

ACTS

OF THE

LEGISLATURE

OF

WEST VIRGINIA

AT ITS

EXTRAORDINARY SESSION

COMMENCING JULY 26, 1904.



CHARLESTON:
THE TRIBUNE PRINTING COMPANY

1904.



LIST OF MEMBERS AND OFFICERS OF THE LEGISLATURE OF WEST VIRGINIA.

EXTRA SESSION, 1904.

SENATE.

President—CLARKE W. MAY, Hamlin.

Clerk—JOHN T. HARRIS, Parkersburg.

Sergeant-at-Arms—LEWIS LARGENT, Paw Paw.

Door-Keeper—DAVID S. PETTIGREW, Summersville.

| District. | Name. | Postoffice Address. |
|----------------|--|--|
| First..... | * Jacob Snyder, R..... † J. F. Croe, R..... | Wheeling, Ohio County. Wellsburg, Brooke County. |
| Second..... | * Charles E. Carrigan, R..... Andrew Clark, R..... | Benwood, Marshall County. Dean, Wetzel County. |
| Third..... | * Charles T. Caldwell, R..... Thomas A. Brown, R..... | Parkersburg, Wood County. Elizabeth, Wirt County. |
| Fourth..... | * J. S. Darst, R..... Byrd Hill, R..... | Cottageville, Jackson County. Beech Hill, Mason County. |
| Fifth..... | * G. A. Northcott, R..... Clarke W. May, R..... | Huntington, Cabell County. Haulin, Lincoln County. |
| Sixth..... | * W. H. H. Cook, R..... John Y. York, R..... | Windom, Wyoming County. Yorkville, Wayne County. |
| Seventh..... | * William H. McGinnis, D..... M. F. Mathony, R..... | Beckley, Raleigh County. Beckley, Raleigh County. |
| Eighth..... | * E. C. Colcord, R..... B. O. Holland, R..... | St. Albans, Kanawha County. Logan, Logan County. |
| Ninth..... | Alex. McVeigh Miller, R..... Andrew J. Horan, R..... | Alderson, Monroe County. Summersville, Nicholas County. |
| Tenth..... | * R. F. Kidd, D..... Hiram Campbell, R..... | Glenville, Gilmer County. Creston, Wirt County. |
| Eleventh..... | * Charles W. Swisher, R..... Ira E. Robinson, R..... | Fairmont, Marion County. Grafton, Taylor County. |
| Twelfth..... | * George C. Colo, R..... Harvey W. Harmer, R..... | Weston, Lewis County. Clarksburg, Harrison County. |
| Thirteenth.... | * Stark L. Baker, R..... W. B. Corder, R..... | Beverly, Randolph County. Berrysburg, Barbour County. |
| Fourteenth.... | * L. J. Forman, R..... Richard C. Price, D..... | Petersburg, Grant County. Moorefield, Hardy County. |
| Fifteenth..... | * John J. Cornwell, D..... William Campbell, D..... | Romney, Hampshire County. Charles Town, Jefferson County. |

R—Republican.

D—Democrat.

* Hold-over Senators.

† Elected to fill unexpired term of Samuel George, deceased.

HOUSE OF DELEGATES.

Speaker—F. P. MOATS, Parkersburg.

Clerk—HARRY SHAW, Fairmont.

Sergeant-at-Arms—H. N. WORDEN, Davis.

Door-Keeper—J. W. MAYNARD, Macdonald.

The figure preceding the name of the county indicates the number of Delegates the county is entitled to.

| County. | Name. | Politics. | Postoffice. |
|--------------------|------------------------|-----------|------------------|
| 1. Barbour..... | S. H. Bowman..... | D. | Philippi. |
| 2. Berkeley..... | Jacob Sites..... | R. | Marlowe. |
| | John C. Hutsler..... | D. | Martinsburg. |
| 1. Boone..... | James H. Allen..... | D. | Six Mile. |
| 2. Braxton..... | * R. M. Cavendish..... | D. | Sutton. |
| | E. B. Carlin..... | D. | Sutton. |
| 1. Brooke..... | C. G. Buchanan..... | D. | Wellsburg. |
| 3. Cabell..... | Philip M. Merritt..... | R. | Central City. |
| | C. M. Buck..... | R. | Huntington. |
| | Chas. L. Simpson..... | R. | Huntington. |
| 1. Calhoun..... | A. E. Kenney..... | D. | Grantsville. |
| 1. Clay..... | Mark C. Kyle..... | R. | Clay. |
| 1. Doddridge..... | J. W. Bee..... | R. | Greenwood. |
| 3. Fayette..... | J. W. Blizzard..... | R. | Nuttallburg. |
| | W. H. Martin..... | R. | Gatewood. |
| | J. M. Ellis..... | R. | Mt. Hope. |
| 1. Gilmer..... | F. N. Hays..... | D. | Glenville. |
| 1. Grant..... | C. M. Babb..... | R. | Falls. |
| 2. Greenbrier..... | Dr. W. P. Lowe..... | D. | Falling Springs. |
| | H. L. Van Sickler..... | D. | Lewisburg. |
| 1. Hampshire..... | Dr. J. F. Gardner..... | D. | Capon Bridge. |
| 1. Hancock..... | John E. Newell..... | R. | Morcor |
| 1. Hardy..... | J. Ward Wood..... | D. | Lost City. |
| 2. Harrison..... | Jasper S. Kyle..... | R. | Clarksburg. |
| | † * * * | | |
| 2. Jackson..... | A. W. Hawk..... | R. | Sandyville. |
| | R. E. Hughes..... | R. | Ripley. |
| 1. Jefferson..... | C. M. Wetzel..... | D. | Millville. |
| 5. Kanawha..... | C. N. Edgington..... | R. | Charleston. |
| | Morris P. Shawkey..... | R. | Charleston. |
| | C. E. Rudesill..... | R. | Charleston. |
| | Shelton Johnson..... | R. | East Bank. |
| | Geo. C. Weimer..... | R. | St. Albans. |

* Elected to fill vacancy caused by death of Hon. John S. Garee.

† Vacancy caused by death of Judge Edwin Maxwell—not filled.

HOUSE OF DELEGATES.

v

| | | | | |
|----|-----------------|----------------------------------|----|-------------------|
| 1. | Lewis..... | Roy V. Chidester..... | D. | Weston. |
| 1. | Lincoln..... | Joseph R. McClure..... | R. | Sioto. |
| 1. | Logan..... | Dr. Jas. E. McDonald..... | D. | Man. |
| 3. | Marion..... | H. R. Furbee..... | R. | Mannington. |
| | | Amos O. Stanley..... | R. | Fairmont. |
| | | J. O. McNealey..... | R. | Fairmont. |
| 2. | Marshall..... | W. H. Harris..... | R. | Glen Easton. |
| | | T. E. Parriott..... | R. | Baunen. |
| 2. | Mason..... | John G. Aten..... | R. | Chestnut. |
| | | Samuel D. Hanna..... | R. | Hartford. |
| 2. | Mercer..... | Thomas Reed..... | R. | Oakvale. |
| | | D. P. Crockett, M. D., M. E..... | R. | Goodwill. |
| 1. | Mineral..... | F. M. Reynolds..... | R. | Keyser. |
| 1. | Mingo..... | Geo. R. C. Wiles..... | D. | Williamson. |
| 2. | Moungalia..... | Altha Warman..... | R. | Morgantown. |
| | | Lewis C. Snyder..... | R. | Morgantown. |
| 1. | Monroe..... | Geo. Alderson, Jr..... | D. | Alderson. |
| 1. | Morgan..... | S. C. Cross..... | R. | Great Cacapon. |
| 2. | McDowell..... | W. S. Cope..... | R. | McDowell. |
| | | Harvey Hagerman..... | R. | Bradshaw. |
| 1. | Nicholas..... | Isaac A. Dix..... | D. | Kirkwood. |
| 4. | Ohio..... | Ralph McCoy..... | R. | Triadelphia. |
| | | Daniel Moody..... | R. | Wheeling. |
| | | Wm. G. Caldwell..... | R. | Wheeling. |
| | | Henry W. Schrebe..... | R. | Wheeling. |
| 1. | Pendleton..... | ‡ M. G. Trumbo..... | D. | Brandywine. |
| 1. | Pleasants..... | T. C. Davis..... | R. | Wasp. |
| 1. | Pocahontas..... | Dr. J. P. Moomau..... | D. | Greenbank. |
| 2. | Preston..... | W. B. Freeland..... | R. | Terra Alta. |
| | | J. W. Davis..... | R. | Etam. |
| 1. | Putnam..... | Wm. G. Barnhart..... | D. | Red House Shoals. |
| 1. | Raleigh..... | W. S. Steele..... | R. | Marshes. |
| 1. | Rundolph..... | Lew Graynolds..... | D. | Elkins. |
| 2. | Ritchie..... | E. C. Goff..... | R. | Goffs. |
| | | Benjamin McGinnis..... | R. | Ellenboro. |
| 2. | Roano..... | J. G. Schilling..... | R. | Spencer. |
| | | C. C. Kelley..... | R. | Reedyville. |
| 1. | Summers..... | M. M. Warren..... | D. | Pence Springs. |
| 1. | Taylor..... | Virgil T. Handley..... | R. | Grafton. |
| 1. | Tucker..... | A. M. Cunningham..... | R. | Parsons. |
| 2. | Tyler..... | T. P. Hill..... | R. | McKim. |
| | | R. L. Gregory..... | R. | Sistersville. |
| 1. | Upshur..... | Henry Colerider..... | R. | French Creek. |
| 2. | Wayne..... | D. B. Hardwick..... | D. | Fort Gay. |
| | | M. M. Morrison..... | D. | Wayne. |
| 1. | Webster..... | E. H. Morton..... | D. | Webster Springs. |
| 2. | Wetzel..... | F. M. Keller..... | D. | Hundred. |
| | | A. F. Dulaney..... | D. | West. |
| 1. | Wirt..... | G. A. Burdett..... | D. | Lucile. |
| 3. | Wood..... | F. P. Moats..... | R. | Parkersburg. |
| | | F. P. Hatfield..... | R. | Lenchtown. |
| | | I. S. McPherson..... | R. | Lubeck. |
| 1. | Wyoming..... | John W. Cook..... | R. | Jessa. |

| | Rep. | Dem. | Total. |
|-------------|------|------|--------|
| Senate..... | 25 | 5 | 30 |
| House..... | 56 | 29 | 85 |
| Totals..... | 81 | 34 | 115 |

Republican majority: In the House, 27; in the Senate, 20; on joint ballot, 47.

‡ Died during special session—August 1st.

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ACTS OF 1904.

SPECIAL SESSION.

(House Bill No. 29.)

CHAPTER 1.

AN ACT making appropriations of public money to pay general charges upon the treasury mentioned in the governor's proclamation, calling this special session.

[Passed August 11, 1904. In effect from passage. Approved August 12, 1904.]

Sec.

1. Appropriations for altering, fitting up and moving into the several state offices: for criers, messengers and janitors of the supreme court; for addi-

Sec.

tional salary of the janitor of the capitol. Also for contingent legislative expenses, and miscellaneous appropriations.

Be it enacted by the Legislature of West Virginia:

1. There shall be and are hereby appropriated out of the State fund for the fiscal year ending September thirtieth, one thousand nine hundred and four, except as hereinafter set forth, the following sums for the purposes as follows:

To pay for steel work, architect's commission, furniture and supplies for law library and supreme court rooms, in the capital annex, payable out of the revenues for the fiscal year beginning the first of October, one thousand nine hundred and four, thirty thousand dollars.

For furniture and alterations in the governor's office in the capitol building, one thousand three hundred dollars.

For the pay of criers, messengers and janitors of the supreme court for the year one thousand nine hundred and four, one thousand two hundred dollars.

To pay the additional salary of the janitor of the capitol for the session of the legislature of one thousand nine hundred and three, one hundred and thirty-five dollars.

To pay bills for supplies, carpets, furniture and other expenses for altering, fitting up and moving into the auditor's office, two thousand one hundred and seventy-eight dollars and ninety-eight cents.

To pay bills for supplies, carpet, furniture and other expenses for altering, fitting up and moving into the office of superintendent of free schools, six hundred and eighty-five dollars.

To pay for the purchase of a coat-of-arms to be made in bronze, for the armored cruiser "West Virginia," two thousand five hundred dollars; which appropriation was made by the legislature of one thousand nine hundred and one, and not being used has lapsed, and is hereby re-appropriated.

To pay bills for supplies, carpets, furniture and other expenses for altering, fitting up and moving into the treasurer's office, one thousand one hundred and forty-five dollars and eighty-six cents.

To pay bills for supplies, carpets, furniture and other expenses for altering, fitting up and moving into the adjutant general's office, four hundred and ninety-one dollars and ninety-eight cents.

To pay bills for supplies, carpets, shades, furniture and other expenses, for fitting up and moving into the attorney general's office, one hundred and eighteen dollars and thirty-five cents.

To pay bills for supplies, furniture and other expenses, for altering, fitting up and moving into the secretary of state's office, one hundred and seventeen dollars and eight cents.

To pay for fitting up offices of the state tax commissioner, clerk hire, contingent expenses, *etc.*, of state tax commissioner, to March one, one thousand nine hundred and five, four thousand dollars.

The foregoing appropriations to be paid out and disbursed to the persons entitled thereto upon the order of the board of public works, and upon contracts and accounts approved and allowed by said board of public works, and upon warrants drawn by the auditor by direction of said board.

A full and complete itemized statement of all such expenditures shall be submitted to the legislature by said board of public works at its next regular session.

Contingent Legislative Expenses.

For contingent expenses of the senate, two thousand five hundred dollars.

For the contingent expenses of the house of delegates, four thousand five hundred dollars.

Miscellaneous Appropriations.

The following appropriations are made to be paid upon the order or requisition of the person or persons to whom they are allowed:

To pay N. S. Burlew, for supplies, sixty cents.

To pay F. J. Daniels, for brush and oil cloth, seven dollars and forty-five cents.

To pay Eskew, Smith and Cannon, for bolts and carpet sweeper, five dollars and ten cents.

To pay Loewenstein and Sons, for keys, lock, *etc.*, one dollar and forty-five cents.

To pay Lewis, Hubbard and Company, for brooms, *etc.*, four dollars and ninety-five cents.

To pay M. W. Grossman, for glass, varnish and glazing doors and windows, ninety-four dollars and ninety cents.

To pay Noyes, Thomas and Company, for supplies, ten dollars and seventy-four cents.

