUTION NO. 38

(BY MR. TALLMAN)

[Adopted January 26, 1934.]

Relating to endorsement of the state's Presidential ball, for the benefit of the Warm Springs foundation.

Resolved by the House of Delegates, the Senate concurring therein:

That it is the sense of the Legislature that the state's Presidential birthday ball to be held January 30 in Charleston, for the benefit of the Warm Springs foundation in Georgia, be given legislative approval and endorsement.

HOUSE CONCURRENT RESOLUTION NO. 40

(BY MR. BEACOM)

[Adopted February 8, 1934.]

Requesting the Public Service Commission to reduce water rates in the city of Huntington.

WHEREAS, The Public Service Commission recently reduced water rates for the citizens of the city of Welch, West Virginia; and

WHEREAS, It appears that the city of Huntington and its citizens are paying an excessive rate for water; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Public Service Commission of West Virginia study the present high rate charged the citizens of the city of Huntington by the Huntington Water Corporation with the view in mind of reducing same.

HOUSE CONCURRENT RESOLUTION NO. 42

(BY MR. PELTER)

[Adopted February 14, 1934.]

Commending officials and employees of the West Virginia Agency of the Home Owners' Loan Corporation.

WHEREAS, The officials and employees of the Home Owners' Loan Corporation in West Virginia have for the past six months been engrossed with the task of rendering aid to the distressed home owners in this state who, but for the provisions of the Home Owners' Loan Act of 1933, would have suffered the loss of their homes, which, in many instances, would have resulted in the wiping out of their entire savings and possession; and

WHEREAS, The work of these officials and employees has been in an efficient and courteous manner toward the people of the state of West Virginia; and

WHEREAS, The work of the Home Owners' Loan Corporation in West Virginia has been very beneficial to the people of this state and afforded a large amount of relief to the citizenry, the cities, and communities of West Virginia; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia commends the officials and employees of the West Virginia agency of the Home Owners' Loan Corporation for their efficient, faithful, loyal, and untiring efforts to render assistance to the distressed home owners in West Virginia and for their courteous treatment and cooperation with the public in the state of West Virginia; and, be it

Resolved further, That a copy of this resolution be sent to the Federal Home Loan Bank Board at Washington, D. C., and to each of the senators and members of the house of representatives in the Congress of the United States, from West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 44

(BY MR. BEACOM)

[Adopted February 21, 1034.]

Requesting the President of the United States to approve the report of the Wild Life Restoration Committee.

WHEREAS, The committee appointed by the President of the United States on Wild Life Restoration, has submitted its report to the President; and

WHEREAS, Among other things this committee was to make investigations and recommendations, as to restoring and propagating wild life in the various states; and

WHEREAS, West Virginia sportsmen and the State Conservation Commission favor this report; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby respectfully requests the President of the United States to approve the report made by said committee; and, be it

Resolved further, That a copy of this resolution be transmitted to the President of the United States; Thomas H. Beck, chairman of the committee, and to the Senators and members of the House of Representatives from West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 45

(BY MR. MOORE)

[Adopted March 0, 1934.]

Authorizing and directing the Insurance Commissioner to make a survey relative to insurance laws and insurance companies.

WHEREAS, At the present and at prior sessions of the Legislature many acts have been passed relating to and regulating the business of insurance; and

WHEREAS, The terms and provisions of some of the said acts are ambiguous and conflicting; and

WHEREAS, It is deemed necessary that all of the acts relating to

the business of insurance in this state should be codified and clarified; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Insurance Commissioner of this state be and is hereby authorized and directed to make a complete survey of all the laws now in force affecting the business of insurance, including a comparison of such statutes in effect in other states; and, be it

Further resolved, That in said survey the Insurance Commissioner shall inquire into the practice of fire insurance companies in imposing an overhead charge of forty-five per cent or more of premiums collected on risks written in this state for administrative or other cause of conducting said fire insurance business; and, be it

Further resolved, That the said Insurance Commissioner shall report his findings, with recommendations thereon, to the next regular session of the Legislature and that a copy of said findings and report be also furnished to the Governor of this state; and, be it

Further resolved, That this resolution shall supercede and rescind all previous resolutions passed by the House of Delegates at its regular and extraordinary session, relating to or affecting the business of insurance; and, be it

Further resolved, That the survey herein directed shall be conducted by the Insurance Commissioner without cost or expense to the state.

HOUSE CONCURRENT RESOLUTION NO. 46

(BY MR. RIGHTER)

[Adopted February 22, 1934.]

Inviting His Excellency, the Governor of West Virginia, to appear before a joint session of the Legislature to discuss the fiscal problems of the state.

Resolved by the House of Delegates, the Senate concurring therein:

That His Excellency, the Governor of West Virginia, be invited to appear before the Senate and the House of Delegates, in

joint session assembled, thirty minutes after the House of Delegates convenes, on the twenty-third day of February, one thousand nine hundred thirty-four, in the chamber of the House of Delegates, and to present a statement of the revenue needed to operate the government of West Virginia during the current biennium and to propose ways and means whereby such revenue may be raised.

HOUSE CONCURRENT RESOLUTION NO. 47

(BY MR. RIGHTER)

[Adopted February 23, 1934.]

Raising a joint committee to wait upon the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee be appointed, three by the Speaker of the House of Delegates, and three by the President of the Senate, to wait upon His Excellency, the Governor, and to inform him that a resolution has been adopted by the Legislature inviting him to address a joint session of the Legislature at 10:30 o'clock A. M., this day, on the fiscal problems of the state.

HOUSE CONCURRENT RESOLUTION NO. 49

(BY MR. RIGHTER)

[Adopted February 23, 1934.]

Raising a joint assembly to hear an address by His Excellency, the Governor.

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature meet in joint assembly in the chamber of the House of Delegates at 10:30 o'clock A. M., this day, to hear an address by His Excellency, the Governor.

HOUSE CONCURRENT RESOLUTION NO. 50

(BY MR. HINER)

[Adopted February 27, 1934.]

Concerning relief for unemployment and destitution.

WHEREAS, The Federal Emergency Relief Administration has indicated that in order for this state to continue to secure federal appropriation for the relief of unemployment and destitution the Legislature must appropriate a certain amount of money per month; and

WHEREAS, The Legislature of West Virginia recognizes its duty in this respect and will utilize every possible resource to aid the federal government in relief work in this state; and

WHEREAS, The Legislature has been delayed in the matter of raising revenue on account of the difficulty in getting an enabling act which was constitutional under the Levy Limitation Amendment; and

WHEREAS, The Legislature now has before it a number of proposals for raising revenue and it is believed that ample provision will be promptly made to care for the state's relief problems; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature hereby extends to Honorable Harry Hopkins and the Federal Relief Administration its appreciation for the kind consideration they have given this state during the past several months; and, be it

Further resolved, That the Federal Relief Administration is hereby requested to continue federal relief to West Virginia until the Legislature is able to enact such tax measures as will provide revenue for its proportion of relief funds; and, be it

Further resolved, That the Clerks of the Senate and House of Delegates transmit a copy of this resolution to the Honorable Harry Hopkins, the members of the House of Representatives and United States Senators from West Virginia.

HOUSE CONCURRENT RESOLUTION NO. 53

(BY MR. LESTER)

[Adopted March 12, 1934.]

Concerning the death of the Honorable James H. Strickling.

WHEREAS, The Legislature has been advised of the death of the Honorable James H. Strickling, a former Speaker and member of the House of Delegates; and

WHEREAS, The deceased was an able and conscientious lawyer, served as prosecuting attorney of Tyler county and since 1909 had established an enviable reputation as an advocate, practicing his profession in the city of Huntington; and

WHEREAS, As a member of the House of Delegates in the sessions of 1907 and 1909, he represented the county of Tyler with honor and distinction, serving as Speaker in the session of 1909; and

WHEREAS, The deceased was not only active in public and political affairs, but was a prominent sportsman and educator, serving as president of the Sistersville board of education and operating an academy at Harrodsburg, Kentucky, for several years and was president of the West Virginia Sportsman's League for a number of years; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature hereby expresses its deepest sorrow over the death of this distinguished and public spirited citizen; and, be it

Resolved further, That the sympathy of each member of the Legislature is hereby extended to the sorrowing family and friends of the deceased; and, be it

Resolved further, That out of honor and respect for the deceased, a committee of six is hereby raised to attend the funeral, three members of the House of Delegates, to be appointed by the Speaker and three members of the Senate, to be appointed by the President, and that the Clerks of the two houses are directed to send suitable floral emblems at once to the late residence of the Honorable James H. Strickling.

HOUSE CONCURRENT RESOLUTION NO. 54

(BY MR. STROUSS)

[Adopted March 14, 1934.]

Commending Charles Wise, of Moorefield, DeWitt White, of Morgantown, and Charles Sleeth, of Arnettsville, students of West Virginia University, for international honors they have brought to their state and university because of high academic attainments and outstanding capacity for leadership; and approving the policy of the Board of Governors and the faculty of West Virginia University in developing international interest and good will within the student body.

WHEREAS, West Virginia University has been extended two outstanding opportunities to participate in international academic life; namely, by being selected as one of a large group of institutions of higher learning best suited to represent the National Students Federation of America in a series of debates with the leading colleges and universities of Great Britain; and by being successful in competition with colleges and universities of New York, New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, and West Virginia, in placing a Rhodes scholar from West Virginia University in Oxford University, Oxford, England; and

WHEREAS, The Board of Governors of West Virginia University has on behalf of the University accepted the invitation to debate with the leading colleges and universities of Great Britain, and has approved the appointment of Charles Wise of Moorefield, and DeWitt White of Morgantown, to represent the University in this respect; and

WHEREAS, Charles Sleeth, of Arnettsville, has been chosen by the committee for the selection of Rhodes scholars from the middle atlantic states district as one of four students to represent his state and country at the Universiy of Oxford, Oxford, England, as a Rhodes scholar in that institution; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia commends the Board of

Governors and the faculty of West Virginia University for sponsoring and developing international academic relations that tend to bring the life of West Virginia into cultural contact with countries across the sea; and, be it

Further resolved, That the Legislature of West Virginia extends its appreciation to Charles Wise, of Moorefield, to DeWitt White, of Morgantown, and to Charles Sleeth, of Arnettsville, for the distinction that their academic ability and their capacity for leadership have brought to their state and country; and, be it

Further resolved, That a copy of this resolution be directed to His Excellency, the Governor of West Virginia, to the Board of Governors of West Virginia University, to the President of the University, to Charles Wise, of Moorefield, to DeWitt White, of Morgantown, and to Charles Sleeth, of Arnettsville.

HOUSE CONCURRENT RESOLUTION NO. 55

(By Mr. Shahan)

[Adopted March 16, 1934.]

Requesting the Board of Public Works to borrow money to pay teachers' salaries.

WHEREAS, Additional appropriations will soon be made by this Legislature to pay the school teachers of this state; and

WHEREAS, An indefinite period of time will exist before sufficient revenue will come into the treasury to pay the said teachers after appropriations are made; and

WHEREAS, The state has assumed the payment of the basic teachers' salaries for eight months; and

WHEREAS, The state has paid this basic salary for ony four months of the present school year; and

WHEREAS, It is deemed expedient that the school teachers of this state should receive immediate compensation for the services which they have rendered; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Legislature of West Virginia hereby respectfully re-

quests the Board of Public Works, upon the passage of the revenue bills, to negotiate and secure a loan or loans of sufficient amounts to provide payment of the salaries for this year when due, the said loan to be repaid from the collections of the said revenue bills.

HOUSE CONCURRENT RESOLUTION NO. 57

(BY MR. NORTON)

[Adopted March 23, 1934.]

Relative to a survey, examination and report upon riverways and water resources of the State of West Virginia.

WHEREAS, The federal government has begun a comprehensive program of water conservation as follows:

1. The execution of the PWA plan of flood control in the Mississippi river and part of its tributaries.

2. The improvement of the waterways system of the United States to convert its principal streams into traffic arteries.

3. The creation of a "lakes to sea" deep water route through the great lakes and St. Lawrence river and utilization of the streams' waterpower resources; and

WHEREAS, Many of our great industrial centers and best farming districts are threatened with a shortage of water supplies for industrial, domestic and farm uses, which will limit our future growth in population, production and industrial expansion; and

WHEREAS, We need a state-wide program of water conservation which will guarantee a perpetual water supply for all water utilities, including flood protection, industrial and domestic water supplies, irrigation, navigation, sanitation or sewage dilution, hydraulic power, recreation or water parks and the restoration of our rapidly diminishing water table or ground waters with controlled drainage; and

WHEREAS, We realize that a complete and comprehensive program of water conservation for the state cannot be planned or outlined until a state-wide water resource survey has been made and the data correlated, compiled and reported upon with recommendations by a competent board appointed for that purpose in

cooperation with the program of the federal government; therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the governor shall appoint immediately upon the adoption of this resolution a board consisting of five members to examine and report to the governor, at the earliest practicable date upon the riverways and water resources of the state of West Virginia; and, be it

Further resolved, That said board is hereby authorized to cooperate and work with any federal board or agency that is or may be engaged in such a survey or examination; and, be it

Further resolved, That said survey, examination and report shall have special reference to the improvement of existing stream channels for the mitigation of floods, for standardized navigation by slack water for suitable draft, for the development of power, for industrial and domestic water supplies, for the betterment of sanitary conditions, for the restoration of ground waters, and for any allied benefits that may properly accrue to the nation, state or local communities interested; and report its finding to the next regular session of the Legislature and make such recommendations as it deems advisable.