To pay Scott Brothers, for brushes, combs, soap, *etc.*, thirty-three dollars and twenty cents.

To pay Chas. H. Porter, for repairing the clock of house of delegates, two dollars.

To pay Rudesill and Mead, for supplies, eleven dollars and fifteen cents.

To pay West Virginia Heating Company, for plumbing, *etc.*, six dollars and fifty-five cents.

To pay Mrs. Jennie Cantrell, for washing towels, ten dollars.

To pay Banner Agency, for the use of two typewriters, ten dollars.

To pay Meyer Brothers, for one down tank, twelve dollars and fifty cents.

To pay P. A. Donovan, for mantles, burners and supplies, twenty-five dollars.

To pay Charleston Electrical Supply Company, for shades and shade-holders, three dollars and sixty cents.

To pay A. M. Straughan, for two punches, five dollars.

To pay for the distribution of the acts of this session, two hundred dollars, the same to be paid upon the order of the board of public works.

To pay Wm. Hoferer, for chair-plates, one dollar and fifty-five cents.

To pay W. P. Hardway, fitting keys and repairing locks, five dollars.

(House Bill No. 30.)

CHAPTER 2.

AN ACT making appropriations of public money to pay members of the legislature for this special session.

[Passed August 11, 1904. In effect from passage. Approved August 12, 1904.]

| | |
|--|--|
| <p>SEC. 1. Appropriations to pay members, officers, etc., of the legislature for the</p> | <p>SEC. extraordinary session, 1904.</p> |
|--|--|

Be it enacted by the Legislature of West Virginia:

1. There shall be and are hereby appropriated the following sums of money for the pay of the members and officers of the legislature:

Legislative Department—Senate.

To pay mileage of twenty-nine members of the senate, one thousand one hundred and eighty-three dollars and ten cents.

To pay *per diem* compensation for thirty members of the senate, including Geo. C. Cole, who is unable to attend on account of sickness, and who is entitled to pay under the code, two thousand two hundred and eighty dollars.

To pay *per diem* compensation of the officers, assistant clerks, committee clerks, pages, *etcetera*, that is to say:

To pay the clerk of the senate, two hundred and ninety dollars.

To pay eight assistant clerks, nine hundred and twelve dollars.

To pay six committee clerks, four hundred and fifty-six dollars.

To pay two stenographers, two hundred and twenty dollars.

To pay five pages, one hundred and ninety dollars.

To pay the sergeant-at-arms, ninety-five dollars.

To pay the assistant sergeant-at-arms, ninety-five dollars.

To pay the door-keeper, seventy-six dollars.

To pay the librarian of the senate, seventy-six dollars.

To pay the cloak room keeper, thirty-eight dollars.

To pay the private secretary of the president of the senate, one hundred and fourteen dollars.

To pay D. G. Thompson, for swearing in a member of the senate, fifty cents.

House of Delegates.

To pay mileage of eighty-four members, of the house of delegates,

including Thomas Reed, who was unable to attend on account of sickness, three thousand five hundred and fifty-four dollars and fifty cents.

To pay *per diem* compensation of eighty-four members of the house of delegates, six thousand three hundred and eighty-four dollars.

To pay *per diem* compensation of the officers, assistant clerks, committee clerks, pages, *etcetera*, that is to say:

To pay the clerk of the house of delegates, two hundred and ninety dollars.

To pay ten assistant clerks, one thousand, one hundred and forty dollars.

To pay three committee clerks, two hundred and thirty-six dollars.

To pay ten pages, three hundred and eighty dollars.

To pay the sergeant-at-arms, ninety-five dollars.

To pay the door-keeper, eighty-four dollars.

To pay the assistant door-keeper, eighty-four dollars.

To pay the gallery door-keeper, eighty-four dollars.

To pay the librarian of the house of delegates, one hundred and fourteen dollars.

To pay two cloak-room keepers, one hundred and fifty-two dollars.

To pay private secretary of the speaker of the house of delegates, one hundred and fourteen dollars.

(Substitute for House Bill No. 1.)

CHAPTER 3.

AN ACT to amend and re-enact sections one to seventy-seven, both inclusive, of chapter thirty-two of the code of West Virginia, relating to regulations respecting licenses, injury to persons arising from illegal sales of intoxicating liquors—remedy therefor, and amount or rate of tax on each subject of taxation.

[Passed August 11, 1904. In effect May 1, 1905. Approved August 13, 1904.]

| | | | |
|------|---|-------------------------|--|
| Sec. | | Sec. | |
| 1. | { For what a state license is necessary. | 36. | To deliver such list to sheriff, when. |
| 2. | | 37. | To deliver such list to auditor, when. |
| 3. | Penalty for acting without license. | 38. | Such list to be evidence, of what. |
| 4. | License not required in certain cases. | 39. | Instruction by auditor to clerks, etc. |
| 5. | { Sales by druggists—prosecution and | 40. | { Penalty on clerks, etc., for neglect of |
| 6. | | penalty for violations. | |
| 7. | Prescriptions of physicians. | 41. | Sheriff may distrain upon receipt of |
| 8. | { Certain provisions respecting tavern | | list mentioned in section thirty-six. |
| 9. | | licenses. | 42. |
| 10. | { How licenses are obtained. | 43. | When license taxes to be paid into the |
| 11. | | | treasury. |
| 12. | | | 44. |
| 13. | Power of incorporated city, village or | 45. | Appeals. |
| | town council not to be impaired, ex- | 46. | Sheriff charged interest on amount in |
| | cept when. | | arrears. |
| 14. | What persons eligible to license under | 47. | Commissions for collecting license tax- |
| | sec. 1. | | es. |
| 15. | Applicant for license must comply with | 48. | Duty of prosecuting attorney. |
| | all provisions of law. | 49. | How chapter construed. |
| 16. | Penalty for selling or giving liquor to | 50. | Rate of tax on each subject of taxation. |
| | minors, etc. | 51. | On real and personal property. |
| 17. | Sale by one person for another deemed | 52. | Capitation tax. |
| | sale by both. | 53. | Hotel, tavern and restaurant tax. |
| 18. | Buildings where liquors are sold ille- | 54. | { On distillers and brewers. |
| | gally deemed nuisances—may be abat- | | |
| | ed by injunction. | 55. | |
| 19. | Owner of building where law is viola- | 56. | Retail liquor tax. |
| | ted, how punished. | 57. | Wholesale liquor tax. |
| 20. | Liability of violators to husband, wife, | 58. | Retailer not to sell over five gallons at |
| | etc., in damages; how suits brought. | | a time. |
| 21. | Clandestine selling; power of officers | 60. | Wholesaler not to sell less than five gal- |
| | in case of. | | lons at a time. |
| 22. | Bonds required in certain cases. | 61. | Liquor license for a theater. |
| 23. | Justices of the peace; jurisdiction over | 62. | License for selling apple and peach |
| | certain violations. | | brandy. |
| 24. | License revoked for good cause. | 63. | On stock and other brokers. |
| 25. | Of the place to which the license is con- | 64. | On tobacco, cigarettes, etc. |
| | ferred. | 65. | On druggists. |
| 26. | How licenses may be transferred to an- | 66. | On bowling alley. |
| | other place. | 67. | On billiard or pool table. |
| 27. | How licenses may be assigned. | 68. | On junk dealers, etc. |
| 28. | Fees for licenses, and for alterations or | 69. | On house-boat; on slot machine. |
| | transfers of same. | 70. | On roller coaster, merry-go-round or |
| 29. | { Time for which the license is to be | | scenic railway. |
| 30. | | granted. | 71. |
| 31. | | | dirks, slung shots, etc. |
| 32. | Appeals from assessment of state tax to | 72. | On money brokers or private bankers. |
| | the tax commissioner. | 73. | On bagatelle table. |
| 33. | Posting and production of license, | 74. | On roller skating rink. |
| | when. | 75. | Certain provisions respecting public |
| 34. | Duty of clerk of the county court. | | watering places. |
| 35. | Clerk to make list of persons from | 76. | On auctioneers. |
| | whom state licenses are required. | 77. | On pawnbrokers. |

Be it enacted by the Legislature of West Virginia:

1. Chapter thirty-two of the code, relating to regulations respect-

ing licenses, injury to persons arising from illegal sales of intoxicating liquors—remedy therefor, and amount or rate of tax on each subject of taxation, is hereby amended and re-enacted so as to read as follows:

For what a state license is necessary.

Sec. 1. No person without a state license therefor shall

(a) keep a hotel or tavern, eating house or restaurant; or

(b) furnish intoxicating drinks or refreshments at a public theatre;

or

(c) sell or offer or expose for sale, or solicit or receive orders for, spirituous liquors, wine, porter, ale, or beer, or any drink of a like nature; or

(d) carry on the business of a distiller or brewer of whiskey, brandy, beer, porter or ale; or,

(e) being a brewer, sell or offer or expose for sale, or solicit or receive orders for, ale or beer or any drink of like nature; or

(f) carry on the business of a druggist; or

(g) keep for public use or resort a bowling alley, billiard table, pool table, bagatelle table, or any table of like kind, or a shooting gallery or skating rink.

All mixtures, preparations or liquids which will produce intoxication, whether they are patented or not, shall be deemed spirituous liquors within the meaning of this section. The words "eating house," in this section, shall not apply to farmers who furnish meals to travelers and others passing.

Sec. 2. No person without a state license therefor shall exhibit

(a) any circus, menagerie, circus and menagerie combined, theatrical performance, street or other carnival, or public show, to which admission is obtained for money or other reward, except for the benefit or under the auspices of a volunteer fire department; or

(b) run or operate for profit a merry-go-round or roller coaster or scenic railway or like device; or

(c) act as a hawker or peddler; or

(d) act as auctioneer; or

(e) practice the business of stock broker, merchandise broker, or other broker, by buying or selling for others, stocks, securities or other property, for a commission or reward; or

(f) practice such business by carrying on what is commonly known as a bucket shop, or by engaging in transactions for the purchase or sale for others of grain, provisions, stocks, securities, merchandise or

other property, wherein the parties thereto or the broker intend that such transaction shall be settled according to public market quotations on any board of trade or exchange, and without a *bona fide* transaction on such board of trade or exchange, or intend that such transaction may be deemed terminated when such public market quotations shall reach a certain figure, or intend that such property shall reach a certain figure, or intend that such property shall be resold before or at the time fixed in such transaction for the delivery of such property and that the differences, between the contract price and the market price thereof, shall be paid or received without the prior receipt or delivery of such property under the former sale; or

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

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

(i) sell or barter or offer or expose for sale or barter any patent right; or sell, offer or expose for sale, trading stamps, premium stamps or certificates of like nature or character; or,

(j) being a traveling agent, canvasser or salesman, sell or contract to sell any lightning rods, sewing machine, stove or range, or organ or other musical instrument, whether manufactured within or without the state; or

(k) sell, offer or expose for sale, or solicit or receive orders for manufactured tobacco, snuff, cigars, cigarettes, or any other preparation of tobacco, or cigarette paper or wrappers, at retail; or

(l) carry on the business of a junk dealer; or

(m) selling pistols, revolvers, dirks, slung-shots, billeys, bowie-knives, metallic or other false knuckles, or weapons of like kind; or

(n) maintain or occupy any house-boat, or like structure or vessel, upon or along the bed, banks or shores of any navigable stream; or

(o) maintain any slot machine or other automatic device which, for the same profit or reward in each case and without any violation of law, furnishes music, or exhibits pictures, or provides facilities for weighing, or supplies any merchandise or other thing, or renders any service; but no slot machine or other automatic device with respect to which, or its operation, service or supplies, there is any element of chances (being a gaming table, within the meaning of section one of chapter one hundred and fifty-one of the code), shall be licensed or protected by any license; or,

(p) being a corporation, heretofore or hereafter chartered under the laws of this state, whether its principal place of business or chief works be within or without the state, do or attempt to do, any business by virtue of its charter or certificate of incorporation: *provided*, that nothing in this chapter contained, and no license or payment under the provision hereof, shall be taken to legalize any act which otherwise may be in violation of law, or exempt any person from any penalty prescribed for such violation.

Penalty for acting without license.

Sec. 3. Any person convicted of violating either of the two preceding sections, except paragraphs "b," "c", and "d" in section one, shall, except where it is otherwise provided herein, be fined not less than twenty nor more than one hundred dollars, and may, in the discretion of the court, be imprisoned in the county jail not more than three months; and any person convicted of violating either of said paragraphs "b," "c," or "d" of said section shall be fined not less than twenty-five dollars nor more than two hundred dollars, and imprisoned in the county jail not less than two months nor more than six months; and upon a second conviction, for violating any of said paragraphs "b," "c", and "d", such person shall be confined in the penitentiary for one year.

License not required in certain cases.

Sec. 4. This chapter shall not be construed

(a) to require license to keep a boarding house or boarding school, where boarders are not received for less than three days; or

(b) to prohibit a druggist from selling without license spirituous liquors or wine, in good faith, for medicinal purposes, or alcohol for medicinal, scientific or mechanical purposes; or

(c) to require any incorporated bank, savings bank, or savings institution, or trust company, to obtain a license as a broker or private banker; or

(d) to require any resident of this state to obtain a license to exhibit any work or production of his own invention or skill; or

(e) to require license for any school exhibition, literary or scientific lecture or musical concert; or

(f) to affect any person furnishing refreshments at any public dinner, fair, festival or celebration; or

(g) to affect any trustee selling trust property, or any personal representative or committee selling property belonging to the estate

under his charge, or any officer or commissioner selling property under the order, decree, execution or process of any court of justice of this state, or of the United States; or

(h) to affect any colporteur or person selling religious books.

Sales by druggists.

Sec. 5. If any druggist shall sell spirituous liquors, ale, beer or wine, unless for medical purposes, or alcohol unless for medical, scientific or mechanical purposes, he shall for each and every offence be fined not less than fifty nor more than two hundred dollars; and he shall upon a second conviction be fined not less than one hundred nor more than five hundred dollars, and may, in the discretion of the court, be imprisoned in the county jail not less than thirty nor more than ninety days, and the court wherein such conviction is had may revoke the license of such person to carry on the business of druggist and registered pharmacist; and no such license or licenses shall thereafter be granted to such person, or to any person in his employ; and it shall be the special duty of the circuit court to give this provision in charge to every grand jury. If any person shall upon or along any river, which forms any part of the boundary line of this state, violate the first section of this chapter he shall, in addition to the penalty prescribed in section three, be confined in the county jail not less than thirty nor more than sixty days, and during such sentence shall work at hard labor on any public highway of the county, under the custody of the sheriff or his deputy, at such place or places as the court may direct.

Sec. 6. In any prosecution against a druggist for selling alcohol, spirituous liquors or wine, without a license therefor, if the sale be proven, it shall be presumed that the sale was unlawful in the absence of satisfactory proof to the contrary. No sale of alcohol, except for mechanical or scientific purposes, spirituous liquors or wine, shall be made by any druggist under the provisions of this chapter, except upon the written prescription of a practicing physician in good standing in his profession, and not of intemperate habits, specifying the name of the person and the kind and quantity of liquors to be furnished him, and stating that such liquors, so prescribed, are absolutely necessary as a medicine for such person, and are not to be used as a beverage, and not more than one sale shall be made upon the same prescription. And the production of such prescription by the defendant at the trial of an indictment against him, for the sale of the alco-

hol, spirituous liquors or wine mentioned therein, shall be sufficient to rebut the presumption arising from the proof of such sale as hereinbefore provided for, if the jury believe, from all the evidence in the case that the sale was made in good faith, under the belief that such prescription and statement were true.

Sec. 7. If any physician shall, for the purpose of aiding a druggist or other person in the violation of any of the provisions of this chapter, or otherwise, give such prescription and make such statement falsely, he shall be guilty of a misdemeanor, and fined not less than fifty nor more than two hundred dollars. Every such prescription and statement shall be filed and preserved by the druggist selling such liquors thereon, and the same shall be open and subject to the inspection of the prosecuting attorney of the county, or any member of a grand jury thereof, or any relative of the person to whom such liquors were sold; and any druggist or person, in charge of such prescriptions and statements, who shall wilfully fail or refuse to produce the same, when demanded for inspection by any of the persons aforesaid, shall be guilty of a misdemeanor and fined not less than twenty nor more than one hundred dollars.

Certain provisions respecting tavern licenses.

Sec. 8. Every house where food and lodging is usually furnished to travelers, and payment required therefor, shall be deemed a hotel or tavern. Every person licensed to keep a hotel or tavern shall constantly provide the same with lodging and diet for travelers and their servants, and with stableage and provender, or pasturage and provender, as the season may require, for their horses; but if such hotel be in a city, village or town, the council may, if the applicant desire it, dispense with the necessity of providing for horses. If any person so licensed fail to comply with this section the license may be revoked, pursuant to the twenty-fourth section; and shall always be revoked if it appear that the principal object, in obtaining the same, is not to provide lodgings and diet for travelers and their servants, but to use it as a facility for selling intoxicating liquors.

Sec. 9. The state tax on a license to keep a hotel or tavern shall be determined by the yearly rental value of the premises occupied for that purpose. The clerk of the county court may require the proprietor, and if the premises be leased or rented, the tenant, to declare on oath the amount of rent agreed to be paid; and, if either of them refuse to do so, the person so refusing shall forfeit not less than twenty nor

more than one hundred dollars. From such information, if obtained, and a comparison of the premises, where it is in his power, with other premises actually leased or rented, and other circumstances affecting the value, the said clerk shall estimate the yearly value to the best of his judgment, taking into consideration, not only the house itself, but all the lots, gardens, stables, outhouses, booths and watering places, held and used therewith, but excluding the contiguous farm and farm houses.

How state licenses are obtained.

Sec. 10. The state licenses mentioned in the first section shall be issued only when authorized by the county court of the county, except as herein otherwise provided, and except, further, that where the act, occupation or business, for which such state license is necessary, is to be done or carried on in an incorporated city, village or town, the license shall be issued only when authorized under the charter of said city, village or town, by the council thereof, as well as by the county court: *provided*, that no license shall be issued for the sale of intoxicating liquors within two miles of the limits of any incorporated city, town or village, in which there is no such license, without the consent of the council thereof be first obtained.

Sec. 11. Every person desiring to obtain a state license shall apply for a certificate therefor to the clerk of the county court, except as hereinafter provided. If he desire such license for any purpose named in the first section, he shall, if the business is in an incorporated town, wherein the council is vested with the sole power of granting such license, or wherein the assent of such municipal authorities is required to the granting of the same, deliver to said clerk a copy of the order or resolution of the council of said town authorizing or assenting to such license. If the business is to be carried on in an incorporated town, the council of which is vested with the exclusive power of granting such license, the said clerk shall thereupon deliver to the applicant a certificate of the license to be obtained, and the amount of the tax to be paid thereon to the state, which certificate shall conform in other respects to the provisions relating thereto hereinafter contained. If such business is to be carried on in an incorporated town not vested with the sole power of granting such license, or outside of an incorporated town, the clerk shall deliver such certificate only when the same has been authorized by the county court. Such certificate shall be produced by the applicant to the officer to whom

the state tax is to be paid, and his receipt for such tax, written on the certificate, shall, with the certificate, constitute a license, while it remains in force, to the person and for the purpose specified in the certificate, except so far as otherwise provided in this chapter.

Sec. 12. The clerk of the county court may obtain a certificate for a state license from the clerk of the circuit court in the same manner as another person may obtain such certificate from the clerk of the county court. The clerk of the circuit court, in relation to such certificate issued by him, shall perform the same duties and be subject to the same penalties as the clerk of the county court would be in relation to a certificate issued by him.

Power of municipal authorities not to be impaired; proviso.

Sec. 13. Where the council of a town is authorized by its charter, or any law of the state, to impose a penalty for doing any act, or engaging in any business or occupation, within the limits of such town, without first having obtained a license therefor, pursuant to the ordinances of said town, no state license shall exonerate the person holding the same from any such penalty, whether such penalty be greater or less than herein provided: *provided*, that no incorporated city, village or town shall impose or require the payment of a greater annual license tax for doing any act, or engaging in any business, within the limits of such city, village or town, than the state tax, imposed by this chapter, for doing the same act or engaging in the same business or occupation, except on licenses to sell at retail spirituous liquors, beer or drinks of like nature, any thing in the charter of such city, village or town to the contrary, notwithstanding.

Evidence of character required in certain cases.

Sec. 14. Neither the county court, nor any council, shall authorize any license, mentioned in the first section, unless satisfied, and so enter upon its record, journal or minutes, that the applicant for such license is not of intemperate habits, and has not been convicted of a felony or for violating any of the provisions of section one of this chapter, or hereafter convicted for selling intoxicating liquors on Sunday.

Certain conditions required.

Sec. 15. The granting of a license to any person to carry on any business, for which a license is required under any of the provisions of this chapter, shall not be construed to authorize him to carry on said

business, unless he shall have complied with all provisions of law requiring him to make any payment, obtain any certificate or permit, or to do any act, as a condition of carrying on any such business.

Penalties and liabilities for illegal sales, etc., of intoxicating liquors, etc.

Sec. 16. If any person having a state license to sell spirituous liquors, wine, porter, ale, beer, or any other intoxicating drink, shall sell or give any such liquors or drinks to any minor or person of unsound mind, or to any person who is intoxicated at the time, or who is in the habit of drinking to intoxication, when he knows or has reason to believe such person is a minor or of unsound mind, or intoxicated, or is in the habit of drinking to intoxication; or if he permit any person to drink to intoxication on any premises under his control, or shall sell or give any intoxicating drink to any one on Sunday, or if any person (except a parent to his child or guardian to his ward) whether he have a state license or not, give to any minor or person of unsound mind any intoxicating drink, unless such drink be prescribed by a reputable physician in writing, stating that such drink is necessary as a medicine, and the quantity necessary, he shall be guilty of a misdemeanor, and fined not less than twenty nor more than one hundred dollars, for the first offence; and not less than forty dollars, nor more than two hundred dollars, for the second offence, and may, in the discretion of the court, in addition to such fine for the second offence, be confined in jail not more than sixty days. Upon conviction for the second offence the court, in which the conviction is had, may revoke the license of such person, and a sale thereafter by him shall be a sale without a license, and no license shall be afterwards granted to such person by any county court or town council. Notwithstanding any other provision in this chapter, no person holding such license shall be allowed to transfer or assign it to any other person while any indictment is pending against the person holding such license.

Sec. 17. A sale of any such liquors or drinks by one person for another shall, in any prosecution for such sale, be taken and deemed as a sale by both, and both may be indicted and fined therefor, either jointly or separately.

Sec. 18. All houses, buildings and places, of every description, where intoxicating liquors are sold or vended contrary to law, shall be held, taken and deemed to be common and public nuisances, and courts of equity shall have jurisdiction by injunction to restrain and

abate any such nuisance, upon bill filed by any citizen, or by the prosecuting attorney of any county, in the name of the State of West Virginia.

Sec. 19. The owner of any house, building or other place, mentioned in the preceding section, who sells or knowingly permits intoxicating liquors to be sold or vended therein contrary to law, and every person engaged in such unlawful sale in any such house, building or place, may be indicted for keeping and maintaining a common and public nuisance, and upon conviction thereof he shall be fined not less than twenty nor more than one hundred dollars, and, at the discretion of the court, imprisoned in the county jail not less than ten nor more than thirty days; and judgment shall be given that such house, building or other place be abated or closed up as a place for the sale of such liquors contrary to law, as the court may determine.

Sec. 20. Every husband, wife, child, parent, guardian, employer or other person, who shall be injured in person or property, or means of support, by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action, severally or jointly, against any person who shall, by unlawfully selling or giving of intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and persons owning, renting, leasing or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, or, who having leased the same for other purposes, shall knowingly permit therein the sale of any intoxicating liquors that have caused, in whole or in part, the intoxication of any person, shall be liable, severally and jointly, with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained, and for exemplary damages. A married woman shall have the same right to bring suits and to control the same and the amount recovered as a *feme sole*; and all damages recovered by a minor, under this chapter, shall be paid either to his parent, guardian, or next friend, as the court shall direct. The unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent of the premises where such unlawful sale or giving away shall take place. All suits for damages under this chapter may be by any appropriate action in any of the courts of this state having competent jurisdiction: *provided, however*, that if the property of the landlord be seized or taken for any fine, forfeiture or amercement, by reason of the unlawful acts of his tenant,

arising under the provisions of this chapter, such landlord may sue upon the bond required by this chapter to be given, and may recover thereon damages to the amount incurred and paid by him, together with his costs. But no property belonging to a married woman, infant or insane person, shall be taken or seized under the provisions of this chapter, and in all such cases the husband, guardian or committee, as the case may be, shall be pecuniarily and personally liable.

Sec. 21. If in any such house, building or place, as is hereinbefore mentioned, the sale of intoxicating liquors is carried on clandestinely, or in such manner that the person so selling cannot be seen or identified, any sheriff, constable or other officer, charged with the execution of a warrant issued under the twenty-third section, may, whenever it is necessary for the arrest or identification of the person so selling, break open such house, building or place.

Bond required; when conditions of bond.

Sec. 22. No county court, nor any town council, shall authorize the issuing of any license to sell spirituous liquors, wine, porter, ale, beer, or drink of like nature, until the applicant shall have given bond with good security, to be approved by the court or other tribunal, or council, in the penalty of at least three thousand five hundred dollars, conditioned that he will not permit any person to drink to intoxication on any premises under the control of such applicant; and will not knowingly sell or furnish any intoxicating drink to any person who is intoxicated at the time, or who is known to him to have the habit of drinking to intoxication, or whom he knows, or has reason to believe, is under the age of twenty-one years; and that he will not sell or furnish such drink to any person on Sunday; and, with the further condition, that he will pay all such damages and costs as may be recovered against him by any person under any of the provisions of chapter thirty-two of the code of West Virginia, as amended. And such applicant and his securities in said bond shall be liable, in a suit or suits thereon, for the fine and costs which may be recovered against him for any offence under this chapter which is a violation of any of the conditions of said bond, as well as for the damages hereinbefore provided for, until the penalty of said bond is exhausted.

Jurisdiction of justices over certain violations.

Sec. 23. Every justice of the peace, upon information made under oath or affirmation, that any person is selling, offering or exposing for

sale spirituous liquors, wine, porter, ale, beer or drink of like nature, or that the affiant has cause to believe and does believe that any such liquors are sold in any house, building or other place named therein, contrary to the provisions of this chapter, whether such persons have a license or not, shall issue his warrant requiring the person suspected to be brought before him for examination, or the said house, building or other place to be searched and the parties found therein arrested and brought before him, as aforesaid; and in the same warrant shall require the officer to whom it is directed to seize and hold all intoxicating liquors found therein, also all vessels, bar fixtures, screens, glasses, bottles, jugs and other appurtenances apparently used in the sale of such liquors contrary to law; and to summon such witnesses as shall be therein named, or whose names are endorsed thereon, to appear and give evidence on the examination. If upon the examination of such person, it shall appear to the justice that there is probable cause to believe him guilty of the offence charged, he shall require the accused to enter into a recognizance, with sufficient sureties, in the sum of one hundred dollars, to appear before the next term of the circuit court of the county to answer an indictment, if one be preferred against him; and upon his failure to enter into such recognizance the justice shall commit him to jail to answer such indictment. The justice shall also recognize all the material witnesses, with or without sureties, as he may deem proper, to appear before the grand jury, at the next term of the said court, and give evidence against the accused; and the justice shall require the accused to give bond, with sufficient security, in the sum of five hundred dollars, conditioned that he will not violate any of the provisions of chapter thirty-two of the code of West Virginia, as amended, during the time intervening between the date of such bond and the adjournment of the next grand jury term of the circuit court of the county; and upon his failure to give such bond the justice shall commit him to jail until such bond is given, or until he is discharged therefrom by the circuit court of the county. Whenever intoxicating liquors as aforesaid shall be found in any room, building or place, which has been searched under the provisions of this section, the finding of such liquors in such room shall be *prima facie* evidence of the unlawful sale of the same by the person named in the government license posted in such room, or his agent or employee therein, and the proprietor or other person in charge of the premises where such liquor was found, shall be subject to trial by due process of law on the charge of selling such liquors

unlawfully; and upon his conviction of selling or offering for sale such liquors unlawfully, the liquors found upon such premises shall be at once destroyed by the officer having charge of the same, and the other articles taken under the warrant shall be sold to the highest bidder, by such officer, on a notice similar to that required on an execution sale of other personal property, the proceeds to be paid to the county wherein the suit or prosecution was had.

Revocation of license and when.

Sec. 24. The county court or council, who authorized any license mentioned in the first section, may, for good cause shown, revoke the same upon the petition in writing of any inhabitant of the county or town. But the person holding the license must first have reasonable notice of the proposed revocation, and the privilege of being heard in person or by counsel. After such revocation the license shall be of no effect to protect him from any penalty imposed by this chapter.