HOUSE CONCURRENT RESOLUTION NO. 58

(By Mr. Ballard)

[Adopted March 24, 1934.]

Relating to adjournment *sine die.*

Resolved by the House of Delegates, the Senate concurring therein:

That when the Legislature adjourns today, it adjourn *sine die.*

HOUSE JOINT RESOLUTION NO. 1

(By Mr. Beacom)

[Adopted December 12, 1933.]

Ratifying the child labor amendment to the Constitution of the United States.

WHEREAS, The sixty-eighth Congress of the United States of America, at its first session, in both houses by a constitutional majority of two-thirds thereof, has made the following proposition to amend the constitution of the United States of America, in the following words, to-wit:

"Joint resolution proposing an amendment to the Constitution of the United States.

"Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of each house concurring therein:

That the following amendment to the constitution be and is hereby proposed to the states, to become valid as a part of the Constitution when ratified by the Legislatures of the several States, as provided by the Constitution.

"ARTICLE XX

"SECTION 1. The Congress shall have power to limit, regulate and prohibit the labor of persons under eighteen years of age.

"SEC. 2. The power of the several states is unimpaired by this article, except that the operation of State laws shall be suspended to the extent necessary to give effect to Legislation enacted by the Congress," therefore, be it

Resolved by the Legislature of West Virginia:

That the said proposed amendment to the constitution of the United States of America be, and the same is hereby ratified; and, be it

Further resolved, That certified copies of the foregoing preamble and resolutions be forwarded by the Governor of the State of West Virginia to the President of the United States, the Secretary of State of the United States, the President of the Senate of the United States and Speaker of the House of Representatives of the United States.

HOUSE JOINT RESOLUTION NO. 4

(BY MR. REED)

[Adopted January 22, 1934.]

Proposing an amendment to the constitution of the state, amending section six of article thirteen thereof.

Resolved by the Legislature of West Virginia, two-thirds of all the members elected to each house agreeing thereto:

That the question of the ratification or rejection of an amendment to the constitution of West Virginia shall be submitted to the voters of the state at the next general election to be held in the year one thousand nine hundred thirty-four, which proposed amendment is as follows:

That section six of article thirteen of the constitution of West Virginia be amended to read as follows:

Section 6. It shall be the duty of every owner of land, or of an undivided interest therein, to have such land, or such undivided interest therein, entered on the land books of the county in which it, or a part of it, is situated, and to cause himself to be charged with taxes legally levied thereon and pay the same. When, for any five successive years, the owner of any tract of land, or undivided interest therein, shall not have been charged on such land books with state, county and district taxes thereon, then, by operation hereof, the land, or undivided interest therein, shall be forfeited. and title vested in the state. But if, for any one or more of such five years, the owner of such land, or of any undivided interest therein, shall have been charged with state, county and district taxes on any part of such land, such part thereof, or undivided interest therein, shall not be forfeited for such cause. And any owner of land so forfeited, or of any interest therein, at the time of the forfeiture thereof, who shall then be an infant, married woman, or insane person, may, until the expiration of three years after the removal of such disability, have the land, or such interest, charged on such land books, with all state and other taxes that shall be, and but for the forfeiture would be, chargeable on the land, or interest therein, for the years one thousand eight hundred sixty-three. and every year thereafter, with interest at the rate of ten per centum per annum, and pay all taxes and interest

thereon for such years, and thereby redeem the land or interest therein: *Provided,* That such right to redeem shall in no case extend beyond twenty years from the time such land was forfeited.

HOUSE RESOLUTION NO. 1

(By Mr. Norton)

(Originating in the Committee on Rules)

[Adopted November 21, 1933.]

Relating to rules of the House of Delegates for this extraordinary session of the Legislature.

Resolved by the House of Delegates:

That the rules of the House of Delegates for the first extraordinary session, one thousand nine hundred thirty-three, with the addition of the following rules thereto, to be numbered one hundred one to one hundred five, inclusive, be adopted as the rules governing this extraordinary session:

101. A majority of the members elected to the House of Delegates shall be necessary to proceed to business; seven members may adjourn, and ten members may order a call of the House of Delegates, send for absentees, and make any order for their censure or discharge. On a call of the House of Delegates, the doors shall not be closed against any member until his name shall have been called twice.

102. In case a number less than a quorum of the House of Delegates shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons by them authorized, for any and all absent members as the majority of such members shall agree, at the expense of such absent members, respectively, unless such excuse for nonattendance shall be made as the House of Delegates, when a quorum is convened, shall judge sufficient; and, in that case, the expense shall be paid out of the contingent fund of the House of Delegates. This rule shall apply to the first meeting of the House of Delegates, at the legal time of meeting, as well as to each day of the session after the hour has arrived to which the House of Delegates stood adjourned.

103. No member of the House of Delegates shall be taken into custody by the Sergeant-at-Arms, on any question of complaint of

breach of privilege, until the matter is examined by the Committee on Elections and Privileges, and reported to the House of Delegates, unless by order of the Speaker of the House of Delegates.

104. The House of Delegates may punish its own members for disorderly behavior, and with the concurrence of two-thirds of the members elected thereto, expel a member, but not twice for the same offense. (Const. art. 6, sec. 25.)

105. The House of Delegates may punish by imprisonment, any person not a member, for disrespectful behavior in its presence; for obstructing any of its proceedings, or any of its officers in the discharge of their duties, or for any assault, threat or abuse of any member for words spoken in debates; but such imprisonment shall not extend beyond the termination of the session.

HOUSE RESOLUTION NO. 2

(By Mr. Tabor)

[Adopted November 21, 1933.]

Concerning the death of Honorable Thomas Jefferson Robson.

Whereas, The Honorable Thomas Jefferson Robson, prominent in the church, fraternal and business life of Charleston and Kanawha County, and a member of this body of the session of one thousand nine hundred twenty-nine, in which he served his county and state with ability and fidelity, has departed this life; therefore, be it

Resolved by the House of Delegates:

That as a mark of the esteem with which he was held by the members of the house of delegates and as a tribute to his memory, the Speaker appoint a committee of five to attend the funeral of our deceased former member.

HOUSE RESOLUTION NO. 3

(By Mr. Dixon)

[Adopted November 21, 1933.]

Raising a committee to inform the Senate that the House of Delegates has assembled in extraordinary session.

Resolved by the House of Delegates:

That the Speaker appoint a committee of three to inform the Senate that a quorum of the House of Delegates has assembled in its chamber in extraordinary session, pursuant to the proclamation of His Excellency, the Governor, issued on the second day of November, one thousand nine hundred thirty-three, and is ready to proceed with the business for which it has assembled.

HOUSE RESOLUTION NO. 4

(By Mr. Matthews)

[Adopted November 21, 1933.]

Concerning eligibility of persons appointed as attaches.

Resolved by the House of Delegates:

That no person shall be appointed as an attache for the House of Delegates during this extraordinary session of the Legislature, who is now holding or has held thirty days prior to the convening of the session, any remunerative position or office with either the Federal, State (except with the Legislative branch of government), county, district or municipal government; and, be it

Further resolved, That no son, daughter, wife, husband, brother or sister of any member of the Legislature, nor the son, daughter, wife, husband, brother or sister of anyone now holding or has held within thirty days prior to the opening of this session, any remunerative position or office with the Federal, State, county, district or municipal governments, shall be appointed as an attache during this session.

COM. SUB. FOR HOUSE RESOLUTION NO. 5

(Originating in the Committee on Rules)

[Adopted December 7, 1933.]

Authorizing the appointment of attaches.

Resolved by the House of Delegates:

That the Speaker of the House of Delegates be, and he is hereby authorized to appoint for the House of Delegates, the following

attaches to receive the per diems as herein provided for this extraordinary session:

(1) For the Clerk's office the following:

One stenographer to the Clerk at seven dollars per day;

Two assistant clerks at seven and one-half dollars per day;

One Journal clerk at ten dollars per day;

One Journal stenographer at seven and one-half dollars per day;

Two record and roll call clerks at six dollars per day;

One supervisor of printing at seven dollars per day;

Four proofreaders at seven dollars per day;

Three copyholders at six dollars per day;

One enrolled bill clerk at six dollars per day;

One messenger at four dollars per day;

(2) One clerk and one stenographer to the Committee on Taxation and Finance at ten and seven dollars per day, respectively;

One clerk and one stenographer to the Committee on the Judiciary at seven and one-half and seven dollars per day, respectively;

One chief journal room clerk at seven dollars per day;

Nine assistant journal room clerks at five dollars per day;

One mailing clerk at six dollars per day;

Four pages at four dollars per day;

Two men's cloak room attendants at five dollars per day;

One ladies' cloak room attendant at five dollars per day;

One night watchman at six dollars per day;

One supervisor of stenographers at seven dollars per day;

Twelve floor stenographers at six dollars per day;

Four assistant doorkeepers at five dollars per day;

One clerk to the sergeant-at-arms at seven dollars per day;

One stenographer to the sergeant-at-arms at six dollars per day;

Three assistant janitors at four dollars per day;

One chaplain at five dollars per day; and, be it

Further resolved, That the secretary and stenographer to the Speaker, as provided for by the rules of the House of Delegates, shall receive nine and seven and one-half dollars per day, respectively, the Sergeant-at-Arms shall receive nine dollars per day, the doorkeeper shall receive seven and one-half dollars per day and the Clerk of the House of Delegates shall receive fifteen dollars per day; and, be it

Further resolved, That all of the appointments made under authority of this resolution shall be certified to the Sergeant-at-Arms, who is hereby directed to draw his warrants upon the Auditor in favor of the persons so appointed and certified to him, and the Auditor shall honor and pay such warrants when presented and charge same to the "per diem of officers and attaches" fund of the House of Delegates. The Sergeant-at-Arms shall draw his warrants in favor of officers and attaches for consecutive days from the date of the opening of this session, at the per diems herein set out, until such time as their services shall cease. The Speaker shall require each of said employees to perform such duties as shall be assigned him and is hereby given authority to remove or discharge any employee and to fill such vacancies as may occur. The Speaker is also given authority to dispense with the service of any attache or attaches for any such time or number of days as their services shall not be needed during the session and they shall not be paid for such time as he may notify the Sergeant-at-Arms of their suspension.

HOUSE RESOLUTION NO. 7

(By Mr. MARSH, of Ohio)

[Adopted November 22, 1933.]

Authorizing the Speaker to invite the Honorable John J. Cornwell to address the House of Delegates.

WHEREAS, Newspaper dispatches have reported that the Honorable Joseph B. Eastman, Federal Railroad Coordinator, has

under consideration what is termed the Prince Plan for consolidating all the railroads of the country into seven systems, which plan would combine the Baltimore and Ohio and its affiliated and related companies with the Pennsylvania system; and

WHEREAS, It is represented in these newspaper reports that the said Baltimore and Ohio would be dismantled as a through carrier of freight and passengers, reduced to a single track road and a second grade branch-line of the Pennsylvania; and

WHEREAS, If that should prove true the said Baltimore and Ohio system would be depreciated in value, causing the state and the counties where its property is situated to lose large sums of tax revenue and the business developed along the line might suffer great handicaps; and

WHEREAS, It is desirable this Legislature be fully informed as to all the facts; therefore, be it

Resolved by the House of Delegates:

That the Speaker is authorized to invite former Governor John J. Cornwell, General Counsel of the said railroad company, to appear before this House at such time as may be agreeable to him and give to the members of this body such information as he may possess with respect to the so called Prince Plan and its status in order that the House of Delegates may, if thereafter it seems proper, give expressions of its attitude in relation thereto.

HOUSE RESOLUTION NO. 9

(BY MR. MATTHEWS)

[Adopted November 23, 1933.]

Authorizing payment of janitors.

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby authorized to draw his warrants upon the Auditor in favor of the following, to be paid in advance of the appropriation for the purpose, for the amounts herein set out, for janitor services preliminary to the opening of this session:

William Quarels 7 days at $4.00 ..... $28.00

Clarence A. Earley 9 days at 4.00 ..... 36.00

Boisie Green 8 days at 4.00 ..... 32.00

Sam White 5 days at 4.00 ..... 20.00

Edward Tillman 5 days at 4.00 ..... 20.00

D. M. Tucker 9 days at 4.00 ..... 36.00

HOUSE RESOLUTION NO. 10

(BY MR. LUBLINER)

[Adopted November 23, 1933.]

Requesting the Governor to give the Committee on Taxation and Finance a letter to the Secretary of Treasury of the United States, requesting permission to examine and receive certain information from the United States Department of Internal Revenue.

WHEREAS, The Taxation and Finance Committee of the House of Delegates has had under consideration House Bill No. 1, relating to a graduated net income tax similar to the law now in force by the Federal Government; and

WHEREAS, The Taxation and Finance Committee by motion authorized and directed the chairman of said committee to obtain facts and figures pertaining to the federal income tax law; and

WHEREAS, It is the sense of said committee that this information can only be obtained from the Internal Revenue Department, Washington, D. C.; and

WHEREAS, Your committee has been advised that it is necessary to obtain the written consent of the Governor of West Virginia in order to have access to the Internal Revenue Department records; thereof, be it

Resolved by the House of Delegates:

That the Governor of West Virginia be respectfully requested to furnish your committee with a letter or other necessary authorizations, addressed to the Secretary of the Treasury of the United

States, for permission to examine and receive information contained in said records filed in the Internal Revenue Department; and, be it

Further resolved, That the necessary expense incurred in obtaining this information shall be paid from the contingent fund of the House of Delegates, in advance of the appropriation therefor.

HOUSE RESOLUTION NO. 13.

(By Mr. Norton)

[Adopted November 23, 1933.]