Of the place to which the license is confined.

Sec. 25. Every certificate issued as aforesaid, if it be to authorize the keeping of a hotel or tavern, or bowling alley, billiard table, or bagatelle table, or any table of like kind, or to carry on the business of a druggist, shall specify the house in which it is to be kept or carried on; and to keep or carry on the same at a different place shall be deemed a violation of this chapter. Every certificate to sell spirituous liquors, wine, porter, ale, beer, or any drink of like nature, or to furnish drinks or refreshments at a public theater, shall specify the house where they are to be sold, and a sale at any other place shall be held to be a sale without license. Other licenses shall be deemed co-extensive with the county, but of no effect beyond the limits of such county, unless otherwise herein provided.

Sec. 26. If the person holding a state license which is limited to a particular house as aforesaid, desires to have such license transferred to another place, the county court, or council of such town (if the council thereof has the sole authority to grant such license), or both, if both be required, in which is situated the place to which the license is to be transferred, may authorize the alteration and cause a memorandum thereof to be indorsed in such license by their clerk, who, if he be not the clerk of the county court, shall in such case immediately make report thereof to the clerk of the county court; after such endorsement the license shall have the same effect as if the place to

which it is transferred had been inserted therein instead of the house therein specified.

Assignment of licenses to other persons.

Sec. 27. A person holding any license mentioned in the first section, may, except as otherwise provided, assign the unexpired term thereof to another, with the assent of the county court or other tribunal, or council, or both, who authorized such license, endorsed thereon by the clerk, who shall in such case immediately make report thereof to the clerk of the county court. If the assignment be of such a license as is mentioned in the twenty-second section, the assignee shall give bond and security as required by that section, and the said section shall in all respects be applicable thereto. A person holding a state license, other than those mentioned in the first section, may transfer the unexpired term thereof to another by assignment, endorsed on the license and attested by the clerk of the county court. But no assignment of a license shall be of any effect unless made in the manner prescribed in this section.

Fees for licenses, alterations and assignments.

Sec. 28. For every state license, or alteration or assignment of the same, authorized or assented to as aforesaid, the clerk of such court or council shall be entitled to a fee of fifty cents. For every certificate for a license, or alteration or assignment of such license, the said clerk shall also be entitled to a fee of fifty cents. The said fees shall be paid by the person on whose application the license is issued, or the alteration or assignment made.

Of the time for which the license is to be granted.

Sec. 29. Every state license to keep a hotel or tavern, eating house or restaurant; or sell at wholesale or retail spirituous liquors, wine, porter, ale, or beer, or any drink of like nature; or keep for public use or resort a bowling alley, billiard table, bagatelle table or any table of like kind; or act as auctioneer; or practice the business of stock or other broker, by buying or selling for others, stocks, securities or property for a commission or reward; or practice the business of a money broker or private banker, buying or selling uncurrent or depreciated money or funds, or exchanging one kind of money or funds for another, for profit or reward; or carry on the business of a druggist; pawnbroker; to sell, offer or expose for sale, manufactured tobacco,

snuff, cigars, cigarettes, cigarette paper or wrappers, at retail; or to be a corporation or do the business of a corporation; or for anything mentioned in section two of this chapter, unless herein otherwise provided, shall expire on the thirtieth day of April next after the commencement thereof. If granted for a less time than a year, the state tax thereon shall be computed from the annual tax in proportion to the time such license has to run.

Sec. 30. A state license to furnish intoxicating drinks or refreshments, or sell at retail spirituous liquors, wine, porter, ale, or beer, or any drink of like nature, at a public theater or at any public watering place in this state, or sell patent rights, or act as hawker or peddler, or to keep for public use or resort at any public watering place in this state, bowling alley or billiard table, or any table of like nature, shall be either for a year, four months or two months from the commencement thereof. If for four months, the state tax thereon shall be one-half, and if for two months, one-third of the annual tax.

Sec. 31. There shall be a state tax per week on theatrical performances, and on a circus, menagerie, street or other carnival, or public show, for every exhibition.

Appeals from the clerk of the county court, when and how.

Sec. 32. If any person desiring a state license, of any kind, be dissatisfied with the amount of tax to be assessed thereon as stated in the certificate of the clerk of the county court, or with any decision of the clerk respecting such license, or if any person be aggrieved by the assessment of a license tax, he may obtain relief in the following manner: He may apply to the state tax commissioner to review the decision of the clerk. The state tax commissioner shall review the action of the clerk, affirm the same if found to be in accordance with the law, and if found contrary to the law reverse the same, and issue a certificate for such license on such terms and with such conditions as may be required by law. On such appeal the state tax commissioner may increase or diminish the amount of tax as fixed by the clerk, to meet the requirements of the law. Whenever the state tax commissioner shall ascertain from any source that any person is carrying on any business for which a state license is required, without having paid the full amount of the tax required by law, though having paid the amount of tax named in the clerk's certificate, he shall after notice to such person to show cause, before him, why such license tax should not be increased, impose proper amount

of tax and require such person to pay to the sheriff the amount of the difference between what such person has already paid and what the state tax commissioner finds he should have paid. If in any case the person desiring the license shall not comply with the requirements or decision, within ten days after the same is made known to such person, the license awarded to such person, if any shall have been awarded, shall be revoked by the state tax commissioner, and any money paid on account of such license shall be forfeited to the state, and such license shall be of no force or effect to authorize the carrying on of the business or engaging in the acts authorized by such license.

Production of license and when.

Sec. 33. Every person holding a state license for any of the purposes mentioned in the first section of this chapter, and every person holding such license to sell cigars, or any other preparation of tobacco, shall keep such license posted in a conspicuous position in the place where any such business is carried on. Every person holding any other license shall produce the same for inspection whenever required by the state tax commissioner, prosecuting attorney, sheriff, assessor or any justice of the peace, of the county wherein such person is claiming to act under such license. Any person violating this section shall forfeit not less than ten nor more than one hundred dollars.

Clerk's list of licenses.

Sec. 34. It shall be the duty of every clerk of the county court to ascertain from time to time all persons in his county from whom state license is required by law, and deliver them proper certificates of the license to be obtained and the tax to be paid thereon to the state; but it shall also be the duty of every person to apply to the clerk of the county court and cause himself to be properly listed and licensed. And in case he shall transact any business for which he obtains such license, without having paid the taxes thereon, he shall forfeit not less than ten nor more than one hundred dollars for every such offence.

Sec. 35. The said clerk shall from time to time make fair, classified lists of all persons in his county from whom state license is required by law, specifying in such lists the date of every certificate, the name of the person to whom delivered, the amount of the state tax, for what the license is to be obtained, and such other particulars as he may be directed by the auditor to state therein.

Sec. 36. He shall complete and deliver to the sheriff or collector, before the thirtieth day of April in each year, the list of licenses issued by him and expiring on that day. Of other licenses issued by him, he shall make out and deliver to the sheriff or collector proper lists at intervals, not exceeding two weeks.

Sec. 37. He shall transmit to the auditor proper lists of all state licenses for which certificates may have been issued in his county. A list of such as are issued on or after the first day of January in any year, and before the first day of July following, shall be transmitted on or before the tenth day of July; and of such as are issued on or after the first day of July in any year, and before the first day of January following, a list shall be transmitted on or before the tenth day of January. If he shall have ascertained that the state tax specified in any certificate was not paid, he shall note the fact on the proper list. The said list shall be verified by the affidavit of the clerk. If no certificate for license has been issued, during any of the periods above mentioned, he shall return that fact to the auditor, verified by his affidavit, at the times specified for transmitting the said lists.

Sec. 38. Such lists shall be evidence against the sheriff or collector to charge him with the amount of state tax therein stated.

Instructions by auditor to clerks of county courts.

Sec. 39. The auditor after conference with the state tax commissioner, shall, by letter or printed circular, give such instructions from time to time to the clerks of the county courts, and other officers, respecting their duties under this chapter as may seem to him judicious.

Penalty for neglect of duty.

Sec. 40. If any clerk or other officer fail to perform any duty required of him by this chapter, or to obey the instructions of the auditor, so far as they are not contrary to law, he shall forfeit for every such offence not less than ten nor more than one hundred dollars.

Collection of license taxes; power to distrain; delinquents.

Sec. 41. The sheriff or other collector shall be authorized to distrain immediately, upon receipt of the list provided for in section thirty-six, for the amount with which any person may have been assessed upon any state license under the provisions of this chapter, and to sell upon ten days' notice, so much of said person's personal property, subject to such distress, as may be necessary to pay the tax so assessed.

Sec. 42. When the sheriff or collector is unable to find property out of which to make the taxes imposed upon persons, who may have been assessed with a license, such sheriff or collector may return such person as insolvent, subject to all the laws in relation to uncollected taxes.

At what time license taxes to be paid into the treasury.

Sec. 43. Every sheriff or collector shall account for and pay into the treasury of the state the state taxes on licenses at the following times: The taxes assessed on or after the first day of January, and before the first day of July following, shall be accounted for and paid on or before the thirty-first day of the said month of July, and the taxes assessed on or after the first day of July, and before the first day of January following, shall be accounted for and paid on or before the thirty-first day of said month of January.

How payments enforced against sheriffs or collectors.

Sec. 44. If a sheriff or collector fail to pay as required by the last section, the auditor, within three months after such failure, may file in the clerk's office of the circuit court for the county, in which the seat of government for the time may be, an accurate account of the amount with which such sheriff or collector may be chargeable on account of said taxes; and the said clerk shall enter up judgment thereon against such sheriff or collector for the said amount, with lawful interest thereon from the time of such failure until payment, and fifteen *per cent.* damages on the principal in addition thereto, unless the auditor direct a reduction of the said damages; which judgment shall have the same force and effect, and be subject in all respects to the same proceedings, as if it had been rendered by the said court. The auditor may retain any money in his hands or in the state treasury due such sheriff or collector, as commissions or otherwise, sufficient to pay the amount due from such sheriff or collector, and apply the same in satisfaction of the tax as due from such sheriff or collector, or of such part of said taxes as the amount retained will satisfy. If such money is so retained and applied by the auditor, after judgment shall have been entered by the clerk as herein provided for, the auditor shall certify the amount so retained and applied to the said clerk, and he shall enter an order showing the satisfaction of said judgment in whole or in part, as the fact may be.

Sec. 45. But any person aggrieved by such judgment may, within

one year after it is entered up, upon notice to the auditor, apply to the said court to set the judgment aside and try the case, or for leave to prove errors, sets-off or credits against the same; and the court, for good cause, may either set aside the judgment and proceed to try the case as if no judgment had been entered, or, allowing the judgment to stand as a security for what may appear ultimately to be due, may give leave to the applicant to prove errors, sets-off and credits before a jury or commissioner, and render such final judgment in the case as the law and equity may require.

Sec. 46. The right of the state to proceed by motion or otherwise, against the sureties of any sheriff or collector shall not be impaired or affected by anything contained in the last two sections, or which may be done in pursuance thereof. And if any sheriff or collector fail to pay as required by the forty-third section of this chapter, proceedings may be had according to the thirty-fifth chapter. Every sheriff or collector who fails to pay, as required by the said forty-third section, shall be charged with interest at the rate of twelve *per cent.* per annum on the amount in arrears from the time it ought to have been paid into the treasury.

Commissions for collecting taxes.

Sec. 47. Every sheriff or collector receiving taxes on licenses, under this chapter, shall be allowed a commission of five *per cent.* for his collections on the first one thousand dollars, two *per cent.* for any excess not over five thousand dollars, and one *per cent.* on any excess over that sum.

Duties of prosecuting attorney.

Sec. 48. In addition to the general duties of the prosecuting attorney in each county, he shall, upon his own motion, or upon the application of any revenue officer, institute prosecutions for the offences and suits upon the bonds mentioned in this chapter, in all proper cases, and no indictment or presentment for a violation of the revenue law shall be dismissed without a trial, nor shall a confession of judgment be taken in any prosecution for a misdemeanor, where there is a specified fine or penalty for a less sum than that so specified.

Sec. 49. The foregoing provisions of this chapter shall in all cases be construed as remedial and not penal. And all forfeitures and penalties herein provided for may be recovered and enforced by indictment and prosecution in the circuit court of the proper county.

And every such indictment shall be tried at the term of the court at which it is found, unless good cause be shown to the contrary.

Amount and rate of tax on real and personal property.

Sec. 50. In every year for which a different rate is not prescribed by special enactment, the state taxes on the persons and subjects hereinafter mentioned shall be as follows, except that the taxes on real and personal property prescribed by the next section shall be imposed only as follows:

Sec. 51. On real and personal property not exempt from taxation, for the year nineteen hundred and five, sixteen cents on every hundred dollars valuation thereof, for general state purposes, and eight cents on every hundred dollars valuation thereof, for the support of free schools; for the year nineteen hundred and six, eight cents on every hundred dollars valuation thereof, for general state purposes, and five cents on every hundred dollars valuation thereof, for the support of free schools; and for the year nineteen hundred and seven, and thereafter, only five cents, on the one hundred dollars valuation, for state school taxes shall be imposed upon real or personal property.

Capitation tax.

Sec. 52. On every male inhabitant who has attained the age of twenty-one years, one dollar.

License tax on hotels, eating houses, etc.

Sec. 53. On every license to keep a hotel or tavern, eating house or restaurant, three *per centum* per annum upon the yearly rental value of the premises occupied for that purpose, estimated according to the ninth section of this chapter.

License tax on distilleries and breweries.

Sec. 54. On every license to carry on a distillery for the manufacture of whisky and brandy, one hundred dollars. But such license shall not authorize the holder thereof to sell or deliver in this state the manufactured product without first having obtained a manufacturer's selling license in addition to his license as a distiller; on every manufacturer's selling license issued to a distiller of whisky or brandy, to sell at wholesale in this state whisky or brandy, whether manufactured in or out of this state, five hundred dollars; which license shall extend to every county in this state, except to those counties in which no state license is issued for the sale of spirituous liquors,

beer, ale, porter, or drinks of like nature. Except that a distiller manufacturing apple or peach brandy from fruit grown exclusively in this state shall not be required to obtain a manufacturer's selling license.