Pertaining to legislation for maintenance and support of the public school system.

Whereas, The educational training of our thousands of school children is a matter of first importance in the minds of our citizens; and

Whereas, The public schools in the state have been kept open to this time under extreme difficulties which have occasioned grave concern, particularly to those most responsible; and

Whereas, Boards of education, teachers and others employed in the maintenance of schools have exerted every effort to keep the schools open and have maintained a determined spirit of patriotic courage in the face of these unparalleled circumstances without in many counties a single dollar of available local revenue for support; therefore, be it

Resolved by the House of Delegates:

That we express by resolution to the members of county boards of education, teachers and maintenance employees of the public school system our appreciation for their loyalty and courage in making possible to this time the continuance of the public school system; and that we extend to them the assurance of such relief, as may be within our power to provide through remedial legislation, to the end that our mutual efforts may save and preserve educational opportunities to all the boys and girls in our public school system.

HOUSE RESOLUTION NO. 14

(BY MR. NORTON)

[Adopted November 23, 1933.]

Relating to enabling legislation under the Tax Limitation Amendment.

Resolved by the House of Delegates:

That any enabling act to make effective the provisions of the "Tax Limitation Amendment" drafted to take the place of House Bill number three hundred fourteen, recently held unconstitutional by our State Supreme Court of Appeals, be so drafted as to keep within the maximum rates prescribed by the Amendment and in no event shall the enabling act be drafted so as to permit the aggregate of all taxes assessed, from exceeding the maximum limit fixed in said amendment.

HOUSE RESOLUTION NO. 15

(BY MR. SHAHAN)

[Adopted November 23, 1933.]

Directing the Sergeant-at-Arms to draw his warrants upon the Auditor for postage for the use of the Clerk of the House of Delegates.

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby directed to draw his warrants upon the Auditor for postage for the use of the Clerk of the House of Delegates, to be paid out of the contingent fund of the House of Delegates. Said postage to be used for the mailing department and to be drawn in amounts designated by the Clerk.

HOUSE RESOLUTION NO. 17

(BY MR. HOLT)

[Adopted November 24, 1933.]

Continuing the Committee to investigate Utilities, created by the House of Delegates at the regular session, one thousand nine hundred thirty-three.

Resolved by the House of Delegates:

That the Utility Investigating Committee, created by the House of Delegates at the regular session, one thousand nine hundred thirty-three, is hereby empowered and shall be continued, actively, with the following rights and privileges:

This committee shall have the power to investigate the rates, rate making process and financial setup of any or all of the public utilities operating in West Virginia; to investigate the participation of utility employees, officials, companies and corporations in political activities, elections and all other governmental activities; to investigate the participation of utilities in organizations, associations or societies; to investigate the contracts and dealings of these utility companies and corporations with their holding companies; to investigate the activities, rulings, and orders of the Public Service Commission of the State of West Virginia; to study the assessment and taxation of utility companies and corporations; or to investigate any other matter dealing with utilities that the committee may determine to be of common good to the citizens of the state of West Virginia. This committee shall have the power to administer oaths, and to summon and compel the attendance of any witness in the state.

The Sergeant-at-Arms of the House of Delegates is directed to serve any summons the committee may direct.

Said committee shall have the power to require the production of records, books and papers of any individual, company or corporation.

The committee may hear testimony at any place that it may determine and shall have the right to examine the records, books or papers of any individual, company or corporation anywhere in the state.

The Sergeant-at-Arms is hereby directed to draw his warrants for expenses of the committee, in advance of the appropriation therefor, from the House of Delegates Contingent Fund.

HOUSE RESOLUTION NO. 18

(By Mr. Hiner)

[Adopted November 24, 1933.]

Concerning study of state and local governments, for the purpose

of ascertaining whether or not expenses of same can be reduced.

WHEREAS, During this period of business and industrial depression, the maximum levies in 1933 under the tax limitation amendment will yield $25,000,000 in property taxes for the support of the state and local governments, compared with $50,000,000 in 1931 and $42,000,000 in 1932 from the same source; and

WHEREAS, The fiscal records of the state show that receipts of revenue in the state treasury from the operation of the sales tax law dropped from $4,076,143 in the fiscal year 1927 to $1,620,653 in the fiscal year ending June 30, 1933, a decrease of sixty per cent in the annual gross incomes of those businesses, industries and professions subject to this tax; and

WHEREAS, In the first special session of this Legislature, ending June 3, 1933, the rates of the sales tax law were revised to increase the revenue from these indirect sources of taxation over 400 per cent for state and local purposes in order to absorb the losses of revenue from property taxes; and

WHEREAS, Further increased taxation on business, industry and other indirect sources of taxation may imperil the stability of business and industry in this state, would have the tendency to drive capital out of this state to more favorable locations, and would halt the future industrial development of the state; therefore, be it

Resolved by the House of Delegates:

That it is the sense of the House of Delegates that prior to the consideration of any proposed legislation to raise additional revenue for either state or local purposes, that the committee on taxation and finance, or any special committee that may hereafter be created to consider revenue legislation, be required to study the cost of the state, county, district, municipal and school governments, to ascertain, if possible, whether additional economies can be effected to reduce the cost of government comparable to the loss of income our taxpayers have suffered during these recent years of business and industrial adversity.

HOUSE RESOLUTION NO. 19

(By Mr. Peery)

[Adopted December 6, 1933.]

Extending the thanks of the House of Delegates, to the Honorable A. M. Gilbert, retiring Doorkeeper.

Resolved by the House of Delegates:

That this body hereby expresses its genuine thanks to the Honorable A. M. Gilbert, who has recently resigned as Doorkeeper of the House of Delegates, for his loyal and efficient services during the regular and first extraordinary sessions of the 1933 Legislature.

HOUSE RESOLUTION NO. 20

(By Mr. Norton)

[Adopted December 6, 1933.]

Expressing sympathy to the Honorable Frank R. Hill on account of illness.

Whereas, The Honorable Frank R. Hill, the Delegate from the county of Pocahontas, due to illness has been unable to attend this extraordinary session of the Legislature; therefore, be it

Resolved by the House of Delegates:

That the sympathy of this body is hereby extended to Mr. Hill on account of his illness, and, be it

Resolved further, That the Clerk of the House of Delegates is hereby directed to send a copy of this resolution to Mr. Hill, with the hope of a speedy recovery so that he may soon be able to take part in the business of this session.

HOUSE RESOLUTION NO. 21

(By Mrs. Harman)

[Adopted December 6, 1933.]

Concerning the death of the Honorable G. T. Epling.

Whereas, The Honorable G. T. Epling of Welch, West Virginia, has departed this life; and

WHEREAS, The deceased was an outstanding citizen and dental surgeon of this state; and

WHEREAS, Dr. Epling was twice elected to the House of Delegates from McDowell county and served in the 1909 and 1911 sessions of the Legislature, serving his state with credit and distinction; therefore, be it

Resolved by the House of Delegates:

That the members of this body, hereby extend to Mrs. Epling and the members of the family, the sympathy of the House of Delegates; and, be it

Resolved further, That a copy of this resolution be transmitted by the Clerk, to Mrs. Epling.

HOUSE RESOLUTION NO. 22

(BY MR. CARDEN)

[Adopted December 6, 1933.]

Relating to the death of the Honorable Joseph Harrison Cooper.

WHEREAS, The Honorable Joseph Harrison Cooper, a member of the House of Delegates from Wyoming county in the 1929 session, has departed this life; and

WHEREAS, He was one of Wyoming county's leading school men, having been engaged in teaching for many years and serving as county superintendent of free schools from 1915 to 1919; and

WHEREAS, Mr. Cooper served his county well and faithfully in the Legislature; therefore, be it

Resolved by the House of Delegates:

That we deplore the loss of this former member and extend to his family our heartfelt sympathy; and be it

Resolved further, That a copy of this resolution be transmitted, by the Clerk, to the family of the deceased.

HOUSE RESOLUTION NO. 23

(BY MR. STOUT)

[Adopted December 6, 1933.]

Directing Committee on Taxation and Finance and Education to make certain investigations and reports.

WHEREAS, The very serious financial situation in which the state finds itself has made necessary efforts both in the direction of the curtailment of expenditures and in the search for new sources of revenue; and while commendable progress has been made in the effecting of economies, yet it appears to many that if as much time and thought had been given to the study of the making of savings as has been given to the search for new revenue we would be further along toward the goal of financial recovery than we are today,—possibly we have thought so much of the financial embarrassments of the state and of the various local governmental units that we have not given sufficient consideration to the financial embarrassment of the people, by whom, after all is said and done, the great burden of taxation must be borne—whether that taxation be direct or indirect; and

WHEREAS, The whole matter of education, while one of the most important functions of the state, is also the most costly function and is likewise one, the efficiency of which is very seriously threatened in these difficult times; and

WHEREAS, Under these circumstances it appears to most people that the maintenance of our primary educational facilities, one of much greater importance than the carrying on of post high school or normal school work, especially when many trained teachers are already out of employment; therefore, be it

Resolved by the House of Delegates:

That the Committee on Taxation and Finance be directed to especially study and report on the question of the effecting of further economies in governmental operation, and that the Committee on Education be directed to especially study and report on the feasibility and advisibility of the elimination of, or the temporary suspension of, some, at least, of our state normal schools or colleges.

HOUSE RESOLUTION NO. 24

(BY MR. SHAHAN)

[Adopted December 7, 1933.]

Raising a committee to study sources of revenue in the various states.

WHEREAS, The Legislature is now faced with the complicated problem of providing revenue to carry on under the existing emergency, to keep the doors of the schools open and to provide supplemental aid for the relief of the unemployed; and

WHEREAS, Various state legislatures in these United States have been called upon within the last few months to solve much the same problems now facing this state; and

WHEREAS, Information as to the types of revenue now in use in the various states, the success with which used, the amount of revenue produced, and the number of states using various sources of taxation, would be helpful to the members of this body in deciding upon the many and intricate tax problems coming up for decision; therefore, be it

Resolved by the House of Delegates:

That a committee of five be appointed by the Speaker of the House of Delegates to investigate the various sources of revenue used by the various states, the success with which used, the length of time in use, and any other information that the committee may desire.

HOUSE RESOLUTION NO. 25

(BY MR. HOLT)

[Adopted December 11, 1933.]

Relating to persons entitled to the privilege of the floor.

Resolved by the House of Delegates:

That any person, not a member, entitled to the privilege of the floor who shall use that privilege for the purpose of lobbying for

or against any subject under consideration by the House of Delegates or any of its committees, shall be denied the privilege of the floor by the Speaker.

HOUSE RESOLUTION NO. 28

(By Mr. Holt)

[Adopted December 18, 1933.]

Requesting Auditor to furnish information relative to School Land Commissioners.

Resolved by the House of Delegates:

That the Honorable Edgar B. Sims, state auditor, be and is hereby requested, to furnish this House within three days, a complete list of the School Land Commissioners of the state, showing the amount owing the state by any of them on March 4, 1933 and on the date of this resolution, the period of time involved, the steps that have been taken, or are being taken to collect such indebtedness; and, be it

Resolved further, That the said auditor be and is hereby requested to furnish a list of former school land commissioners leaving office indebted to the state, the amount of such indebtedness, the period of time involved, and the steps that have been taken, or are being taken to collect such indebtedness.

HOUSE RESOLUTION NO. 29

(By Mr. Hiner)

[Adopted December 10, 1933.]

Authorizing the auditor and treasurer to pay salaries of certain members of the House of Delegates.

Whereas, The Governor has appointed the following named persons to fill vacancies in the House of Delegates; and

Whereas, Each of said persons have qualified as members of the House of Delegates, by taking and subscribing to the several oaths prescribed by section sixteen, article six, of the Constitution of this state; therefore, be it

Resolved by the House of Delegates:

That upon the warrant of the Sergeant-at-Arms, the auditor and treasurer are hereby authorized and directed to pay to the following members, the sum of two hundred fifty dollars, as salary for the year one thousand nine hundred thirty-three, in advance of the appropriation for the purpose:

Milton J. Ferguson, Wayne, West Virginia, to fill the vacancy caused by the resignation of Honorable H. T. Tucker, of Wayne county.

Joseph R. Curl, Wheeling, West Virginia, to fill the vacancy caused by the resignation of Honorable E. Y. McVey, of Ohio county.

C. W. Minear, Parsons, West Virginia, to fill the vacancy caused by the resignation of Honorable Hugh Pritt, of Tucker county.

Junius M. Strouss, Morgantown, West Virginia, to fill the vacancy caused by the resignation of Honorable Roy Yoke, of Monongalia county.

B. O. Cresap, Wellsburg, West Virginia, to fill the vacancy caused by the resignation of Honorable A. S. Craig, of Brooke county.

Joseph M. Woodford, Elkins, West Virginia, to fill the vacancy caused by the resignation of Honorable Dice Harper, of Randolph county.

C. N. Proctor, Clifftop, West Virginia, to fill the vacancy caused by the resignation of Honorable H. O. Boley, of Fayette county.

Raymond E. Bright, Frankfort, West Virginia, to fill the vacancy caused by the resignation of Honorable C. F. McClintic, of Greenbrier county.

R. C. Leap, New Martinsville, West Virginia, to fill the vacancy caused by the resignation of Honorable John N. Custer, of Wetzel county.

Ernest D. Lewis, Clarksburg, West Virginia, to fill the vacancy caused by the resignation of Honorable Mortimer W. Smith, of Harrison county.

Walter E. Stout, Parkersburg, West Virginia, to fill the vacancy caused by the resignation of Honorable Hugh R. Ferrell, of Wood county.