Sec. 55. On every license to carry on a brewery for the manufacture of beer, ale or porter, one hundred dollars. But such license shall not authorize the holder thereof to sell or deliver in this state the manufactured product without first having obtained a manufacturer's selling license, in addition to his license as a brewer; on every manufacturer's selling license issued to a brewer of beer, ale or porter, to sell at wholesale in this state, beer, ale or porter, whether manufactured in or out of this state, having a brewery in or out of this state with a capacity for manufacturing annually one hundred thousand barrels or more, six thousand dollars; on every manufacturer's selling license issued to a brewer of beer, ale or porter, to sell at wholesale in this state, beer, ale or porter, whether manufactured in or out of this state, having a brewery in or out of this state with a capacity for manufacturing annually seventy-five thousand barrels and less than one hundred thousand barrels, four thousand five hundred dollars; on every manufacturer's selling license issued to a brewer of beer, ale or porter, to sell at wholesale in this state beer, ale or porter, whether manufactured in or out of this state, having a brewery in or out of this state with a capacity for manufacturing annually fifty thousand barrels and less than seventy-five thousand barrels, three thousand dollars; on every manufacturer's selling license issued to a brewer of beer, ale or porter to sell at wholesale in this state beer, ale or porter, whether manufactured in or out of this state, having a brewery in or out of this state with a capacity for manufacturing annually twenty-five thousand barrels and less than fifty thousand barrels, fifteen hundred dollars; on every manufacturer's selling license issued to a brewer of beer, ale or porter, to sell at wholesale in this state beer, ale or porter, whether manufactured in or out of this state, having a brewery in or out of this state with a capacity for manufacturing annually ten thousand barrels and less than twenty-five thousand barrels, one thousand dollars; on every manufacturer's selling license issued to a brewer of beer, ale or porter to sell at wholesale in this state, beer, ale or porter, whether manufactured in or out of this state, having a brewery in or out of this state with a capacity for manufacturing annually less than ten thousand barrels, six hundred dollars. Every manufacturer's selling license issued under this section shall extend to every county in

this state, except to those counties in which no state license is issued for the sale of spirituous liquors, beer, ale, porter or drinks of like nature.

Sec. 56. Every person, firm or corporation, carrying on a distillery in this state or who, being a distiller, sells at wholesale any whisky or brandy manufactured either in or out of this state, shall, not later than the first day of May, 1905, and not later than the first day of May of each year thereafter, make application in writing to the auditor of state for the proper license under section fifty-four of this chapter, to sell at wholesale in this state the manufactured product of his distillery, whether such distillery is located in or out of this state.

Every person, firm or corporation, carrying on a brewery in this state, or who being a brewer, sells at wholesale any beer, ale or porter manufactured either in or out of this state shall, not later than the first day of May, 1905, and not later than the first day of May of each year thereafter, make application to the auditor of state for a proper license, under section fifty-five of this chapter, to sell at wholesale in this state the product of his brewery, whether manufactured in or out of this state. Which application shall state the place where the brewery is located, the name under which the business is conducted, and the number of barrels of beer, ale or porter, it has capacity to manufacture annually. Upon receipt of which application, the auditor of state, having first satisfied himself by such investigation as he may deem necessary of the truth of the information given in the application, shall assess the proper license tax for such brewery according to the provisions of this section, and upon payment of such license tax shall issue the proper license.

It shall be the duty of the auditor of state to keep in a book, kept specially for that purpose, a list of distilleries and breweries having manufacturer's selling licenses, and to promptly answer all inquiries made by dealers as to what distilleries and breweries are duly licensed to sell whisky and brandy or beer, ale or porter in this state.

Wholesale and retail license tax to sell spirituous liquors, etc.

Sec. 57. On every license to sell spirituous liquors, wine, porter, ale and beer, and drinks of like nature at retail, four hundred and fifty dollars.

It shall be unlawful for a retail dealer licensed under this section, or for any other person, to sell at retail any whisky or brandy, or beer, ale or porter, manufactured in or out of this state by a distiller of whisky or brandy, or by a brewer of beer, ale or porter, who has not

procured a manufacturer's selling license to sell in this state, as provided in sections fifty-four, fifty-five and fifty-six of this chapter, and every such sale shall be deemed a sale without license, and punished accordingly.

Sec. 58. On every license to sell spirituous liquors, wine, porter, beer and ale, and drinks of like nature, at wholesale, by any other person than a distiller of whisky or brandy or a brewer of beer, ale or porter, having a manufacturer's selling license, four hundred and fifty dollars, in addition to other taxes. It shall be unlawful for any wholesale dealer licensed under this section, or for any other person, to sell at wholesale any whisky or brandy, or any beer, ale or porter, manufactured in or out of this state by a distiller of whisky or brandy, or a brewer of beer, ale or porter, who has not procured a manufacturer's selling license to sell as provided in sections fifty-four, fifty-five and fifty-six of this chapter, and every such sale shall be deemed a sale without license, and punished accordingly.

Sec. 59. No person having such license to sell at retail shall sell or deliver, by virtue thereof, more than five gallons at a time, and the sale and delivery of more than five gallons at a time shall be deemed a sale without a license.

Sec. 60. No person having such license to sell at wholesale shall sell or deliver, by virtue thereof, a less quantity than five gallons at a time, and if any such sale or delivery be made it shall be deemed a sale without a license.

Sec. 61. On every license to furnish intoxicating drinks or refreshments at a public theater, two hundred dollars.

Sec. 62. Apple and peach brandy distilled within any of the counties of this state, from fruit grown in the state, may be sold by the distiller thereof in quantities not less than five gallons at a time, to be carried away and not drunk on the premises, where sold, by his paying a license tax of one hundred dollars; but the sale and delivery of a less quantity than five gallons at a time shall be deemed a sale without a license.

License tax on stock and other brokers.

Sec. 63. On every license to practice the business of a stock broker, merchandise broker, or other broker (other than that of a pawn broker), by buying or selling, for others, stocks, securities, merchandise or other property, for commission or reward, fifty dollars; or carrying on a bucket shop, or engaging in transactions specified in

clause (f) of section two of this chapter, five hundred dollars, in addition to all other taxes prescribed by this chapter or by any other law.

On tobacco, cigars, cigarettes, etc., and patent rights.

Sec. 64. On every license to sell at retail cigarettes, cigarette paper or wrappers, cigars, tobacco, snuff and other preparations of tobacco, ten dollars; to sell at retail cigars, tobacco, snuff or other preparations of tobacco other than cigarettes or cigarette paper or wrappers, five dollars.

The giving away or furnishing of cigarette paper or wrappers in connection with the sale of tobacco, or other thing of value, shall be taken to be a sale thereof under the provisions of this section.

On every license to sell patent rights, ten dollars.

On druggists.

Sec. 65. On every license to carry on the business of a druggist, ten dollars, in addition to all other taxes.

On bowling alleys.

Sec. 66. On every license to keep a bowling alley for public use or resort, forty dollars; but if more than one be kept in one house, by the same person, forty dollars for the first one and fifteen dollars for every other one.

On billiard tables, etc.

Sec. 67. On every license to keep a billiard table or pool table, or table of like kind, for public use or resort, seventy-five dollars; if more than one of such tables be kept in the same house, by the same person, seventy-five dollars for the first one and fifty dollars for every other one.

On junk dealers, etc.

Sec. 68. On every license to carry on the business of a junk dealer, twenty-five dollars. On every license to sell trading stamps, premium stamps, or stamps or certificates of like nature or character, five hundred dollars.

On house-boat; on slot machines, etc.

Sec. 69. On every license to maintain or occupy a house-boat, or like structure or vessel, ten dollars.

On every license to maintain a slot machine or other automatic device, which is not a gambling device, under section one of chapter one hundred and fifty-one of the code, five dollars for each machine or device.

On roller coaster, merry-go-rounds, etc.

Sec. 70. On every license to operate a roller coaster, merry-go-round, scenic railway or like device, for one week, twenty-five dollars; for four months, one hundred and twenty-five dollars; for six months, two hundred dollars; and for one year, three hundred dollars.

To sell at wholesale, pistols, dirks, etc.

Sec. 71. On every license to sell at wholesale pistols, revolvers, dirks, slung-shots, billeys, bowie-knives, metallic or other false knuckles, or other weapons of like kind, three hundred dollars; and at retail, one hundred dollars; but the provisions of this section shall not take effect until the first day of May, 1905.

On money brokers or private bankers.

Sec. 72. On every license to carry on the business of money broker or private banker, one hundred dollars.

On bagatelle tables, etc.

Sec. 73. On every license to keep a bagatelle table, or table of like kind, for public use or resort, twenty-five dollars; but if more than one be kept in one house, by the same person, twenty-five dollars for the first one and ten dollars for every other one.

On roller skating rink.

Sec. 74. On every license to keep a roller skating rink for public use or resort, in a city or town with a population of ten thousand or more, one hundred dollars; in a city or town with a population of more than five thousand, but less than ten thousand, fifty dollars; and in a city or town with a population of less than five thousand, twenty-five dollars.

Provisions respecting public watering places.

Sec. 75. At any public watering place in this state a license may be granted to keep such alley or billiard table, pool table, bagatelle table, or other table of like kind, or roller skating rink, for public use and resort, for four months or two months from the commence-

ment thereof. If for four months the state tax thereon shall be one-half, and if for two months, one-third, of the annual tax.

On auctioneers.

Sec. 76. On every license to act as an auctioneer, five dollars; and if any auctioneer act as such in a town an additional tax of two dollars for every thousand of the population of such town, according to the last preceding United States census.

Pawnbrokers.

Sec. 77. On every license to practice the business of pawnbroker, one hundred dollars. All licenses granted or that may be hereafter granted, under the law as it was on the day before this act takes effect, shall continue in force until the expiration thereof.

2. None of the new or additional licenses provided for in this act shall be required until the first day of May, nineteen hundred and five.

(Substitute for Senate Bill No. 1.)

CHAPTER 4.

AN ACT to amend and re-enact chapter twenty-nine of the code of West Virginia, relating to the assessment of taxes, and also to create the office of state tax commissioner.

[Passed August 11, 1004. *In effect 90 days from passage. Approved August 15, 1004.]

- SEC.
1. Office of state tax commissioner created; how appointed; length of term; not eligible to reappointment; oath and bond; how removed and successor appointed; traveling expenses; office at state capitol.
 2. } Duties of state tax commissioner.
 3. }
 4. Prosecuting attorney to assist in certain cases.
 5. Reports of the state tax commissioner.
 6. Assessment districts; term and qualification of assessor; in effect January 1, 1009.
 7. } Assistant assessors; provision for and
 8. } qualification of; how appointed and removed; term and oath of office.
 9. Assessor to apportion work among assistants.

- SEC.
10. Compensation of assessors and assistants to be fixed by the county court, and paid out of the county treasury.
 11. Authority of assessor to extend to limits of his county.
 12. Assessments to have reference to the first day of April; property to be assessed at its true value.
 13. Assessor to furnish blanks to taxpayers, when.
 14. Taxpayers to furnish list of property to assessor, between what dates.
 15. Oath required to such list.
 16. Assessor to revise and correct list.
 17. Assessor and assistants to hold meetings, when; for what purpose held; county clerk to be advisory member, when.

*Note:—Certain provisions do not take effect until January 1, 1009—this, the act itself will disclose.

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| Sec. | | Sec. | |
| 18. | Meeting to hear complaints; notice of such meeting, how given and effect of. | 63. | What personal property to be listed for taxation. |
| 19. | State tax commissioner to report assessor, etc., for neglect of duty to circuit court; penalty for such neglect. | 64. | In what district personal property to be listed. |
| 20. | Auditor to furnish forms to assessor; state tax commissioner to furnish instructions to assessor; penalty for assessor failing to obey such instructions. | 65 to 67. | Credits and investments, valuation of. |
| 21. | Assessor to have books and papers of predecessor; penalty for failure to deliver same to him; substitute for predecessor's books, how obtained. | 68 to 72. | Listing property, duty of assessors,—general provisions. |
| 22. | | 73. | Penalty for failure to list property correctly. |
| 23. | Land books to be made out by the assessor; corrections therein; tracts omitted to be entered, when. | 74. | Household and kitchen furniture. |
| 24. | | 75. | Toll bridges and ferries. |
| 25. | Change of ownership, general rules respecting. | 76. | Certain incorporated companies, concerning. |
| 26. | | 77. | Banks and trust companies, how assessed. |
| 27. | Duty of county clerk as to wills. | 78. | Capital of merchants, firms, etc., used in trade. |
| 28. | | 79. | Transient person, how assessed. |
| 29. | Duty of auditor as to land grants issued by the state. | 80. | Receivers, commissioners and clerks of courts. |
| 30. | | 81. | Railroads, car lines, telegraph and telephone lines, and pipe lines. |
| 31. | County clerk to furnish assessor certified lists of deeds, etc. | 106. | Personal property books how made up. |
| 32. | Penalties. | 109. | Land and personal property books, rules respecting. |
| 33. | Copy of deed, etc., may be given assessor. | 110. | Property of assessor and assistants, how assessed. |
| 34. | Change of ownership, how entered by assessor. | 111. | How land books may be supplied. |
| 35. | | 112. | How assessment made in case the assessor is prevented from performing his duties by war, riot, etc. |
| 36. | Real estate purchased by the state to be kept on land books. | 113. | Assessment valuation, evidence in certain cases. |
| 37. | Lands to be transferred to apparent owner. | 114 to 120. | Proceedings of the assessor after the books are made out. |
| 38. | Assessor to furnish statement to boards of education and town clerks. | 121. | Penalty on assessor or clerk for failure to perform duty. |
| 39. | Minerals and timber, how assessed. | 122. | Compensation of clerks. |
| 40. | Lands of deceased persons. | 123. | Certain expenses of assessor, provided for. |
| 41. | Old and new buildings, how assessed. | 124. | Concerning allowance of assessor. |
| 42. | | 125. | Alteration of land and personal property books, prohibited, when. |
| 43. | Machinery and fixtures, how assessed. | 126 to 128. | Relief against erroneous assessment. |
| 44. | Lands lying in more than one county or district. | 129. | Duty of grand jury as to revenue laws. |
| 45. | | 130. | Certain words defined. |
| 46. | Additional duties of assessors; penalty for failure. | 131. | Taxes levied upon the value of property ascertained under this act. |
| 47. | | 132. | Repealing section. |
| 48. | Form of land books; tracts of land; town lots. | 133. | When the provisions of this act take effect. |
| 49. | Contiguous tracts may be charged as one, how. | 2. | |
| 50. | | 3. | |
| 51. | Town lots, how described. | | |
| 52. | Assessment to have reference to first day of April; to whom taxes are chargeable. | | |
| 53. | | | |
| 54. | Who deemed owner of property for purposes of taxation. | | |
| 55. | By whom property to be listed. | | |
| 56. | | | |
| 57. | Property exempt from taxation. | | |
| 58. | Land taken for road may be released from taxation, how. | | |
| 59. | Capitation tax. | | |
| 60. | Definition of certain words. | | |
| 61. | | | |
| 62. | | | |

Be it enacted by the Legislature of West Virginia:

1. That chapter twenty-nine of the code be and the same is hereby amended and re-enacted so as to read as follows:

CHAPTER XXIX.