HOUSE RESOLUTION NO. 30

(By Mr. Goodwin)

[Adopted December 21, 1933.]

Wishing all citizens of West Virginia a merry Christmas.

Resolved by the House of Delegates:

That we, the members of the House of Delegates, in session assembled, hereby extend to the citizens of West Virginia, our sincere wish for a merry Christmas and a happy and prosperous new year.

HOUSE RESOLUTION NO. 33

(By Mr. Lubliner)

[Adopted January 3, 1934.]

Extending sympathy to the family of Delegate Norton's father.

Whereas, It is reported to the House of Delegates that the father of Honorable Wilbert H. Norton, a Delegate from the county of Cabell, is critically ill; therefore, be it

Resolved by the House of Delegates:

That this body hereby extends to the family of Delegate Norton's father, our deepest sympathy, and the hope that he will recover from his present illness immediately.

HOUSE RESOLUTION NO. 34

(By Mr. Marsh, of Ohio)

[Adopted January 4, 1934.]

Authorizing the payment of mileage of members.

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby directed to draw his

warrants on the Auditor, in advance of the appropriation for the purpose, for mileage due members and officers of the House of Delegates.

HOUSE RESOLUTION NO. 36

(By Mr. Lubliner)

[Adopted January 5, 1934.]

Authorizing payment of expenses of committee to investigate affairs of West Virginia University.

WHEREAS, The Special Committee appointed by the Committee on Taxation and Finance to investigate the affairs at West Virginia University has performed that duty; and

WHEREAS, It was necessary to incur a total expense of one hundred seventy-six dollars, eighty-nine cents; and

WHEREAS, Said expense was duly authorized by the Committee on Taxation and Finance; therefore, be it

Resolved by the House of Delegates:

That the Sergeant-at-Arms be and is hereby directed to draw his warrant upon the Auditor in favor of John J. Pelter, chairman of said committee, for the above amount, payable out of the contingent fund of the House of Delegates.

HOUSE RESOLUTION NO. 37

(By Mr. Hiner)

[Adopted January 6, 1934.]

Wishing the Honorable P. D. Arbogast, a delegate from the county of Monongalia, a speedy recovery from illness.

WHEREAS, It has been reported to the House of Delegates that the Honorable P. D. Arbogast, a Delegate from the county of Monongalia, is a patient in the St. Francis Hospital in Pittsburgh; therefore, be it

Resolved by the House of Delegates:

That the sympathy of the members of this body is hereby extended to Mr. Arbogast, with the hope that he may have a speedy

recovery from his illness so that he may be able to return to his duties in the House of Delegates; and, be it

Further resolved, That the Clerk transmit a copy of this resolution to Mr. Arbogast.

HOUSE RESOLUTION NO. 38

(BY MR. PEERY)

[Adopted January 8, 1934.]

Requesting all departments of state government to give full and loyal support to the National Recovery Act.

WHEREAS, The National Recovery Act is now in effect and has the support of all loyal Americans; and

WHEREAS, We believe it is the duty, not only of citizens and private business corporations to support this act, but wholehearted support should be given by all governmental departments; and

WHEREAS, Certain departments of our state government are purchasing supplies and materials from firms who are violating the N. R. A. code governing their business transactions, and by their acts are endeavoring to break down and destroy the effect of the National Recovery Act; therefore, be it

Resolved by the House of Delegates:

That each and every department of our state government who are dependent, in any way, upon this branch of the Legislature for aid or assistance in the conduct, management, or control of such department, shall at all times give full and loyal support to the National Recovery Act.

HOUSE RESOLUTION NO. 39

(BY MR. BEACOM)

[Adopted January 10, 1934.]

Authorizing payment of expenses of committee to attend the Inter-state Truck and Bus Conference, held in Harrisburg, Pennsylvania.

WHEREAS, The Inter-state Truck and Bus Conference was held

in Harrisburg, Pennsylvania, October 20 and 21, 1933; and

WHEREAS, The Speaker of the House of Delegates appointed a committee to attend this meeting; and

WHEREAS, Said committee incurred a total expense of one hundred ninety-eight dollars; therefore, be it

Resolved by the House of Delegates:

That the Sergeant-at-Arms be and is hereby directed to draw his warrants upon the Auditor in favor of the members of said committee, in the amounts following: Rush D. Holt, Chairman, thirty-eight dollars; Thomas Strong, thirty-eight dollars; James Kay Thomas, sixty-one dollars; and H. L. Van Sickler, sixty-one dollars, payable out of the contingent fund of the House of Delegates.

HOUSE RESOLUTION NO. 40

(BY MR. LANTZ)

[Adopted January 11, 1934.]

Expressing confidence in the Speaker and Clerk.

Resolved by the House of Delegates:

That we hereby declare our full confidence in the honesty, truthfulness and fairness of our Speaker, the Honorable R. M. Hiner and our Clerk, the Honorable John S. Hall.

HOUSE RESOLUTION NO. 41

(BY MR. DAVIS)

[Adopted January 15, 1934.]

Relating to introduction of Charter Bills.

Resolved by the House of Delegates:

That after the adoption of this resolution, no municipal charter bills shall be introduced in the House of Delegates, unless permission to introduce same be given by a resolution, setting out the title of the bill, and adopted by a majority vote of all the members present and voting: *Provided,* That this shall not apply to any bill or bills providing for municipal home rule.

HOUSE RESOLUTION NO. 43

(By Mr. Holt)

[Adopted January 15, 1934.]

Extending sympathy to Honorable and Mrs. Harvey D. Beeler on account of injury to their son.

WHEREAS, It has been reported to the House of Delegates that the son of Honorable Harvey D. Beeler, Delegate from the County of Morgan, was seriously injured in an automobile accident on yesterday; therefore, be it

Resolved by the House of Delegates:

That the sincere sympathy of the members of this body is hereby extended to Mr. and Mrs. Beeler with the hope that no permanent injury may result, and that their son may speedily recover; and, be it

Further resolved, That the Clerk transmit a copy of this resolution to the Honorable Harvey D. Beeler.

HOUSE RESOLUTION NO. 44

(By Mr. Ferguson)

[Adopted January 16, 1934.]

Granting permission to introduce a charter bill, by not later than January 18.

Resolved by the House of Delegates:

That permission is hereby given to introduce a bill not later than January 18, with the following title:

"A Bill to incorporate the city of Charleston, in the county of Kanawha; to fix its corporate limits; to divide the same into wards, and to prescribe and define the powers, rights and duties of said city of Charleston and of the officers and citizens of the same; to provide a plan of board of affairs-city council government for said city, and to prescribe the duties and powers of the board of affairs, city council and other officers and employees of said city thereunder; to provide for the holding of an election for the purpose of submitting the adoption or rejection of this act to the voters of the city of Charleston; and upon its adoption by the voters of the city

of Charleston, to repeal all other acts or parts of acts inconsistent or in conflict herewith and all acts amendatory thereof; said bill to be known as 'The Charter of the City of Charleston.' "

HOUSE RESOLUTION NO. 45

(BY MR. DUNN)

[Adopted January 19, 1934.]

Creating a committee of three members of the House of Delegates to investigate and inspect the construction of the wall at the state penitentiary, Moundsville, West Virginia.

WHEREAS, It has come to the attention of the House of Delegates through the report of the Board of Control of a defective wall at the State Penitentiary at Moundsville; and

WHEREAS, This report to the Governor and to the press was made by A. Spates Brady, a staunch republican, who has been appointed a member of the Board of Control and whose appointment has not yet been confirmed; and

WHEREAS, In this report he accuses J. V. Tully, superintendent of the building of the wall, with gross negligence; and

WHEREAS, J. V. Tully, who has had forty-three years experience of continuous work and no such charges ever before preferred against him; and

WHEREAS, It is evident that this report inflicts an injustice upon J. V. Tully now and in the future, as well as the Democratic party; therefore, be it

Resolved by the House of Delegates:

That there is hereby created a committee of three members of the House of Delegates to investigate the charges set forth in this resolution and inspect the wall constructed under the supervision of Mr. J. V. Tully, and to make any other inquiries which they may deem proper and expedient, which committee shall make their report to the House of Delegates. Said committee is to be appointed by the Speaker of this House. In their investigation, said committee is authorized to call in expert engineers or inspectors as they deem it necessary to inspect the wall.

HOUSE RESOLUTION NO. 46

(By Mr. Belknap)

[Adopted January 19, 1934.]

Raising a committee to investigate the Federal Civil Works Administration and the Welfare Department in the counties of Braxton and Jackson.

WHEREAS, There has been numerous complaints of mismanagement, charges of nepotism, favoritism, political preference and inefficiency in the handling of administration affairs in the counties of Braxton and Jackson; and

WHEREAS, Members of the Legislature have been importuned to investigate and urge the correction of such mismanagement and gross irregularities on the part of those who are administering the affairs by virtue of their position; and

WHEREAS, If the charges and reports are true the further handling of the business of the Federal Civil Works Administration in said counties by those now in charge will defeat the purpose and deprive the citizens of said counties who are in destitute circumstances of the relief intended for them; and

WHEREAS, It is the desire of the members of the Legislature to assist in clearing up the charges which have been made against those in charge in Braxton county and Jackson county to the end that the administration of unemployment relief may be carried on to the benefit of all those who are in need and entitled to relief; therefore, be it

Resolved by the House of Delegates:

That the Speaker is authorized to appoint three members of the House of Delegates who shall serve as a committee to investigate thoroughly the entire Federal Public Works program and the Welfare Department in the counties of Braxton and Jackson.

The committee shall have the power to summons and compel the attendance of witnesses and shall have power to administer oaths. It may also compel the officials and those in charge to produce any records or papers which the committee deems necessary in the conduct of the investigation.

The committee shall report its findings to the Legislature at the

completion of its investigation, and a record of such findings shall be forwarded to the Honorable M. M. Neely, United States Senator, Washington, D. C., and to the Honorable Andrew Edmiston, member of Congress from the third West Virginia district and the Honorable George W. Johnson, member of Congress from the fourth West Virginia district, and a copy likewise be filed with the Honorable William M. Beehler at Charleston.

HOUSE RESOLUTION NO. 47

(BY MR. ROSS)

[Adopted January 23, 1934.]

Requesting the State Athletic Commission of West Virginia to make a report to the Legislature.

WHEREAS, Section two, chapter three, acts of the Legislature, one thousand nine hundred thirty-one, contains the following provision:

"The commission shall make to the Legislature biennial reports of their proceedings for the two years ending with the last day of the preceding December, and may submit with such report, such recommendations pertaining to its affairs, as to it shall seem advisable"; and

WHEREAS, Section three of said act provides that the secretary of the commission shall annually make a report, to the treasurer of the state, on the fiscal affairs of the commission; and

WHEREAS, The act creating said commission was passed February 27, 1931, to take effect ninety days from passage; and

WHEREAS, Said commission has not to this date made the reports as required by the act creating it; therefore, be it

Resolved by the House of Delegates:

That the State Athletic Commission of West Virginia is hereby directed to report to the Legislature, as required by law; and, be it

Further resolved, That said commission is hereby directed to forthwith report to the state treasurer a complete statement of the

fiscal affairs of said commission, showing all moneys received and disbursed by it, as directed by section three, chapter three, acts of the Legislature, one thousand nine hundred thirty-one.

HOUSE RESOLUTION NO. 48

(By Mr. Davis)

[Adopted January 24, 1934.]

Authorizing the payment of expenses of committee to investigate Civil Works Administration and Welfare Department in the counties of Jackson and Braxton.

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby authorized upon the requisition of the Chairman of the committee appointed to investigate the Civil Works Administration and Welfare Department in Braxton and Jackson counties, to draw his warrants upon the auditor for the expenses of said committee in an amount not to exceed one hundred fifty dollars, payable out of the contingent fund of the House of Delegates.

*HOUSE RESOLUTION NO. 49

(By Mr. Belknap)

[Adopted January 25, 1934.]

Requesting the Auditor to make certain investigations relative to fire insurance companies.

Whereas, The fire insurance companies authorized to do business in West Virginia increased fire insurance rates in the state in 1927; and

Whereas, The said fire insurance companies in the commonwealth of Virginia, after inquiry made by the State Corporation Commission, put into effect rate reductions of approximately $800,000.00, and in the same year of 1929 these fire insurance companies gave reductions in fire insurance rates in North Carolina of approximately $400,000.00; and

Whereas, Despite the claims of the fire insurance companies that

*Rescinded by House Concurrent Resolution No. 45.

they are conducting business at a loss in West Virginia, the number of authorized fire insurance companies increased from 207 in 1920 to 267 in 1932; and

WHEREAS, During the period of 1920-1932 the fire insurance companies received premiums from property owners in West Virginia amounting to $111,325,916, and incurred losses of $64,063,729, and have consistently maintained higher rates than those imposed upon similar risks in adjacent states; therefore, be it

Resolved by the House of Delegates:

That the Hon. Edgar B. Sims, Auditor and ex officio Insurance Commissioner, be requested to make an investigation and inquiry into the following matters:

1. Into the fairness and reasonableness of every and all rates, premium charges, schedules and rating methods being charged, applied or enforced by the stock insurance companies authorized to do business in West Virginia under Article 4, Chapter 33 of the Code.

2. Into the propriety and necessity of reducing any one or more, or all, such rates and premium charges.

3. Into the practice of such companies in imposing an overhead charge of forty-five (45) per cent of premiums collected for administrative and other costs, in order to determine the reasonableness of such charge.

4. Into the advisability of requiring such companies to report their losses by classes in order that fair, just and reasonable rates may be applied and discriminatory premium charges avoided and the admission of such companies denied until such reports of losses by classes are filed with said insurance commissioner; and, be it

Further resolved, That upon the completion of this report by the said Auditor, he shall file forthwith a copy of same with the Governor, cause a copy of the same to be transmitted to the next session of the Legislature, and make public his findings when the inquiry hereby requested is completed.

HOUSE RESOLUTION NO. 50

(By Mr. Lubliner)

[Adopted January 25, 1934.]

Inviting West Virginia Congressmen to present views on congressional redistricting to Democratic caucus of the House of Delegates.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby directed to transmit to the six West Virginia Congressmen an invitation to attend the Democratic caucus of this body on the afternoon of the sixth day of February, one thousand nine hundred thirty-four, and present their views with regard to congressional redistricting bills, now pending before this body.

HOUSE RESOLUTION NO. 54

(By Mr. Newman)

[Adopted February 13, 1934.]

Authorizing payment of expenses of committee to investigate and inspect the construction of the wall at the state penitentiary at Moundsville.

Whereas, Pursuant to H. R. No. 45, a committee of three was raised to investigate and inspect the construction of the wall at the state penitentiary at Moundsville; and

Whereas, The Speaker appointed as members of such committee the Honorable Messrs. Finley, Cresap and Schimmel; and

Whereas, Said committee has made its investigation and has reported its findings to the House of Delegates; therefore, be it

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby directed to draw his warrants in the amount of thirty dollars in favor of each of the following members of said committee, to be paid out of the contingent fund of the House of Delegates:

J. N. Finley, B. O. Cresap and W. H. Schimmel.

HOUSE RESOLUTION NO. 57

(BY MR. BEACOM)

[Adopted February 15, 1934.]

Extending congratulations to Delegate and Mrs. Robert S. Starcher.

WHEREAS, The Honorable Robert S. Starcher, a Delegate from the county of Cabell, became the father of a daughter on Valentine day, February 14, 1934; therefore, be it

Resolved by the House of Delegates:

That the congratulations of this body are hereby extended to the proud father and mother.

HOUSE RESOLUTION NO. 60

(BY MR. LANTZ)

[Adopted February 20, 1934.]

Concerning the appointment of Honorable Charles C. Tallman as head coach at West Virginia University.

WHEREAS, The Board of Governors of the West Virginia university has selected the Hon. Charles C. (Trusty) Tallman, one of the best-loved members of this body, as head coach at the state university; and

WHEREAS, This House, being always interested in the welfare of the state university, desires to acknowledge the honor done it, and the sound judgment shown by the board in making its selection; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates of the West Virginia Legislature congratulates the Board of Governors on the excellent choice they have made, and the people of West Virginia in being able to secure the services of so estimable a gentleman to guide the welfare of the football team of their university; and, be it

Further Resolved, That copies of this resolution be delivered to Hon. H. G. Kump, Governor of West Virginia, to the Board of

Governors of the university, to H. A. Stansbury, director of athletics, and to the newspapers for publication.

HOUSE RESOLUTION NO. 62

(By Mr. Holt)

[Adopted February 20, 1934.]

Suspending the rules of the House of Delegates, relating to offering amendments to certain bills.

Resolved by the House of Delegates, two-thirds of all the members present concurring therein:

That amendments be permitted to be offered to House Bills Nos. 303 to 310, inclusive, and House Bill No. 292, on third reading, notwithstanding House Rule No. 56, and that the rules are hereby suspended in order to carry out the purpose of this resolution.

HOUSE RESOLUTION NO. 63

(By Mr. Lester)

[Adopted February 20, 1934.]

Requesting the State Board of Education to rescind an order of a former board relative to requirements for admittance to examination.

Whereas, Many persons, on account of the present financial depression are unable to attend college in order to get the professional credits, eight semester hours, required for admittance to examination for second grade elementary certificate; and

Whereas, Many of such persons would be forever debarred from entering the teaching profession; therefore, be it

Resolved by the House of Delegates:

That the State Board of Education be and is hereby respectfully requested to remove said requirement of professional credits eight semester hours from the prerequisite to admittance to examination for a second grade elementary certificate; and, be it

Resolved further, That a copy of this resolution be filed with the secretary of the State Board of Education, with the request that it be presented to the board at its next meeting, for its consideration.

HOUSE RESOLUTION NO. 64

(BY MR. LUBLINER)

(Originating in the Committee on Taxation and Finance)

[Adopted February 22, 1934.]

Authorizing the Committee on Rules to arrange a special calendar.

Resolved by the House of Delegates:

That the Committee on Rules is hereby authorized to arrange a calendar for each day, to be known as the Special Calendar, and until the calendar so arranged by the Committee on Rules is disposed of, nothing on the regular House Calendar shall be considered or take precedence over said Special Calendar, except upon a vote of a majority of the members present and voting.

HOUSE RESOLUTION NO. 65

(BY MR. DAVIS)

[Adopted February 27, 1934.]

Authorizing Sergeant-at-Arms to draw warrants for expenses of members.

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby directed to draw his warrants upon the Auditor who shall honor and pay same, in the amount of one hundred fifty dollars, in favor of each member of the House of Delegates for expenses incurred during this extraordinary session of the Legislature, payable out of the contingent fund of the House of Delegates, in advance of the appropriation for the purpose.

HOUSE RESOLUTION NO. 68

(BY MR. DAVIS)

[Adopted March 1, 1934.]

Raising a committee to investigate the loan of the Board of the School Fund to the Ferguson Hotel Corporation.

WHEREAS, On October 14, 1931, the Board of the School Fund loaned sixty thousand dollars to the Ferguson Hotel Corporation, a colored hotel, located in the city of Charleston; and

WHEREAS, On February 27, 1933, the same board which granted the loan, granted to the said hotel corporation certain relief in the matter of payments which included an extension of ten years time on the payment of a part of the bonds; a reduction in the amount of other bonds, a waiver of all rights because of nonpayment of taxes; and a waiver of defaults in payment of principal and interest; and

WHEREAS, Security given on this loan has been questioned as to its sufficiency; therefore, be it

Resolved by the House of Delegates:

That the entire membership of the House of Delegates is hereby constituted a committee to investigate the granting of said loan, the sufficiency of security and such other phases of said loan as the committee may deem proper and report its findings to the House of Delegates in regular session not later than Monday, March 5, 1934.

HOUSE RESOLUTION NO. 69

(BY MR. DAVIS)

[Adopted March 2, 1934.]

Authorizing payment of expenses of committee to investigate loan by the Board of the School Fund to the Ferguson Hotel Corporation.

WHEREAS, Pursuant to House Resolution No. 68 constituting the entire membership of the House of Delegates a committee to investigate the loan by the Board of the School Fund to the Ferguson Hotel Corporation, said committee has performed its duty and has this day, in regular session, made its report, which is now a matter of record; therefore, be it

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby directed to draw his warrant upon the auditor for service on such committee, payable out of the contingent fund of the House of Delegates, payable in advance

of the appropriation for the purpose, in favor of each member of this House in the amount of one hundred fifty dollars, and the auditor is hereby authorized and directed to honor and pay said warrants.

HOUSE RESOLUTION NO. 70

(BY MR. DORINGER)

[Adopted March 2, 1934.]

Authorizing the payment of expenses of committee to investigate the Civil Works Administration and Welfare Department in the counties of Jackson and Braxton.

WHEREAS, Additional expense has been incurred by the committee to investigate the Civil Works Administration and the Welfare Department in Jackson and Braxton counties, in a fair and impartial manner, which expense includes witness fees, serving summons, attorney fees, stenographic services and personal expenses of said committee; therefore, be it

Resolved by the House of Delegates:

The Sergeant-at-Arms is hereby authorized, upon requisitions of the chairman of the committee appointed to investigate the Civil Works Administration and Welfare Department in Jackson and Braxton counties, to draw his warrants upon the auditor for the expense of said committee, including witness fees, stenographic services and attorney fees, in the amount of four hundred ninety-eight dollars and forty-eight cents, payable out of the contingent fund of the House of Delegates, in advance of the appropriation for the purpose.

HOUSE RESOLUTION NO. 72

(BY MR. ROSS)

[Adopted March 13, 1934.]

Authorizing appointment of committee to appear before Senate committees.

WHEREAS, House Bill No. 250, "moratorium on mortgages", and House Bill No. 230, "old age pension bill", passed by the House

months ago are both urgent relief measures in line with the "new deal" and should be enacted into law without further delay; therefore, be it

Resolved by the House of Delegates:

That the Speaker is hereby authorized and directed to appoint a committee of ten known progressive members of the House of Delegates as a "peoples lobby" to appear before the Senate committees in an effort to have the said bills passed by that body.

The sponsor of the resolution shall designate ten members and furnish the Speaker with his recommendation and the Speaker shall name as such committee the persons so designated.

HOUSE RESOLUTION NO. 73

(By Mr. Holt)

[Adopted March 13, 1934.]

Extending the sympathy of the House of Delegates to the Honorable John C. Myers, a Senator from the Second Senatorial District.

Whereas, The Honorable John C. Myers, a member of the State Senate from the County of Marshall, has for several days been confined by serious illness in the Saint Francis Hospital in the city of Charleston; therefore, be it

Resolved by the House of Delegates:

That the members of this body hereby express their sympathy to Senator Myers and their hope for his speedy and complete recovery; and, be it

Further resolved, That the Clerk of the House of Delegates is hereby instructed to send flowers to him as a token of the sympathy and esteem of the members of this body.

HOUSE RESOLUTION NO. 74

(By Mr. Davis)

[Adopted March 16, 1934.]

Raising a Committee to appear before the Senate Committee on the Judiciary.

WHEREAS, Several weeks ago the House of Delegates passed H. B. No. 57, providing for municipal home rule; and

WHEREAS, A municipal home rule law for this state would result in a large saving of money to the people of the state because of taking from the Legislature the matter of charter legislation; and

WHEREAS, Many civic clubs and other organizations of this state have gone on record as favoring such a law; therefore, be it

Resolved by the House of Delegates:

That a committee of ten members of this body is hereby raised to appear before the Senate Committee on the Judiciary in an effort to get H. B. No. 57 out of said committee and passed during this extraordinary session. The sponsor of H. B. No. 57 shall recommend ten members, whom the Speaker shall appoint as said committee.

HOUSE RESOLUTION NO. 75

(BY MR. PELTER)

[Adopted March 21, 1934.]

Concerning the death of Honorable Joseph Thurmond.

WHEREAS, The Honorable Joseph Samuel Thurmond departed this life Monday night at his home at Alderson; and

WHEREAS, The deceased was born in Fayette county, educated in the public schools of this state and at Shelton college and was a prominent figure in the business life of the state, having taught school a number of years, later engaging in civil engineering, farming, mining and banking; and

WHEREAS, The deceased was also prominent in politics, being the first mayor of Thurmond and was three times elected to the House of Delegates from the county of Greenbrier, serving in the 1915, 1917 and 1919 sessions of the Legislature; and

WHEREAS, In the 1917 session of the Legislature, the deceased was elected Speaker of the House of Delegates, serving in that capacity with honor and distinction; and

WHEREAS, He was an able and conscientious member of the Legislature, an outstanding citizen and business man; and

WHEREAS, The Speaker of this body, out of respect to the memory of this former Speaker, has appointed a committee composed of Messrs. Van Sickler, Chipley and Cottrill to attend the funeral at Oak Hill this afternoon and has directed the Sergeant-at-Arms to send an appropriate floral emblem; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby expresses its deepest sorrow over the death of this distinguished West Virginian and the sympathy of each member is extended to the sorrowing family and friends of the deceased; and, be it

Further resolved, That the Sergeant-at-Arms is hereby directed to draw his warrants upon the contingent fund of the House of Delegates, in advance of the appropriation for the purpose, to pay the expenses of the committee to attend the funeral and for the flowers.

HOUSE RESOLUTION NO. 76

(BY MR. GOODWIN)

[Adopted March 23, 1934.]

Relating to use of offices and furniture of the House of Delegates.

WHEREAS, The offices of the House of Delegates have been furnished and equipped during the 1933 sessions of the Legislature; and

WHEREAS, Heretofore, during the time between sessions there has been a constant and continual request from state departments and others to use office rooms and furniture of the House of Delegates; and

WHEREAS, The practice of loaning furniture and permitting the offices of the House of Delegates to be used by state departments and other persons results in much inconvenience and difficulty in collecting furniture and office supplies for sessions of the Legislature; therefore, be it

Resolved by the House of Delegates:

That the Sergeant-at-Arms is hereby directed to take an inventory of all furniture and office equipment in the various offices

of the House of Delegates and to file a copy of such inventory with the Speaker and Clerk; and, be it

Further resolved, That after the adjournment of this session, no furniture or office equipment belonging to the House of Delegates shall be loaned to any state department or person and that no office or office space in the House of Delegates shall be used for any purpose other than Legislative purposes, unless consent therefor is given by the Speaker of the House of Delegates.

HOUSE RESOLUTION NO. 77

(By Mr. Shahan)

[Adopted March 23, 1934.]

Expressing appreciation to Dr. John F. Sly and his staff for services rendered during this session of the Legislature.

Whereas, This session of the Legislature has been faced with the most complex situation that has ever faced a similar body; and

Whereas, Dr. John F. Sly and his staff have labored intensely, in endeavoring to assist this Legislature in solving the many problems which have confronted it; therefore, be it

Resolved by the House of Delegates:

That this body hereby expresses its appreciation for the valuable services which Dr. John F. Sly and his staff have rendered in this trying period of governmental reorganization; and, be it

Further resolved, That a copy of this resolution be sent to Dr. John F. Sly and each of his staff, the Governor of West Virginia and the President of the West Virginia University.