State tax commissioner—His power and duties.

Sec. 1. The office of the state tax commissioner is hereby created. The governor, by and with the advice and consent of the senate, shall

appoint as state tax commissioner some citizen of this state entitled to vote, whose term of office shall begin at the date of appointment, and shall continue for six years and until the successor of such commissioner is appointed and qualified, unless he be sooner removed, but who shall not be eligible for re-appointment. The person so appointed shall make the oath or affirmation prescribed by section five of article four of the constitution, and such oath shall be certified by the person who administers the same and shall be filed in the office of the secretary of state. He shall give bond with good security, to be approved by the governor, in the penalty of five thousand dollars, and such bond shall also be filed in the office of the secretary of state. The governor may remove such officer in case of incompetence, neglect of duty, gross immorality or malfeasance in office, and in case of a vacancy, whether occurring by reason of removal or otherwise, may declare the office vacant, and fill the same by appointment for the unexpired term. The salary of the state tax commissioner shall be four thousand dollars a year. He shall be repaid his actual disbursements for traveling expenses, not exceeding one thousand dollars in any one year, an itemized account of which shall be filed with the auditor, to be audited by him before payment thereof. He shall be provided with an office in the capitol, and with such furniture and clerical assistance as shall be necessary.

Sec. 2. It shall be the duty of the state tax commissioner to see that the laws concerning the assessment and collection of all taxes and levies, whether of the state or of any county, district or municipal corporation thereof, are faithfully enforced. To this end he shall advise the auditor in the preparation of all proper forms and books for the use and guidance of assessors, and shall perform all such other duties as may be required by law. He shall from time to time visit the several counties and municipal corporations of the state; shall inspect the work of the several assessors, justices, prosecuting attorneys, clerks of courts, sheriffs, constables and collecting officers, among whom are included commissioners of school lands, and shall confer with them respecting such work for the future. In such conference, or by writing or otherwise, he may inquire into the proceedings of any such officer, make to him such suggestions respecting the discharge of his duty as may seem proper, and give such information and require such action as will tend to produce full and just assessments throughout the state, and the diligent collection of all taxes and levies, including license and collateral inheritance taxes, and of

finer. Upon the application of any officer, concerned with the assessment or collection of taxes, he shall as to any matter specified by such officer make like suggestions and give like information. In case of the failure of any assessing or collecting officer in the discharge of any duty, imposed upon him by law, the said tax commissioner shall proceed to enforce such penalty as may be provided by law, including in any proper case the removal of such officer, and to that end he is authorized to appear before any court or tribunal having jurisdiction. He may cause any violations of laws respecting the assessment or collection of taxes to be prosecuted. He may also be heard before any court, council or tribunal, in any proceeding in which an abatement of taxes is sought.

Sec. 3. The state tax commissioner shall attend meetings of the board of public works when it is considering matters of assessment or revenue, when requested by said board or the governor to so attend, and he shall give such assistance to the said board as it or the governor may direct, in making any assessment to be made by it. In case of appeal to any court from any assessment, made by the said board, the state tax commissioner shall appear before any court and protect the interest of the state and of any county, district or municipal corporation which may be interested. He shall perform such duties relating to the insurance of public buildings and other property of the state as may be required by the governor, and he shall, upon the request of the auditor or treasurer, assist such officer in any matters relating to the revenues of the state.

Sec. 4. In every case in which the state tax commissioner may appear the prosecuting attorney of the county in which the case is pending shall give his assistance, without additional compensation.

Sec. 5. The state tax commissioner shall make a report in writing to the governor biennially, on or before the first day of October next preceding the regular session of the legislature, and at such other times as the governor may require, in which he shall show his official transactions during the period not covered by any preceding report; shall give information respecting the operation of the tax laws throughout the state; shall recommend such changes in the laws concerning the assessment and collection of taxes, and kindred subjects, as he may think ought to be made, and shall report upon any special matter which may be referred to him by the governor, auditor or board of public works. His report shall be printed and communicated to the legislature, and be distributed as other like reports are distributed.

Sec. 6. Each county in the state shall constitute one assessment district, and shall elect one assessor, whose term of office shall be four years. He shall be ineligible to re-election until the expiration of four years next after the term for which he was elected. No person shall be eligible to the office of assessor who is not a resident of the county and a freeholder therein at the time of his election. [This section does not take effect until January 1, 1909.]

Sec. 7. In every county whose population, as shown by the last census next preceding the election of an assessor, does not exceed twenty thousand, there shall be appointed one assistant assessor; in every county whose population is thus shown to exceed twenty thousand, and not to exceed thirty thousand, there shall be appointed two assistant assessors; and in every county whose population is thus shown to exceed thirty thousand, there shall be appointed three assistant assessors. Each of said assistant assessors shall be a voter and a resident of the county in which he is appointed. [This section does not take effect until January 1, 1909.]

Sec. 8. The assistant assessors shall be appointed by the assessor, with the advice and consent of the county courts of the counties for which they are to be appointed. Not more than one assistant shall be appointed from any magisterial district, nor shall an assistant be appointed from the same magisterial district in which the assessor resides. They shall be appointed for the same term as that for which the assessor was elected, and shall be subject to removal by the assessor, or by the county court. They shall take the same oath of office prescribed for the assessor. Vacancies, occurring from any cause in the office of an assistant assessor, shall be filled in the same manner provided for the appointment to full terms of office, and shall be for the unexpired term made vacant. [This section does not take effect until January 1, 1909.]

Sec. 9. The assessor, after consulting with his assistants, shall apportion the work of assessing property for the purposes of taxation among his assistants and himself as nearly equal as possible, according to magisterial districts, and may from year to year make such changes in the apportionment of work as to him may seem proper; but no magisterial district shall be divided in such apportionment between any two assistants, or between the assessor and any one of his assistants; nor shall any change in the apportionment of work be made after the labor of assessing has been begun, until the expiration of that particular year. [This section does not take effect until January 1, 1909.]

Sec. 10. It shall be the duty of the county courts of the different counties of the state to fix the annual compensation to be paid to the assessors, within the following limits, viz.: in counties not exceeding twenty thousand in population, the annual compensation of the assessor shall be fixed at not less than four hundred dollars nor more than seven hundred dollars; in counties whose population exceeds twenty thousand, and does not exceed thirty thousand, it shall be fixed at not less than seven hundred dollars nor more than one thousand dollars; and in counties whose population exceeds thirty thousand, it shall be fixed at not less than one thousand dollars nor more than two thousand dollars. The assistant assessors in each county shall receive the same compensation, which shall not exceed three hundred dollars per annum. The compensation of the assessor and his assistants shall be fixed and provided for by the county court and paid out of the county treasury. [This section does not take effect until January 1, 1909.]

Sec. 11. The authority and duty of the assessor so elected shall extend to the limits of his county. [This section does not take effect until January 1, 1909.]

Sec. 12. All property, both real and personal, in any county, except as herein otherwise expressly provided, shall be assessed as of the first day of April of each year at its true and actual value; that is to say: at the price for which such property would sell if voluntarily offered for sale by the owner thereof, upon such terms as such property, the value of which is sought to be ascertained, is usually sold, and not the price which might be realized if such property were sold at a forced sale. [That part of this section which relates to the annual assessment of real estate does not take effect until January 1, 1909.]

Sec. 13. It shall be the duty of the assessor and his assistants to furnish each taxpayer, in their respective magisterial districts, in the month of March, and at least ten days before said taxpayer is called upon to make a list of his property, the proper blanks on which his property shall be listed. The mailing of said list addressed to the taxpayer at his nearest post office shall be a sufficient compliance with this provision: *provided, also*, that the failure of any taxpayer to receive such blank shall in no case excuse him from making a list of his property when called on, or exempt him from taxation. [That part of this section which relates to the annual assessment of real estate does not go into effect until January 1, 1909.]

Sec. 14. Between the first day of April and the twentieth day of

June, each assessor and assistant shall call upon every person, in the territory appointed to such assessor and assistant, who is liable to assessment, and thereupon such person shall furnish to said assessor, or his assistant, a full and correct description of all of the real and personal property of which he was the owner on the first day of April of the current year, fixing what he deems to be the true and actual value of each item of property, both real and personal, for the guidance of the assessor, who shall finally settle and determine the actual value of each item of such property by the rule prescribed in section twelve of this chapter. Such person shall also, at the same time, make separate, full and true statements, in like manner and upon similar blanks to be furnished him, distinctly setting forth in each a correct description of all the property, real and personal, held, possessed, or controlled by him, as executor, administrator, guardian, trustee, receiver, agent, partner, attorney, president, or accounting officer of a corporation, consignee, pawnbroker, or in any representative or fiduciary character, and he shall fix what he deems the true and actual value thereof to each item of such property, which valuation shall be subject to revision and change by the assessor in like manner as property owned by such person in his own right; *provided, however,* that no person shall be compelled to furnish the list mentioned in this section sooner than the tenth day of April of the current year. [That part of this section which relates to the annual assessment of real estate does not take effect until January 1, 1909.]

Form of oath prescribed.

Sec. 15. The assessor and his assistants are empowered to administer oaths in all matters pertaining to his official business, and every such list provided to be made out by the next preceding section shall be sworn to, or affirmed, by the person making the same, before it shall be received by the assessor or any of his assistants. The form of such oath or affirmation, when made by the person owning the property (and the oath, or affirmation, of the owner of the property shall be required in all cases where it is practicable, instead of the oath or affirmation of his agent, or manager), shall be substantially as follows, to-wit:

“State of West Virginia, county of, ss.:

“I,, do solemnly swear (or affirm) that, to the best of my knowledge, information and belief, the foregoing statement contains a true, full and correct list of all property, real and personal,

owned by me on the first day of April last; that where I have been unable to exhibit any class of property to the assessor, or to his assistants, such property has been fully and fairly described to him and its true condition represented; that I have in no case sought to mislead the assessor, or his assistants, as to the entire quantity, quality or value of the property; that I have reported all moneys and the value of all credits and investments owned by me on the said day and liable to taxation, except bonds of the United States, and except stock in banks, trust companies, and other incorporated companies whose property is assessed in the name of such corporation, either within or without this state; that since the first day of April of last year I have not directly, or indirectly, converted or exchanged any of my property temporarily, for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind; and that I have, to the best of my knowledge and judgment, valued the said property, both real and personal, at its true and actual value on the first day of April; by which I mean the price that could be obtained for said property at private and voluntary sale, and on such terms as are usually employed in the selling of such property, and not the price which might be realized at a forced or auction sale: so help me, God.

.....
 "Subscribed and sworn (or affirmed) to before me, this day
 of, 19..

"....., Assessor.

"By, Assistant."

[That part of the above section which relates to the annual assessment of real estate does not take effect until January 1, 1909.]

Assessor to revise and correct lists.

Sec. 16. The assistants shall perform their labors under the direction and advice of the assessor. It shall be his duty to examine and revise the lists of property taken by his assistants, and to see that the assessment is equal and uniform throughout his county; and if in his opinion any property, real or personal, on any of said lists is valued at more or less than its true and actual value he shall correct the same by giving to such property its true and actual value, to be ascertained according to the rule prescribed in section twelve of this chapter. If it should appear that any property liable to taxation has been omitted from any taxpayer's list, the assessor shall list and value the

same at its true and actual value. [This section does not take effect until January 1, 1909.]

Assessors and assistants to hold meetings, etcetera.

Sec. 17. There shall be held at least two meetings of the assessor and his assistants, between the first day of April and the twentieth day of June of the current year, at such time and place as the assessor shall appoint, of which all of said assistants shall have had due notice, for the purpose of procuring a uniform valuation of property, both real and personal, throughout the entire county, according to its true and actual value. The last meeting shall be held after the work of listing property has been completed, at which meeting all the lists shall be thoroughly gone over and revised and corrected, if found to be erroneous either in the amount of property, real or personal, assessed to any person, firm or corporation, or in the value given to any item of property by the taxpayer, by placing on such list the omitted property and giving to it, as well as to any property that has been listed, but which has been incorrectly valued, the true and actual value thereof according to the rule prescribed in section twelve of this chapter, and by omitting property improperly listed. The clerk of the county court shall sit as an advisory member at such last meeting. [This section does not take effect until January 1, 1909.]

Sec. 18. The assessor and his assistants shall, together with the clerk of the county court sitting as an advisory member, hold another meeting, which shall be held at the county-seat not later than the fifth day of July, for the purpose of hearing any complaints that may be made by any person whose property, or any item thereof, has been given a greater value by the assessor than that fixed to it by the taxpayer or person listing the property, and for hearing the complaint of any one who may claim that the assessor has entered on his list, and valued for taxation, property that does not exist, or if it exists, is not liable for taxation, or if any property has been incorrectly described. Every person, or his personal representative or agent, who listed and valued the property in the first instance, whose list has been changed by increasing the aggregate valuation of the property thereon, or by placing thereon additional property not listed by him, and every person whose list has been made out by the assessor as provided in section seventy-one, of this chapter, shall be given at least ten days' notice of said meeting, and of the particular changes that have been made in his tax list. Notice addressed to such person at

his nearest post office, and mailed ten days before said meeting, shall be equivalent to personal service. Notice of such meeting shall also be published once a week, for two successive weeks prior thereto, in two newspapers of opposite politics published in that county, if there be such; and if none be published therein, then in some newspaper of general circulation in the county. The notice so to be published shall state briefly the time and place of holding said meeting, and the general purpose thereof. The expenses of such publication shall be provided for and paid out of the county levy. If any person so notified shall fail to apply for relief at said meeting, he shall be deemed to have waived his right to ask for a reduction in his assessment list for the current year, and shall not thereafter be permitted to question the correctness of his list as finally fixed by the assessor. After hearing the complaint, and consulting with his assistants and the clerk of the county court, the assessor, if he be of the opinion that any error has been committed, shall correct the same, always giving to any particular item of property its true and actual value according to the rules prescribed in section twelve of this chapter. If any taxpayer who applied at said meeting for relief is dissatisfied with such decision, he shall have the right to apply for relief as provided in sections one hundred and thirty, one hundred and thirty-one, one hundred and thirty-two and one hundred and thirty-three of this chapter. [This section does not take effect until January 1, 1909.]

State tax commissioner to report neglect of duty.

Sec. 19. The state tax commissioner shall communicate to the circuit court, and to the prosecuting attorney of the county, any instance of misconduct or neglect of official duty on the part of any assessor, justice, prosecuting attorney, clerk of a court, sheriff or constable of such county, and any evidence thereof of which he may be cognizant; and the court shall investigate the same, and if the charges are true, such assessor, justice, prosecuting attorney, clerk of a court, sheriff or constable shall forfeit not less than ten nor more than one hundred dollars, and may be removed from office.

Auditor to furnish forms to assessors.

Sec. 20. The auditor, after consulting with the state tax commissioner, shall prepare and forward to the assessors such printed forms for the personal property books and the land books, and such lists of taxable subjects to be furnished by the assessors to persons charge-

able with taxes, as will procure a perfect assessment of all persons and property, both real and personal, in this state subject to taxation. The state tax commissioner shall also, by letter or printed circular, give such instructions to assessors respecting their duties as may seem to him judicious; and if any assessor fail to obey such instructions, so far as they are not contrary to law, he shall forfeit not less than ten nor more than one hundred dollars, and upon being convicted a second time of a like offence, shall be removed from office. [That part of this section which relates to the annual assessment of real estate does not take effect until January 1, 1909.]

Books and papers of his predecessor.

Sec. 21. The assessor shall apply for the official books and papers, which his predecessor had, to the person in possession of the same; and if such person fail or refuse to deliver them he shall forfeit one hundred dollars.

Sec. 22. The state tax commissioner, on being informed that such official books and papers cannot be obtained, may authorize the assessor to procure substitutes therefor, or copies thereof, and the person furnishing the same shall be paid such fee therefor, out of the county treasury, as the county court may deem reasonable.

Assessors to make out land books; corrections therein.

Sec. 23. The land books for every county shall hereafter be made out complete by the assessor of such county. In making the said land book in each year he shall be governed, as far as is proper, by the copy of the land books last made out in his county. But he shall correct errors and mistakes which he may discover, in any such land books, as to the names of persons properly chargeable with taxes on any tract or lot of land entered therein, and enter and charge the same with taxes thereon to the person or persons properly chargeable therewith, whether such correction be rendered necessary by the conveyance of such tract or lot by the person last charged with taxes thereon or otherwise. He shall also correct all errors and mistakes he may find, in such land books, as to the distance and bearing of any tract of land from the court house or in the local description thereof, and all clerical errors of every sort which he may find therein. Mistakes, errors and improper entries in the land books after they are made out, corrected and certified, as provided in this chapter, shall be corrected in the manner provided in sections one hundred and

thirty and one hundred and thirty-one of this chapter. [This section does not take effect until January 1, 1909.]

Sec. 24. The assessor in making out the land books shall correct any and every mistake he may discover in the original land books, or in the land books of any previous year, and if any taxes have been omitted for a former year, he shall enter the same, with lawful interest thereon, for collection. [This section does not take effect until January 1, 1909.]

Sec. 25. When the assessor shall ascertain that any land in his county liable to taxation has been omitted from the land books, for a period of less than five years, he shall make an entry thereof, and of the name of the owner, in the land book of the year in which such omission was discovered, and shall assess the same at its true and actual value according to the rule prescribed in section twelve of this chapter, and shall charge the same with all taxes chargeable against it, together with interest thereon, for the years during which it was omitted from the land book. Any assessor failing to make such entry shall forfeit twenty dollars. [This section does not take effect until January 1, 1909.]

Change of ownership; general rules respecting.

Sec. 26. Land which has been properly charged to one person upon the land book for any assessment year shall not afterwards, within that assessment year, be transferred on such book to another person.

Sec. 27. If the owner of a tract or lot of land has derived title thereto by several conveyances from the same person, or from different persons, such tract or lot shall be entered and charged with taxes on the land book as a whole, and not in different parcels.

Sec. 28. The clerk of the county court shall annually, in the month of April, make out a list of all lands, if any, lying in another county devised by wills recorded in his office and not before reported to the proper officer, stating in such list the date of the will in each case, when admitted to record, the names of the deviser and devisee, and description of the land devised. [This section does not take effect until January 1, 1909.]

Sec. 29. Every list mentioned in the preceding section shall be delivered or transmitted by mail, by the officer making it, to the assessor of the county or counties where the said lands are situated, within the said month of April. [This section does not take effect until January 1, 1909.]

Sec. 30. The auditor shall annually, in the month of April, make out and forward to the assessor of each county an abstract of all grants issued by the state for land lying in such county, not previously reported for assessment. [This section does not take effect until January 1, 1909.]

Clerk to furnish assessor certified lists of deeds, etcetera.

Sec. 31. The clerk of the county court shall annually, not later than the fifteenth day of April, make out a certified list, and deliver the same to the assessor, showing all the transfers of title to land made in his county prior to the first day of April of the current year. Said list shall show whether the transfer was made by will or by deed of conveyance, or by judgment or decree, the name of the devisor and devisees, the names of the grantors and grantees and the names of the parties in favor of and against whom said judgment or decree was rendered, with the title of the cause, the nature of the estate transferred, the character of interest in the land conveyed, the quantity and location of the land or interest transferred, and if part of a tract, of what tract it was a part when the whole tract was transferred. From the list thus furnished the assessor shall make the necessary changes in the land book for the current year, and shall value each tract of land or interest therein, so transferred, at its true and actual value according to the rule established in section twelve of this chapter. [This section does not take effect until January 1, 1909.]

Sec. 32. If any officer fail to perform any duty required of him, by the five preceding sections, he shall forfeit not less than ten nor more than fifty dollars for every such failure. [This section does not take effect until January 1, 1909.]

Sec. 33. Any person interested may procure at his own cost a certified copy or statement of any deed, judgment, decree or grant, and deliver the same to the assessor of the county, and the assessor may examine the original deeds or the records, of his or any other county, to ascertain to whom any parcel of land is properly chargeable, or its description or quantity. [This section does not take effect until January 1, 1909.]

Change of ownership—how entered by assessor.

Sec. 34. Such changes as happen in the county shall be noted by the assessor thereof in the land books as follows: [This section does not take effect until January 1, 1909.]

Sec. 35. The assessor shall enter in the land book all lands appearing by the abstract of the auditor to have been granted and not previously entered therein, and shall assess the value thereof, giving to it its true and actual value according to the rule prescribed in section twelve of this chapter. If he shall fail to enter and assess any grant mentioned in said abstract in the land book next made out by him, after the abstract shall have been received, he shall forfeit twenty dollars. [This section does not take effect until January 1, 1909.]

Real estate purchased by state to be kept on books.

Sec. 36. Real estate purchased for the state, at a sale for taxes, shall not be omitted from the land books, but no taxes shall be assessed thereon while the same remains the property of the state. The assessor shall note on the land book opposite the name of the former owner the time when the same was so purchased by the state, and shall continue said memorandum in the land books for succeeding years, and until the said real estate is redeemed, or until it is otherwise disposed of by the state. The auditor shall also keep a register of said purchase. When the real estate so purchased appears to have been redeemed, the assessor shall note the fact in the land book for the year in which the redemption was made, and shall value the same at its true and actual value according to the rule prescribed in section twelve of this chapter, and taxes shall thereafter be assessed against the same. The auditor shall in the month of April, in each year, certify to the assessor a list of such lands in his county as have been so redeemed within the preceding year. When real estate is sold to an individual for taxes, the assessor shall continue the same upon the land book in the name of the former owner until the purchaser obtains a deed therefor. He shall then enter the same so purchased in the name of the purchaser, and shall value the same at its true and actual value according to the rule prescribed for the valuing of other lands. [This section does not take effect until January 1, 1909.]

Sec. 37. The lands specified in the lists, copies, deeds, records, abstracts and statements, mentioned in the twenty-seventh, twenty-eighth, thirtieth, thirty-first and thirty-third sections of this chapter, shall be transferred by the assessor in the land book to the persons who appear thereby to be owners thereof. [This section does not take effect until January 1, 1909.]

Assessors to furnish statement to boards of education and town clerks.

Sec. 38. The assessor shall annually, not later than the twentieth

day of July, furnish the recorder or clerk of the city or town council, of every incorporated city and town in his county, and also to the secretaries of the various boards of education of his county, a certified statement showing, in separate amounts, the aggregate value of all the personal property and the aggregate value of all the real estate situated in said town or city, as ascertained by him for the current year. The statement so furnished by the assessor shall be taken, by the council of said city or town, as the true and actual valuation of all the property situated therein, and liable to taxation for municipal purposes, notwithstanding any provisions which may be contained in the charter of any city or town. Upon receiving said statement the recorder, or clerk of the council, shall immediately present the same to the said council at a meeting to be held, not later than the first day of August, for the purpose of determining the rate of levy for municipal purposes for the current year; and as soon as the rate shall have been determined upon, the recorder, or secretary of the council, shall furnish the assessor a certified copy of the order of said city or town council fixing the rate of tax, and the assessor shall thereupon extend the tax against the property situated in said city or town in the land book and the personal property book of his county, in separate columns in said books, which columns shall be headed with the words: "Town, or city, tax for the town, or city of"

[This section does not take effect until January 1, 1909.]

Mineral and timber—how assessed.

Sec. 39. When a tract of land becomes the property of different owners in several parcels, the assessors shall assess the respective parcels separately to the individual owners thereof, giving to each of said parcels its true and actual value according to the rule prescribed in section twelve of this chapter. Whenever any person becomes the owner of the surface, and another or others become the owner of any other freehold estate in the coal, oil, gas, ore, limestone, fire-clay, or other minerals or mineral substances in and under the same, or of the timber thereon, the assessor shall assess such respective estates to the respective owners thereof, at their true and actual values according to the rule prescribed in section twelve of this chapter: *provided*, that if, by reason of the discovery of such minerals or the development thereof or otherwise since the last assessment, any such land or estate increases in value to the amount of one hundred dollars or more, the assessor shall increase the assessment of such land or

estate to the actual value thereof, according to the rule contained in section twelve, in the name of the owner thereof; and *provided, further*, that if the value of such estate shall decrease to the amount of one hundred dollars or more, by reason of the exhaustion of any such minerals or by the failure to find or develop the same thereunder, said assessor shall make such reduction in the valuation thereof as to place it at its actual value according to the rule prescribed in section twelve of this chapter.

Lands of deceased persons.

Sec. 40. When the owner dies intestate, his undivided real estate may be listed to his heirs, without designating any of them by name, until they shall give notice to the assessor of the division of the same, the names of the several heirs, and the parcels allotted to each; and each heir shall be liable for the whole tax assessed upon such land while it is so listed; but when he pays the same he may recover of the others their proper proportion of the amount so paid, and the proportion thereof for which such other or others as are liable shall be a lien on the interests owned by him or them in such lands; and such liens, when the amount so paid exceeds twenty dollars in all, may be enforced in a court of equity. When the owner has devised the lands, or a freehold estate therein absolutely, the assessor shall charge such land to the devisee. If under the will the land is to be sold, it shall be charged to the decedent's estate, and the assets in the hands of the personal representative shall be liable for the taxes until a sale and conveyance thereof be made. [This section does not take effect until January 1, 1909.]

How old and new buildings are to be assessed.

Sec. 41. Land and the buildings or structures erected thereon shall be assessed separately, and the value of each entered in separate columns in the land books. Land, except town lots, shall be valued by the acre, and town lots shall be designated by the number of the lot and the name of the street on which it fronts, provided the lots be numbered and the streets of the town be designated by name. They shall also be designated by giving their width and length in feet. A part of a lot shall be further described by giving its direction from the other portion of the lot. Every assessor shall, in each year, assess and enter in the land book of his county the value of any old building omitted for one or more years, and of any addition or improvement to a building, and of any building newly erected, not theretofore assessed, if the same

be of the value of one hundred dollars or more. Such building, whether new or old, and such addition or improvement, shall be valued at their true and actual value according to the rule prescribed in section twelve of this chapter. And when it is an old building, omitted for one or more years, the taxes for former years shall be charged with lawful interest thereon for the omitted year. When any building which has been assessed shall become reduced in value one hundred dollars, or more, the assessor shall take the amount of such reduction from the value of the building assessed against the owner; and where any building shall be wholly destroyed, or reduced to less than one hundred dollars in value, the assessor shall deduct from said assessment the amount for which such building was assessed. [This section does not take effect until January 1, 1909.]

Sec. 42. No new building, addition or improvement shall be assessed until it is so far finished as to be fit for use. For any failure on the part of the assessor to comply with this or any of the three preceding sections he shall forfeit fifty dollars. [This section does not take effect until January 1, 1909.]

Machinery and fixtures—how assessed.

Sec. 43. In assessing the value of buildings or structures, the assessor shall ascertain the value of all machinery and fixtures attached thereto, and include the same in the value of the buildings charged to the owner thereof; and the valuation of such machinery or fixtures shall be thereafter increased or reduced according as they may have increased or decreased in actual value. [This section does not take effect until January 1, 1909.]

Lands lying in more than one county.

Sec. 44. Every tract of land of one thousand acres or less, lying in more than one county, shall be entered for taxation on the land book of the county where the greater part thereof in value lies; but the entry thereof and payment of taxes thereon, in any county where any part thereof is situated, shall, for the time during which the same is so entered and paid, be a discharge of the whole of the taxes and levies charged and chargeable thereon. When new buildings are erected of the value of one hundred dollars or more, upon that part of such tract lying out of the county in which it is assessed, the assessor on whose books it is entered shall assess the same and add the true and actual value thereof as in other cases. Every tract of land of more than one thousand acres, lying in two or more counties, shall,

for the purpose of taxation, be entered and charged with all taxes in each magisterial district of the several counties in which any part of it is, to the extent, as near as may be, that the same lies in such district. When any such tract of more than one thousand acres is thus assessed, partly in one county and partly in another, the several assessors of the respective counties shall value the part lying in his county without regard to the value of the whole tract, and he shall ascertain its value, as in other cases, according to the rule prescribed in section twelve of this chapter. It shall be the duty of the assessor of the county in which the whole of any such tract is charged with taxes to strike such charge from the land book of such county, and to enter so much of said tract as lies in his county and charge the same with county and district taxes on the land book in each magisterial district in his county where any part of such tract may be. The assessor of the county in which the remaining portion of such tract lies shall likewise enter and charge with taxes the portion of said tract in his county. Any person aggrieved by any such entry and charge may apply to the county court for relief, as in other cases. [This section does not take effect until January 1, 1909.]