HOUSE RESOLUTION NO. 78

(By Mr. Strong)

[Adopted March 24, 1934.]

Raising a committee to investigate tax legislation and providing for the payment of expenses of said committee.

Resolved by the House of Delegates:

That a committee of three members of the House be appointed by the Speaker to study and investigate what legislation of a con-

structive nature relative to taxation they deem suitable to be considered by the next Legislature, and that they make such report to the Legislature of one thousand nine hundred thirty-five; and, be it

Further resolved, That there be and is hereby appropriated for said committee the sum of fourteen thousand one hundred dollars, to be paid forthwith out of the contingent fund of the House of Delegates, in advance of the appropriation therefor. This amount is to be expended on the warrant of the chairman of said committee.

HOUSE RESOLUTION NO. 80

(By Mr. Dixon)

[Adopted March 24, 1934.]

Extending sympathy to the Delegate from the County of Monroe.

Whereas, The Delegate from the county of Monroe, Mr. LaFon, was taken suddenly ill last night and is now in a Charleston hospital; therefore, be it

Resolved by the House of Delegates:

That the sympathy of this body is hereby extended to the distinguished gentleman from Monroe with the wish for his speedy recovery.

HOUSE RESOLUTION NO. 81

(By Mr. Rairden)

[Adopted March 24, 1934.]

Directing the Clerk to mail members Journals, Bills and Acts of this session.

Resolved by the House of Delegates:

That the Clerk of the House of Delegates is hereby authorized and directed to mail to each member of this body a copy of the corrected Journal of the House, a copy of the printed Bills and ten copies of the bound volumes of the acts of this extraordinary session, when the same are properly indexed and bound.

HOUSE RESOLUTION NO. 83

(By Mr. Norton)

(Originating in the Committee on Rules)

[Adopted March 24, 1934.]

Authorizing printing of corrected Journals and Bills of the House of Delegates for this extraordinary session.

Resolved by the House of Delegates:

That for the purpose of completing the work of this session, in arranging and filing of all bills, resolutons and other official papers in the Clerk's office, and for indexing and proofreading of the corrected Journals and Bills of the House of Delegates and printing thereof, the time of the Clerk and three assistant clerks is extended for ninety days; the time of two proofreaders is extended for sixty days; the time of one proofreader is extended for thirty days; the time of four janitors is extended for seven days; the time of the Clerk to the Committee on Taxation and Finance is extended for ten days; the time of the Clerk to the Committee on Enrolled Bills is extended for ten days; the time of one stenographer is extended for thirty days; the time of two journal room clerks is extended for thirty days; the time of the stenographer to the Clerk is extended for sixty days; the time of the secretary and stenographer to the Speaker is extended for thirty days; and, be it

Further resolved, That for the purpose of closing up the books and accounts of the office of Sergeant-at-Arms, posting his books and such other duties as that office may have to perform, the time of the Clerk to the Sergeant-at-Arms is extended for sixty days; the time of the stenographer to the Sergeant-at-Arms is extended for thirty days; and the time of the Sergeant-at-Arms is extended for sixty days and the Sergeant-at-Arms shall also be paid mileage at ten cents per mile going to and from his home for four trips and the same per diem for two days each trip, as is authorized by this resolution for not to exceed four trips to the Capitol in taking care of the duties of his office, after the extension herein provided has expired.

The per diem of the persons given extensions of time in this resolution, shall be the same as that paid at the regular session of the Legislature, one thousand nine hundred thirty-three; and, be it

Further resolved, That the Speaker shall certify to the Sergeant-

at-Arms and Auditor the persons appointed under authority of this resolution and the Speaker shall have authority to remove any person so appointed and fill any vacancy that may occur.

The Sergeant-at-Arms shall draw his warrants upon the Auditor in favor of the persons entitled to per diems under this resolution for consecutive days, until such time as their services cease, and the auditor shall honor and pay such warrants when presented and charge same to the contingent fund of the House of Delegates.

HOUSE RESOLUTION NO. 84

(By Mr. Norton)

(Originating in the Committee on Rules)

[Adopted March 24, 1934.]

Authorizing the printing and distribution of the Acts of the second extraordinary session of the Legislature of one thousand nine hundred thirty-three.

Resolved by the House of Delegates:

That under authority of section thirteen, article one, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, the Clerk of the House of Delegates is hereby directed to have printed by the public printer three thousand advance copies of the Acts of this extraordinary session of the Legislature, properly headnoted, and with a full table of contents, and in paper binding, for distribution among the members of the Legislature, judges of the supreme court of appeals, circuit, criminal and intermediate courts and county officials.

The public printer shall print and deliver said advance copies as soon as possible after the adjournment of this session. The Clerk of the Senate shall be furnished sufficient copies to forward by mail or express ten of said copies to each member of the Senate and the Clerk of the House of Delegates shall forward by mail or express ten copies to each member of the House of Delegates, without delay. The Clerk of the House of Delegates shall furnish one copy to each of the state officials, judges of the supreme court of appeals, circuit, criminal, common pleas and intermediate courts and shall forward to the county clerk of each county sufficient copies to furnish one copy to each county office, the remainder, if any, shall be delivered to the superintendent of public printing for

distribution. The Clerk of the House of Delegates is also authorized and directed to have printed in signature form for advance sheets any general law which he 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 of Delegates is hereby directed to be paid by the Auditor upon proper warrants, to pay postage or expressage on said advance copies.

For the work required in printing and distributing advance copies of the Acts and for the proofreading, indexing and printing the bound volume of the Acts of this session of the Legislature, the time of the Clerk of the House of Delegates and two assistant clerks is extended for thirty days, at the same per diem as paid at the last regular session of the Legislature.

The Speaker shall certify to the Sergeant-at-Arms and Auditor the persons appointed as assistant clerks under authority of this resolution and the per diems shall be paid out of the contingent fund of the House of Delegates upon the warrants of the Sergeant-at-Arms.

HOUSE RESOLUTION NO. 85

(BY MR. THOMAS)

[Adopted March 24, 1934.]

Requesting the Governor to convene the Legislature in extraordinary session.

WHEREAS, Due to the Senate adjourning *sine die* today, without acting upon certain bills pending before the Legislature, a number of the purposes for which the Governor convened the Legislature in extraordinary session, November 21, 1933, have not been carried out; therefore, be it

Resolved by the House of Delegates:

That His Excellency, the Governor, be and he is hereby requested to convene the Legislature in extraordinary session immediately, to act upon the items in the Governor's proclamation calling this session, which have not been acted upon.

HOUSE RESOLUTION NO. 86

(BY MR. LUBLINER)

[Adopted March 24, 1934.]

Notifying the Senate that the House of Delegates is ready to adjourn *sine die.*

Resolved by the House of Delegates:

That a committee of three be appointed by the Speaker to notify the Senate that the House of Delegates has completed its labors and is ready to adjourn *sine die.*

SENATE CONCURRENT RESOLUTION NO. 1

(BY MR. HENDERSON)

[Adopted November 21, 1933.]

Raising a joint committee to wait upon the Governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a committee of three on the part of the Senate, to be appointed by the President, and three on the part of the House of Delegates, to be appointed by the Speaker, be appointed to wait upon the Governor and notify him that the Legislature is now in extraordinary session, pursuant to his proclamation dated November the second, one thousand nine hundred thirty-three, with a quorum of each house present and awaits any communication he may desire to make.

SENATE CONCURRENT RESOLUTION NO. 3

(BY MR. ABBOT)

[Adopted November 21, 1933.]

Relating to the payment by the Auditor of mileage and contingent and other expenses of this extraordinary session of the Legislature.

Resolved by the Senate, the House of Delegates concurring therein:

That the Auditor, in advance of the appropriation for the pur-

pose, is hereby authorized, upon proper warrants of the Clerk of the Senate and Sergeant-at-Arms of the House of Delegates, to pay the mileage of the members of the Senate and House of Delegates, bills incurred for supplies and services furnished to the Legislature for this extraordinary session including contingent expenses, the per diem of the officers and attaches of the Senate and House of Delegates and legislative printing for the session as the accounts for same may come due.

SENATE CONCURRENT RESOLUTION NO. 4

(BY MR. NEALE)

[Adopted December 6, 1933.]

Respecting the death of the Honorable C. P. Craig.

WHEREAS, The Honorable C. P. Craig departed this life on Monday, November 27, 1933; and

WHEREAS, He was one of the outstanding citizens of our state, a conscientious and able lawyer, respected and admired in his home community and by a host of friends throughout the state; and

WHEREAS, Among other positions of trust and honor he held, he ably represented his county as its representative in the House of Delegates in the sessions of one thousand nine hundred five and one thousand nine hundred seven and his district in the Senate in the sessions of one thousand nine hundred nine and one thousand nine hundred eleven and also served as chief supervisor for this state, census one thousand nine hundred thirty; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature deplores the loss of this splendid man and public servant and extends its sympathy to his sorrowing family and friends; and, be it

Resolved further, That the Clerk of the Senate is directed to send copies of this resolution to the family of the deceased.

SENATE CONCURRENT RESOLUTION NO. 5

(BY MR. ABBOT)

[Adopted December 12, 1933.]

Relating to payment by the state of salaries of public school teachers.

WHEREAS, The state has assumed the payment of the salaries of teachers in the public schools for at least four months without the particular months being designated; and

WHEREAS, The state has paid the said salaries for the first two months of the present school year, but has paid nothing further on said salaries; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That it is the sense of the Legislature that the state should assume the payment of said salaries for the third and fourth months of the present school year, and revenue not now being available for that purpose; and, be it

Resolved further, That the Governor is requested to borrow immediately, until revenue is available, sufficient money to pay said salaries: *Provided, however,* That said amount shall not exceed the appropriation heretofore made by the Legislature for this purpose.

SENATE CONCURRENT RESOLUTION NO. 6

(BY MR. HEROLD)

[Adopted January 25, 1934.]

Raising a joint committee to investigate the federal civil works administration in this state.

WHEREAS, There has been wide-spread complaint of mismanagement in West Virginia of the federal civil works administration; and

WHEREAS, Charges of favoritism and political preference in such management have been made to state and federal officials; and

WHEREAS, It is the desire of the members of the Legislature to assist in clearing up the charges which have been made against

the civil works administration officials in this state, to the end that the administration of unemployment relief may be carried on to the benefit of all those who are in need and entitled to relief; now therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the President of the Senate is hereby authorized to appoint three members of the Senate, and the Speaker of the House of Delegates is authorized to appoint three members of the House of Delegates, who shall serve as a joint committee to investigate thoroughly the entire federal civil works administration in West Virginia. This committee shall have the power to summons and compel the attendance of witnesses and shall have power to administer oaths. It may also request the officials of the civil works administration in West Virginia to produce any records or papers which the committee deems necessary in the conduct of the investigation. The expenses of this committee, if any, shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Delegates. The committee shall report its findings to the Legislature at the completion of its investigation, and a record of such findings shall be forwarded to the United States Senators and members of the House of Representatives from West Virginia, to be delivered personally by them to the President of the United States.

HOUSE OF DELEGATES SUBSTITUTE FOR S. C. R. NO. 8

(BY MR. HODGES)

[Adopted February 23, 1934.]

Concerning request for reduced water rates in Huntington, West Virginia.

WHEREAS, The House of Delegates and the Senate of West Virginia of the West Virginia Legislature received from the Public Service Commission of West Virginia, a letter dated February 12, 1934, in acknowledgment of a concurrent resolution passed by the Legislature, requesting the commission to study the present water rates of the city of Huntington, with a view to reducing the same; and

WHEREAS, The commission pointed out two alternative courses, by which it might proceed in such investigation, and requested of the Legislature its desires as to which course the commission should follow; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring therein:

That the Public Service Commission is hereby respectfully advised that the Legislature and the sponsor of the resolution appreciate its prompt, complete, and informative reply to its resolution; and

That said commission be further advised that it is the desire of the Legislature that the commission should proceed in this matter in such way as in its opinion is to the best interest of the citizens of the city of Huntington, and the water consumers of the other municipalities of the state.

SENATE CONCURRENT RESOLUTION NO. 9

(BY MR. HODGES)

[Adopted February 20, 1934.]

Requesting the Budget Commission to send to the Legislature a supplemental budget.

WHEREAS, Under the terms of the new levy bill, known as house bill number two hundred thirty-four, the county school boards of the state have been deprived of more than five million dollars in levying power, which they possessed on the fourth Tuesday of August, one thousand nine hundred thirty-three, which levying power under house bill number two hundred thirty-four was redistributed in accordance with supreme court decisions to provide for the payment of bonded debts of counties, schools, and municipal corporations; and

WHEREAS, The operating budgets of the several county school systems of the state were prepared in August, one thousand nine hundred thirty-three, in anticipated use of the aforesaid revenues, of which they have now been deprived; and

WHEREAS, It is now apparent that the Legislature must raise additional revenue for school purposes, to be allocated back to the

county school boards as primary aid, to replace the direct property levies diverted from the public school system; and

WHEREAS, The boards of education in the several counties, as well as the preliminary studies made by the Legislature, indicate that state primary aid for schools shall have to be increased from the present basis of four months to eight months; and

WHEREAS, In addition to the above new revenues, the Legislature shall be called upon to raise revenues for the purposes of direct relief, in order to secure the continuance of federal appropriations for this purpose, which have hitherto been unsupplemented by the state; and

WHEREAS, Both of the above named basic revenue requirements facing the present Legislature are entirely new and in addition to the biennial budget passed at the first extraordinary session of one thousand nine hundred thirty-three, and are not needed for the purpose of meeting any deficit in the operating expenses of the state government, or to balance its operating budget; and

WHEREAS, The Legislature can act intelligently upon revenue bills required to meet these new costs only upon the presentation of a carefully prepared estimate of such expenditures; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Budget Commission be respectfully requested to send to the Legislature at the earliest possible moment a supplemental budget showing the revenues needed to meet the above named requirements of schools and direct relief, and the revenues required for such other purposes as the Commission, in its judgment, may see fit to recommend, in order that the Legislature may have the benefit of such information upon which to base its consideration of revenue bills thereby required.

SENATE CONCURRENT RESOLUTION NO. 12

(BY MR. HODGES)

[Adopted March 6, 1934.]

Concerning the death of the Honorable James S. Lakin.

WHEREAS, The members of the Legislature have just received

word of the death of the Honorable James S. Lakin, of Charleston, West Virginia; and

WHEREAS, Mr. Lakin was appointed a member of the state board of control upon the creation of that body by the Legislature of one thousand nine hundred and nine, and served his state with distinction and credit for a period of twenty-four years; and

WHEREAS, The development of many of the state's institutions was assisted and guided through all these years by his wise counsel and business like administration of the fiscal affairs of the state; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That this resolution recognizes the distinguished service of Mr. Lakin to his fellow-citizens, and

That a copy of this resolution be sent to the members of Mr. Lakin's family, as evidence of the high regard with which Mr. Lakin was held by his fellow-citizens of West Virginia, and as a further token of the sympathy of the members of this Legislature.

SENATE CONCURRENT RESOLUTION NO. 13

(BY MR. HEROLD)

[Adopted March 7, 1934.]

Concerning the death of the Honorable Kenna K. Hyre.

WHEREAS, The Legislature has just been advised of the death of the Honorable Kenna K. Hyre, a Senator from the fourth district; and

WHEREAS, Senator Hyre, after his graduation from West Virginia University and admission to the bar, established an enviable reputation as a conscientious and able advocate and served his home town of Ripley as a member of the council and the educational interests of his county as a member of the board of education before his election to the Senate; and

WHEREAS, In the labors of the Legislature in the last regular and the first and present extraordinary sessions, his unbiased views, indefatigable energy and keen reasoning powers were of inestimable value to his colleagues and his state; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the Legislature expresses its keenest sorrow over the early and untimely death of Senator Hyre and deplores the loss of an eminent and public-spirited citizen, and an honest and clear thinking legislator; and, be it

Resolved further, That the sympathy of each member of the Legislature is extended to the sorrowing family and friends in this, their dark hour of bereavement; and, be it

Resolved further, That the Senate, in a body, with a committee of five from the House of Delegates, to be appointed by the Speaker, attend the funeral, as a mark of the high esteem in which Senator Hyre was held by the members of both houses, and that the clerks of the two houses are directed to send suitable floral emblems at once to Senator Hyre's late residence; and, be it

Resolved further, That as a mark of respect to his memory the Legislature do now adjourn until 2:00 o'clock P. M. tomorrow.

SENATE CONCURRENT RESOLUTION NO. 14

(BY MR. HELSLEY)

[Adopted March 17, 1934.]

Approving the organization of the George Washington Foundation Association for the perpetuation of Berkeley Springs as a health resort.

WHEREAS, Just one hundred eighty-six years ago a young surveyor, then but sixteen years of age, visited the even then famed Warm Springs in Virginia which, according to Indian legend were noted for their curative qualities even before the paleface found them; and

WHEREAS, This young surveyor in the employ of Lord Thomas Fairfax, of Virginia, upon his discovery of the healing and curative qualities of these springs, immediately communicated his great find to Lord Fairfax, who directed him to lay out that section of ground around the springs for a town; and

WHEREAS, At this early age, this youth, George Washington, began to manifest a deep personal interest in the establishing of a

health center for suffering humanity, and by his great humanitarian act laid the foundation for the first health center in North America; and

WHEREAS, George Washington was the first person to take an active interest in promoting the Warm Springs as a health center, and thus influenced Lord Fairfax to make these springs "to be forever free to the public" for the "sake of suffering humanity"; and

WHEREAS, Young Washington was further instrumental in bringhis own friends and the friends of Lord Fairfax to the springs to erect homes for a summer colony, later bringing his own family to try "y. effects of y. famed waters" disregarding the hazards of travel in those Indian days; and

WHEREAS, Through his influence as a general in the American Revolution, the General Assembly of Virginia passed an act establishing a town by the name of Bath at the Warm Springs, for a place to care for the sick and wounded soldiers of the Revolution; and

WHEREAS. While generalissmo of the Revolutionary forces, George Washington purchased lots at the first lot sale in Bath on August 18, 1777, inducing his brothers and friends and other noted persons to make like purchases; and

WHEREAS. His humanitarian interest in this health resort continued until after he became the first President of the United States of America, on April 30, 1789. In October, 1794, he visited Bath and was accompanied by his private secretary, Bartholomes Dandridge and his Secretary of the Treasury, Alexander Hamilton, and made repeated visits until he was no longer able to do so on account of the pressing affairs of State; and

WHEREAS, The rights of and title to these unsurpassed and unequalled mineral springs, by the name of Berkeley Springs by which they are now known and held, are now vested in the state of West Virginia and are a state owned, revenue producing project and the most famous springs in the world today for their curative qualities for the benefit to suffering humanity, and are forever free to the public; and

WHEREAS, George Washington, the founder of our Nation, first

laid the foundation for this health resort as a benefit to mankind; therefore, be it

Resolved by the Senate, the House of Delegates concurring therein:

That the organization of a West Virginia association to be known as the "George Washington Foundation Association," for the purpose of carrying on this great humanitarian project begun by the great Washington one hundred eighty-six years ago, on March 18, 1748, be and the same is hereby approved.

SENATE CONCURRENT RESOLUTION NO. 16

(By Mr. Henderson)

[Adopted March 24, 1934.]

Raising a joint committee to wait upon the Governor.

Resolved by the Senate, the House of Delegates concurring therein:

That a joint committee of six, consisting of three on the part of the House of Delegates, to be appointed by the Speaker thereof, and three 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 has completed its labors and is now ready to adjourn *sine die* and ask him if he has any further communication to make to the Legislature.

SENATE RESOLUTION NO. 1

(By Mr. White, of Hampshire)

[Adopted November 21, 1933.]

Raising a committee to inform the House of Delegates that the Senate has assembled in extraordinary session.

Resolved by the Senate:

That a committee of three be appointed by the President to inform the House of Delegates that the Senate has assembled in extraordinary session, pursuant to the proclamation of His Excel-

lency, Governor H. G. Kump, with a quorum present, and is ready to proceed with the business of the extraordinary session.

SENATE RESOLUTION NO. 2

(BY MR. JOHNSON)

[Adopted November 21, 1933.]

Adopting rules of the Senate.

Resolved by the Senate:

That the rules of the Senate, regular session, one thousand nine hundred thirty-three, be adopted as the rules of the Senate for this session with the addition of the following new rule:

No. 71—Any bill, resolution or business may, by a vote of the majority of the members present, be withdrawn from the committee to which it had been referred or be taken from the table and placed upon the regular or special calendar of the Senate in such order of business as the Senate may direct.

SENATE RESOLUTION NO. 3

(BY MR. HODGES)

[Adopted November 21, 1933.]

Relating to the mailing of journals and bills.

Resolved by the Senate:

That the Clerk of the Senate is authorized to have mailed from the Senate document room, copies of the bills and daily journals of the Senate, to addresses to be furnished to the Clerk by the members of the Senate, not to exceed twenty of such addresses from any one member of the Senate, and that the expense of so mailing, including postage, be paid out of the contingent fund of the Senate by the Auditor, in advance of the appropriation therefor, upon proper requisition drawn by the Clerk of the Senate.

SENATE RESOLUTION NO. 4

(BY MR. SMITH)

[Adopted November 23, 1933.]

Authorizing certain printing.

WHEREAS, There is much interest being manifested in old age pensions, not only in this, but in many other states, and many inquiries for the West Virginia law have been and are being received; and

WHEREAS, Said law is not available in any form except in the Acts; therefore, be it

Resolved by the Senate:

That one thousand copies of the law, which is chapter thirty-two, acts of the Legislature, session one thousand nine hundred thirty-one, be printed in pamphlet form for the use of the Senate, the Secretary of State and for distribution.

SENATE RESOLUTION NO. 5

(BY MR. SMITH)

[Adopted December 22, 1933.]

Inviting John J. Cornwell to address the Senate on the "Prince Plan" for the consolidation of existing railway systems.

WHEREAS, Newspaper dispatches have reported that Hon. Joseph B. Eastman, federal railroad coordinator, has under consideration what is termed the "Prince Plan" for consolidation of all railroads of the country into seven systems, which would combine the Baltimore & Ohio railroad and its affiliated and related companies with the Pennsylvania system; and

WHEREAS, It is represented in these newspaper reports that the said Baltimore & Ohio railroad company's system would be dismantled as a through carrier of freight and passengers and reduced to a branch line of the Pennsylvania system; and

WHEREAS, If this transformation should transpire, the said Baltimore & Ohio system would be depreciated in value, causing the state of West Virginia and the counties therein, where its property

is located, to lose large sums of tax revenue and the business developed would suffer severe handicaps; and

WHEREAS, It is desirable that the Legislature be fully informed as to all of the facts concerning this proposed consolidation; therefore, be it

Resolved by the Senate:

That the president of the senate is authorized to invite former governor John J. Cornwell, general counsel for the said Baltimore & Ohio railroad company, to appear before the Senate at such time as may be agreeable to the Senate, and give to its members such information as he may have with respect to the so-called "Prince Plan."

SENATE RESOLUTION NO. 6

(BY MR. BENEKE)

[Adopted November 22, 1933.]

Expressing sympathy to Senator Howard F. Neale on account of the serious illness of his son.

Resolved by the Senate:

That the sympathy of the Senate is hereby extended to Senator Howard F. Neale, of the Third district, on account of the serious illness of his young son, "Tommy," due to an accident; and, be it

Resolved further, That the Clerk of the Senate is directed to send flowers, on behalf of the Senate, to Tommy, with the hope of a speedy and complete recovery.

SENATE RESOLUTION NO. 7

(BY MR. HENDERSON)

(Originating in the Committee on Rules)

[Adopted November 28, 1933.]

Authorizing the appointment of attaches.

Resolved by the Senate:

That the President of the Senate is authorized to make the following appointments:

Three document and three mailing room clerks; a stenographer to the President; a secretary to the minority; a senate messenger; two floor pages; a clerk to the Sergeant-at-Arms; a stenographer to the minority; nine floor stenographers; a clerk and a stenographer to the Judiciary Committee; a clerk and a stenographer to the Committee on Finance; a stenographer to the Committee on Education; one men's cloak room attendant and one women's cloak room attendant.

Resolved further, That the Clerk of the Senate is authorized to make the following appointments:

A secretary; supervisor of printing; two proof readers; two copy holders; supervisor of document room; supervisor of typeing room; an enrolled bill clerk; a bill record clerk and a messenger.

The per diem of all the above attaches and the officers of the Senate to be fixed by the Committee on Rules in a subsequent report.

SENATE RESOLUTION NO. 8

(By Mr. Hodges)

[Adopted November 23, 1933.]

Extending the thanks of the Senate to the Honorable Commodore D. Dotson, retiring Sergeant-at-Arms.

Resolved by the Senate:

That the Senate expresses its genuine thanks to Honorable Commodore D. Dotson for his loyal and efficient service as Sergeant-at-Arms of this body.

SENATE RESOLUTION NO. 9

(By Mr. Hodges)

[Adopted November 24, 1933.]

Pertaining to legislation for maintenance and support of the public school system.

Whereas, The educational training of our thousands of school children is a matter of first importance in the minds of our citizens; and

WHEREAS, The public schools in the state have been kept open to this time under extreme difficulties which have occasioned grave concern, particularly to those most responsible; and

WHEREAS, Boards of education, teachers and others employed in the maintenance of schools have exerted every effort to keep the schools open and have maintained a determined spirit of patriotic courage in the face of these unparalleled circumstances without in many counties a single dollar of available local revenue for support; therefore, be it

Resolved by the Senate:

That we express by resolution to the members of county boards of education, teachers and maintenance employees of the public school system our appreciation for their loyalty and courage in making possible to this time the continuance of the public school system; and that we extend to them the assurance of such relief, as may be within our power to provide through remedial legislation, to the end that our mutual efforts may save and preserve educational opportunities to all the boys and girls in our public school system.

SENATE RESOLUTION NO. 10

(BY MR. JOHNSON)

(Originating in the Committee on Rules)

[Adopted December 8, 1933.]

Concerning per diem for assistant janitors.

WHEREAS, T. M. Davis, superintendent of capitol building and grounds, under the authority of section twenty-two, article one, chapter five of the code, has designated five assistants for the janitor work of the Senate for this session; therefore, be it

Resolved by the Senate:

That the per diem of said assistant janitors is fixed at four dollars, and that of the said T. M. Davis is fixed at two dollars, as the Senate's one-half of his per diem.

SENATE RESOLUTION NO. 11

(By Mr. White, of Hampshire)

(Originating in the Committee on Rules)

[Adopted December 8, 1933.]

Concerning officers and attaches of the Senate.

Resolved by the Senate:

That the per diem of the officers of the Senate and of the attaches whose appointments were authorized under Senate Resolution No. 7 is fixed as follows:

Document room cerks, mailing room clerks, clerk to the sergeant-at-arms, floor stenographers, stenographers to minority, stenographers to the Committee on the Judiciary, Finance and Education, six dollars; messenger to the Clerk, five dollars; cloak room attendants, floor pages and Senate messenger, four dollars; proof readers, copy holders, enrolled bills and bill record clerks, seven dollars; stenographer to the president and clerks to the Judiciary and Finance Committees, eight dollars; secretary to the Clerk, supervisor of printing, supervisor of typeing room and superintendent of document room, nine dollars; secretary to the minority, twelve dollars; clerk of the Senate, eighteen dollars; sergeant-at-arms and doorkeepers, nine dollars.

The Clerk shall draw his warrants upon the Auditor in favor of the officers and attaches for consecutive days at the per diem above set out and the Auditor shall honor and pay said warrants, in advance of the appropriation for the purpose, when presented and charge same to the "per diem of officers and attaches" fund of the Senate.

SENATE RESOLUTION NO. 12

(By Mr. White, of Mingo)

(Originating in the Committee on Rules)

[Adopted December 8, 1933.]

Payment for services of attaches.

Resolved by the Senate:

That the Clerk of the Senate is authorized to draw his warrant

upon the Auditor in favor of the following named persons and amounts for services rendered preparatory to the convening of this extraordinary session:

C. D. Dotson, $100.00; Miles Carr, $150.00; Noble Mitchell, $28.00; Herbert Eckles, $52.00; Helen Gardner, $90.00 and Alice Marshall, $6.00.

SENATE RESOLUTION NO. 13

(By Mr. Abbot)

[Adopted December 8, 1933.]

Raising a committee to consider and prepare revenue measures.

Resolved by the Senate:

That the President of the Senate appoint a committee of five to consider and prepare any revenue measures the committee may deem necessary. Said committee shall report to the Senate as soon as possible any measure or measures it may agree upon and shall work in conjunction with a similar committee from the House of Delegates, if and when appointed.

No expense shall be incurred by said committee unless specifically authorized by the Senate.

SENATE RESOLUTION NO. 14

(By Mr. Hodges)

[Adopted December 20, 1933.]

Charging C. C. Morris with assault upon Louis A. Henderson, a member of the State Senate.

Whereas, On December 20, 1933, in the chamber of the Senate of West Virginia in the capitol building in Charleston, C. C. Morris committed an assault upon Louis A. Henderson, a member of the said Senate, for and on account of words spoken in debate by the said Louis A. Henderson in the said Senate at its meeting in its chamber on December 19, 1933; therefore, be it

Resolved by the Senate:

That the Sergeant-at-Arms of the Senate is directed forthwith

to bring before the Senate the said C. C. Morris there to answer said charge and be dealt with as the Senate may determine.

SENATE RESOLUTION NO. 15

(By Mr. White, of Mingo)

[Adopted December 20, 1933.]

Concerning Senate Resolution No. 14, declaring Col. P. D. Shingleton, Superintendent of the Department of Public Safety, to be in contempt of the Senate.

Whereas, At a meeting of the Senate on Monday, December 18, 1933, when there was less than a quorum present, an order was made authorizing and directing the superintendent and members of the department of public safety of this state to assist the Sergeant-at-Arms of the Senate in bringing in absent members of the Senate for a meeting of that body at 7 o'clock P. M., on that day; and

Whereas, At a meeting of the Senate held at 7 o'clock P. M. on said day, at which there was less than a quorum present, there was proposed a resolution designated, "Senate Resolution No. 14 —'Declaring Col. P. D. Shingleton, superintendent of the department of public safety, to be in contempt of the Senate'," which resolution was spread at large upon the Journal of the Senate of said day; therefore, be it

Resolved by the Senate:

That said *Senate Resolution No. 14 be, and the same is hereby expunged and forever stricken from the Journal of this body.

SENATE RESOLUTION NO. 16

(By Mr. Henderson)

(Originating in the Committee on Rules)

[Adopted December 21, 1933.]

Concerning attaches.

Resolved by the Senate:

That the services of the following attaches be dispensed with from and including December 23, 1933, until January 3, 1934: M. L. Jackson, Fairfax Brown, W. E. Connell, Jr., Mrs. C. B.

*After this resolution was expunged from the Journal the same number was given to another resolution.

Miller and Mrs. Nell Skees, and that the services of the following attaches be dispensed with after today until said January 3, 1934: Mrs. Eleanor Sheets, Mrs. Georgia Reinwald, G. E. Mosser, W. H. Needham, Fred Staub, Frank Ross, Mont Reinhart, James Downey, John Holsclaw, Joseph Sweeney, Mrs. Ruth Copenhaver, Miss Julia Adams, Mrs. Homer K. Hager, Miss Alice Keeley, Mrs. Frances Owens, Mrs. Fern Runion, Miss Katharine Russell, Ben Wilson, Henry McGraw, R. C. Slaughter, James Pickens, Anderson Herold, Miss Isabel Henshaw, E. T. Moler, Miss Mary E. Noyes, Robt. L. Crotchin, Miss Nancy McClure, Chester Pettijohn, Miss Mary F. Hill, Sam McEldowney, Dan H. Reynolds and three assistant janitors, to be designated by the superintendent of capitol building and grounds.

SENATE RESOLUTION NO. 17

(BY MR. ABBOT)

[Adopted January 18, 1934.]

Memorializing the United States Senators from West Virginia to oppose ratification of the Great Lakes-St. Lawrence waterways treaty now pending before the United States Senate.

WHEREAS, There is pending before the United States Senate for ratification a treaty for the opening of the Great Lakes-St. Lawrence waterways, which will entail an expenditure of several billion dollars; and

WHEREAS, The opening of this waterway would permit British, German, French and Russian coals to be delivered by vessel to Canada and American ports on the Great Lakes amounting to millions of tons annually, carried as ballast, returning with Canadian grain and food supplies; and

WHEREAS, It is reasonably certain that ten to fifteen millions of tons of coal for many years sent to Canada from the coal mining districts of West Virginia, would be displaced by the importation of foreign coal, resulting in a serious displacement of labor in the mines and thousands of men employed on the railroads, and in resultant unemployment of men employed on the farms and in industries which provide materials and supplies to the coal and railroad industries; and

WHEREAS, The development of this waterway in addition to

being destructive to the coal industry of this state, resulting in substantial losses in taxation needed for the support of public schools, the state government and public institutions, would also be destructive to railroads traversing the mining and farming districts of West Virginia, serving the Atlantic seaboard, whose securities are owned by thousands of our citizens and insurance companies in which many of our citizens have their life savings; and

WHEREAS, Millions of dollars are now being expended to improve our economic stabilization which must be paid from future taxation, to expend other billions of dollars to destroy properties upon which we are dependent and to cast thousands of persons on the unemployment rolls is in a measure economic suicide; and

WHEREAS, Lake Michigan, which lies wholly within the boundaries of the United States, has always been regarded as American waters is now sought by this treaty to be made an international lake and joint control thereof turned over to Canada in opposition to the interests of the American people; therefore, be it

Resolved by the Senate:

That we respectfully request the Honorable M. M. Neely and the Honorable H. D. Hatfield, representing the state of West Virginia in the Senate of the United States, to oppose ratification of the pending treaty in an honorable effort to aid the best interests of the people of this state; and, be it

Resolved further, That the Clerk of the Senate be required to forward to the Honorable M. M. Neely and the Honorable H. D. Hatfield, duly attested copies of this resolution.

SENATE RESOLUTION NO. 19

(BY MR. HODGES)

[Adopted January 26, 1934.]

Concerning payment by taxpayers of the state income tax for the year one thousand nine hundred thirty-three.

WHEREAS, The public has gained the impression in many sections of the state that there is to be an extension of time granted to the taxpayers of the state in the payment of their annual income tax for the calendar year ending December thirty-first, one thousand

nine hundred thirty-three, due on or before January thirtieth, one thousand nine hundred thirty-four; and

WHEREAS, This impression has been created, in part at least, by published reports that the Legislature might repeal the state income tax law, thus relieving the taxpayers of any obligation whatever for this, the first year, in which such tax has been in force and effect; and

WHEREAS, The fiscal affairs of this state are in such condition as to make it impossible for the Legislature to abate any taxes for the past twelve months which have not yet been paid; now, therefore, be it

Resolved by the Senate:

That this body does not contemplate the repeal, with retroactive effect, of any of the revenue statutes now existing; and, be it

Resolved further, That all taxpayers, having liability to the state, in order to avoid the statutory penalty, are advised to make their remittances to the proper collecting authority within the time specified by law, or within any such extension of time as the Tax Commissioner, under the authority granted him by any such revenue statute, may see fit to provide.

SENATE RESOLUTION NO. 20

(BY MR. WHITE, of Mingo)

(Originating in the Committee on Rules)

[Adopted January 26, 1934.]

Concerning retention of attaches during the recess.

Resolved by the Senate:

That the services of all attaches of the Senate be dispensed with after January 27 until February 5, 1934, except such as may be designated by the President and Clerk to remain during the recess.

SENATE RESOLUTION NO. 21

(BY MR. HODGES)

[Adopted February 8, 1934.]

Extending the sympathy of the Senate to the Honorable Kenna K. Hyre on account of the death of his father.

WHEREAS, The members of the Senate of West Virginia have learned with deepest regret of the death of Hon. J. A. Hyre, of Ripley, father of Senator Kenna K. Hyre, an esteemed member of this body from the fourth senatorial district; now, therefore, be it

Resolved by the Senate:

That the sympathy of this body is extended to Senator Hyre and to the members of the family in their bereavement. and,

That the Sergeant-at-Arms is instructed to send to the Hyre residence a suitable floral tribute as a token of the sympathy of the members of this body. the expense of same to be paid from the contingent fund of the Senate, and

That a copy of this resolution be forwarded by the Clerk of the Senate to the members of the bereaved family, and

That the President of the Senate appoint a committe of three members of the Senate to attend the funeral service.

SENATE RESOLUTION NO. 23

(BY MR. NULL)

[Adopted March 12, 1934.]

Extending the sympathy of the Senate to Senator John C. Myers, of Marshall county.

WHEREAS, The Honorable John C. Myers, a member of this body from the Second Senatorial District, is now confined by a serious illness in a local hospital; therefore, be it

Resolved by the Senate:

That the members of this body express their sympathy to Senator Myers and their hope for his speedy and complete recovery; and, be it

Resolved further, That the Clerk of the Senate be instructed to send flowers to him to express the sympathy and esteem of his fellow members of the Senate.

SENATE RESOLUTION NO. 25

(By Mr. White, of Hampshire)

(Originating in the Committee on Rules)

[Adopted March 24, 1934.]

Printing of the Journal and advance and bound copies of the Acts.

Resolved by the Senate:

That in order to complete the work of the session in arranging and filing of all bills, resolutions, petitions and other official papers in the clerk's office and document room, and to allow for proof-reading, printing and indexing the corrected journal and arranging and printing its several appendices, and in printing and indexing the volume of senate bills, the per diem of the Clerk, and his secretary at $18.00 and $9.00, respectively, one assistant clerk at $12.00 and two assistant clerks at $9.00 is extended for ninety days; the superintendent of the document room at $9.00, sixty days; two document room clerks, at $6.00, sixty days each, and one document room clerk at $6.00, forty-five days; four printing clerks, at $7.00, forty-five days each; the clerk on enrolled bills, at $7.00, ten days; the sergeant-at-arms, at $9.00, thirty days; the clerk to the sergeant-at-arms, at $6.00, ten days; messenger in clerk's office, at $5.00, ninety days; secretary to the President, at $8.00, fifteen days.

The Clerk, together with the Clerk of the House of Delegates, is hereby directed to have printed by the public printer three thousand advance copies of the Acts of this session, exclusive of municipal charters, properly headnoted, and with a full table or contents, and in paper binding, for distribution among the members of the Legislature, judges of the Supreme Court of Appeals, and of the circuit, criminal and intermediate courts, circuit and county clerks, sheriffs and prosecuting attorneys.

Said public printer shall print and deliver said advance copies to the clerks of the two houses as soon as possible after the adjournment of this session. Upon receipt of the same, the clerk 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 state officials, and the remainder, if any, they shall deliver to the superintendent of printing and stationery for distribution.

The said clerks are also authorized and directed to have printed in signature form for advance sheets any general law which they may deem of sufficient importance to be issued and distributed in that form. The sum of one thousand dollars out of the contingent fund of the Senate is hereby directed to be paid by the auditor, upon proper warrant to pay the postage or expressage on said advance copies.

For the extra work provided for in this resolution, the time of the Clerk of the Senate and his secretary, at $18.00 and $9.00 per diem, respectively, and one assistant clerk at $12.00, is extended for thirty days.

The compensation of those designated hereunder shall be paid out of the contingent fund of the Senate for consecutive days, upon proper requisitions drawn by the Clerk of the Senate upon the auditor.

SENATE RESOLUTION NO. 26

(By Mr. White, of Mingo)

(Originating in the Committee on Rules)

[Adopted March 24, 1934.]

Janitor service after adjournment.

Resolved by the Senate:

That, in order that the work incident to the proper cleaning of the Senate part of the capitol preparatory to closing between sessions may be taken care of, the time of the superintendent of capitol building and grounds, at a per diem of two dollars, and five assistant janitors heretofore appointed at a per diem of four dollars, is hereby extended for five days each.

SENATE RESOLUTION NO. 27

(BY MR. HENDERSON)

[Adopted March 24, 1934.]

Raising a committee to notify the House of Delegates that the Senate is ready to adjourn *sine die.*

Resolved by the Senate:

That a committee of two be appointed by the President to notify the House of Delegates that the Senate is ready to adjourn *sine die.*

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