Sec. 45. When land lying in more than one county has been assessed in one of said counties only, if the owner convey that portion, or any part thereof, lying in the county wherein the same is not assessed, the assessor in said county shall enter the part so conveyed in the land book of his county, and shall assess it to its owner at its true and actual value according to the rule prescribed in section twelve of this chapter. And the assessor of the county in which the whole of said land has been previously assessed shall deduct the part so conveyed and assess the remainder according to its true and actual value. [This section does not take effect until January 1, 1909.]

Sec. 46. In like manner, when a tract or lot of land lies in more than one district, and the owner conveys any portion thereof situated in a district wherein such land was not assessed, the part so conveyed shall be thereafter entered in the proper district, and the true and actual value thereof ascertained, as in other cases, according to the rule prescribed in section twelve of this chapter, and the quantity thereof shall be deducted from the entire tract or lot as it was before entered. [This section does not take effect until January 1, 1909.]

Sec. 47. The assessor and his assistants shall annually, when listing and assessing personal and real property, make diligent inquiry of every resident land owner, and of the resident agents of non-resi-

dent land owners, as to the number of acres of land owned by them, the number of acres in each tract, and the number of town lots owned by them, and the value per acre of each tract and the local description thereof, and the value and location of the town lots. They shall also inquire of said owners or agents whether the entries charged against them in the land books of the previous year are correct, whether any part thereof ought to be transferred to any other person, and if so to whom, and the nature of the evidence to authorize such transfer; also, whether any other land in the county ought to be charged to such resident or non-resident, and whether the description given to any tract of land or town lot in the book of the previous year is incorrectly given. It shall be the duty of such owners and agents to answer all of said inquiries on oath. The assessor shall provide for himself, and for each one of his assistants, a copy of so much of the land book of the previous year as contains a list of the land in the magisterial districts severally apportioned to them under the provisions of section nine of this chapter, and they shall note in said copies such changes and corrections as ought to be made in the land book of the previous year, according to the information obtained under the authority of this section. The assistant assessors shall report any such changes and corrections, as appear to them should be made, to the assessor at some of the stated meetings provided for in sections seventeen and eighteen of this chapter. The assessor shall make such use of the information so obtained as he can properly make, consistently with the other provisions of this chapter, in making out the land book of the county for the current year. Any such resident or agent failing to comply with such requisition shall forfeit fifty dollars. Any assessor or assistant failing to comply with this section shall forfeit not less than fifty nor more than one hundred dollars. [This section does not take effect until January 1, 1909.]

Form of land books—tracts of land—town lots.

Sec. 48. The assessor shall make out the land book, including all extensions, in such form as the auditor may prescribe. Such land book shall contain separate lists for the different magisterial districts and separate lists for the towns of the county, and if they are independent school districts which include towns, and also lands lying outside of such towns, there shall also be a separate list for so much of each of such independent school districts as lies outside of such towns. The assessor shall, for the purpose of taxation, enter the town lots in the alphabetical order of the names of the owners thereof

in the list arranged for them, and shall designate the said lists as "Town (or city) lots of the town (or city) of" He shall also enter, in like alphabetical order, in the separate lists for the independent school districts and magisterial districts the tracts of land the whole, or the greater part of which is situated therein, but no tract or lot of land shall be entered in more than one of said lists, and no part of any tract or lot of land, which does not lie within the incorporated limits of a town, shall be entered in the list or charged with municipal taxes for such town. This section is subject to the provisions contained in the following section. [This section does not take effect until January 1, 1909.]

Sec. 49. In the tables of the tracts of land the assessor shall enter each tract separately, and shall set forth, in as many separate columns as may be necessary, the name of the person who, by himself or his tenant, has the freehold in his possession; the nature of his estate, whether in fee or for life; the number of acres as near as may be in the tract; the name of the tract, if it has a name; a description of it, as far as practicable, with reference to the water courses, mountains or other places on or near which it lies; the distance and bearing, as near as may be, from the court house; the value of the land per acre, including buildings; the value of the whole tract and buildings; the sum included in the value on account of buildings; the amount of the taxes assessed on each tract for state, state school, county, free school, building and other district purposes, and, if the said real estate is located in an incorporated city or town, for municipal purposes, in separate columns, at the rate assessed for each of said purposes, and from whom, when and how the owner derived the land, if known, with a note of explanation of any other alteration made, showing why and upon what authority it was made. [This section does not take effect until January 1, 1909.]

How contiguous tracts may be charged as one.

Sec. 50. Any owner of two or more contiguous tracts of land, situated in whole or in part in the same magisterial district of any county, may, upon application to the county court of such county and duly showing the relative location of said tracts, their ownership and present description on the assessor's book, have the same by order of said court consolidated and charged, by aggregating the quantities thereof so far as lying in the same magisterial district, as one tract upon the assessor's book of said county for the succeeding year and

thereafter. The assessor, upon presentation to him of a certified copy of said order, showing the consolidation of said several tracts of land, shall enter the same as one upon the land book of the year next ensuing, and make a proper note opposite the last entry of each of said several tracts, referring to said order, and a like note opposite the entry of the consolidated tract. He shall value the said consolidated tract at its true and actual value according to the rule prescribed in section twelve of this chapter. Any assessor failing to comply promptly with any of the several duties imposed, by this section, shall be deemed guilty of a misdemeanor, and fined not less than twenty-five and not more than fifty dollars. [This section does not take effect until January 1, 1909.]

Town lots—how described.

Sec. 51. In the table of town lots the assessor shall enter separately each lot, whether improved or unimproved, and shall set forth in as many separate columns, as may be necessary, the name of the person and his estate, as in the table of tracts of land, charging lots leased for a term of years on ground rent, including all improvements thereon, not to the lessee, but to the tenant for life or fee simple owner under whom the lessee holds. He shall set forth in other columns the number of each lot in the town, if the same be numbered; the length and width of the lot in feet; the street on which it fronts, if the streets of such town be named; the value of the buildings on the lots; the value of the lots including the buildings; and where a person does not own the whole of a lot he shall give a description of the part which he owns; the amount of the tax at the legal rate, and like notice of the course of title, and explanation of alterations, as in the table of tracts of land. If several unimproved contiguous lots be owned by the same person, they may be assessed together, but the number of the lots shall be stated. [This section does not take effect until January 1, 1909.]

Assessment to have reference to first of April.

Sec. 52. The assessor, together with his assistants, shall begin annually on the first day of April, and proceed without delay to ascertain all the persons and property, real and personal, on that day subject to taxation in his county. The taxes for each year upon real and personal property shall be paid by those who are the owners thereof on that day, whether it be assessed to them or to others. [This section does not take effect until January 1, 1909.]

Sec. 53. While making such assessment, it shall be the duty of the assessor and assistants to see every person in his county who is liable to taxation therein upon property or capitation, and obtain from him a sworn statement of his personal property. He shall at the same time collect from every person liable for capitation tax, under section fifty-nine of this chapter, the amount of such tax and deliver to such person a receipt therefor. In case any person liable therefor shall fail or refuse at that time to pay such capitation, the assessor shall forthwith levy upon, and take into his possession, property or effects of the delinquent sufficient to pay said capitation and the costs of levy and sale. The assessor shall have as to said capitations the same powers of levy and sale, and of collection by any other method, as is vested in the sheriff for the collection of taxes, and he shall be entitled to the same fees. The assessor shall, at the end of each month, turn over to the sheriff all capitations collected by him and not paid over, less a commission of ten *per cent.*, to which the assessor shall be entitled for collection. At the levy term of the county court the assessor shall make report to said court of all capitations collected, the names of those from whom collected, the names of all delinquents and the cause of delinquency in each case. Said report shall be verified by the affidavit of the assessor. Said assessor shall not thereafter for that year have authority to collect capitations, but a copy of said report shall be by the county court turned over to the sheriff, who shall forthwith proceed to collect all capitations remaining unpaid, whether or not they appear on said report. Upon the capitations collected by the sheriff he shall be allowed a commission of ten *per cent.*, of which the assessor shall be required to pay one-half of all over five *per cent.* The assessor shall be charged by the county court with all delinquents appearing in his said report, and likewise with all delinquents not reported by him, but afterward ascertained or reported by the sheriff, or ascertained in any other way, and credited with all collections on that account made and paid over by the sheriff, less two and one-half *per cent.*, to cover the sheriff's extra commission; he shall also be credited with such delinquencies as the county court shall be satisfied could not have been collected either by the assessor or the sheriff by the exercise of due diligence. And in case the sheriff shall fail to use due diligence in the ascertainment and collection of such delinquencies, he and his sureties on his official bond shall be liable to the assessor for all damages sustained by him on that account. The assessor shall, in addition to other bonds required of him, give a bond

in a penalty to be fixed by the county court, of not less than four thousand dollars nor more than twenty thousand dollars, conditioned for the faithful performance of his duties under this act.

Who deemed owner of property for purposes of taxation.

Sec. 54. 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 a deed of trust 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.

By whom property is to be listed.

Sec. 55. The property of every person shall be listed for taxation, and all necessary information concerning the same shall be furnished to the assessor on his application. Such list shall be made and information furnished:

(a) With respect to the property of a minor, by his guardian, if he has one, and if he has none, by his father, if living, or if not, by his mother, if living, and if neither be living or be a resident of this state, by the person having charge of the property;

(b) with respect to the separate property of a married woman, by herself or her husband, in her name;

(c) with respect to the property of a husband, who is out of the state or incapable of listing such property, by his wife;

(d) with respect to the property held in trust, by the trustee, if in possession thereof, otherwise by the party for whose benefit it is held;

(e) with respect to the personal property of a deceased person, by the personal representative;

(f) with respect to the property of an insane person or a person sentenced to confinement in the penitentiary, by his committee;

(g) with respect to the property of a company, whether incorporated or not, whose assets are in the hands of an agent, factor or receiver, by such agent, factor or receiver, otherwise by the president or proper accounting officer, partner or agent within the state;

(h) with respect to money, credits and investments, in the posses-

sion or under the charge of a receiver or commissioner, by such receiver or commissioner;

(i) with respect to money deposited to the credit of any suit, by the clerk of the court in which the suit was brought; and

(k) with respect to shares in a bank, trust company or national banking association, the capital of which is not assessed under section seventy-eight of this chapter, by the cashier, secretary or principal accounting officer of such bank, trust company or national banking association, as provided in said section seventy-eight. [This section does not take effect until January 1, 1909.]

Sec. 56. Every person required by law to list property on behalf of another shall list it separately from his own, designating the person, company, estate or trust to which it belongs. [This section does not take effect until January 1, 1909.]

Property exempt from taxation.

Sec. 57. All property, real or personal, described in this section, and to the extent herein limited, shall be exempt from taxation; that is to say: property belonging to the United States, or which, by the laws of the United States, is exempt from taxation by or under state authority; property belonging exclusively to the state; property belonging exclusively to any county, district, city, village or town in this state and used for public purposes; property used exclusively for divine worship, parsonages, and the household goods and furniture pertaining thereto; cemeteries; property belonging to colleges, academies and free schools, if used for educational, literary or scientific purposes, including books, apparatus, annuities, money and furniture; public and family libraries; property used for charitable purposes, and not held or leased out for profit; property belonging to any public institution for the education of the deaf, dumb or blind, or to any hospital, house of refuge, lunatic or orphan asylum; homes for children or for the aged, friendless or infirm, not conducted for private profit; fire engines and implements for the extinguishing of fire and property used exclusively for the safe-keeping thereof, and for the meetings of fire companies; but no property shall be exempt from taxation which shall have been purchased or procured for the purpose of evading taxation, whether by temporarily holding the same over the first day of April or otherwise, whether the same be in this state or elsewhere: *provided, however*, that the property, both real and personal, which is exempt from taxation by this section shall be entered upon the asses-

sors' books, together with the true and actual value thereof, but no taxes shall be levied upon the same or extended upon the assessors' books.

How land taken for road may be released from taxation.

Sec. 58. Any person through whose lands a public road has been or may hereafter be established according to law, or through whose lands a railroad company has acquired or may hereafter acquire a right-of-way, by purchase or condemnation, may have the number of acres so taken for such public road or railroad deducted from the whole number of acres in the tract of land, and if such deduction is made on account of land taken for a railroad, the amount so deducted shall be transferred and charged to the railroad company until such time as the railroad is constructed and assessed by the board of public works under the provisions of this chapter, and when the said railroad is so assessed by the board of public works, the land occupied by its right-of-way and assessed to it under the provisions of this section shall be stricken from the land books, and be no longer assessed under this section. The reduction, provided for in this section, shall be made only by the county court of the county wherein such land is assessed at the time the reduction is applied for, after ten days' notice in writing to the prosecuting attorney of such county, and upon satisfactory proof of the number of acres in any such public road or railroad, and of the number of acres in the whole tract or tracts of land from which the deduction is desired to be made. If the reduction is made on account of land taken for a public road, such reduction shall continue only so long as the land is used as a public highway, after which time the assessor shall increase the quantity of land in the tract by adding to it the number of acres included in that part of the public road running through said land, with the true and actual value thereof, which has ceased to be used as such public road. Any order made by the county court upon such application shall direct the assessor to correct the land books according to the facts established by such order. [This section does not take effect until January 1, 1909.]

Capitation tax.

Sec. 59. Every assessor shall ascertain and list for taxation the white male persons and the colored male persons, over the age of twenty-one-years, residing in the county on the first day of April, and not exempted by the county court from taxation on account of bodily

infirmity, and shall include in the said list all persons who remove into the said county between the first day of April and the time the assessors' books are made out; but persons who pay the capitation tax in one county shall be exonerated from paying the same in any other for that year. [This section does not take effect until January 1, 1909.]

Definition of certain words.

Sec. 60. The words "county court," as used in this chapter, shall be construed to include any tribunal constituted for police and fiscal purposes in lieu of a county court; and the clerk of such tribunal shall perform all the duties required of a clerk of a county court under any of the provisions of this chapter, and in counties where such tribunals exist, such clerk of the county court as is mentioned in section twenty-six of article eight of the constitution as amended, shall perform all the other duties required of a clerk of a county court under this chapter. The word "person," shall include firms and companies, whether incorporated or not, unless such meaning be inconsistent with the context; and words importing residence shall, as applied to firms and companies, be regarded as designating the place where the principal office is, or if there be none such in this state, then where its principal business is transacted. The word "assessor," when used in this chapter for the purpose of defining the powers, duties and liabilities of such officer, shall be understood to apply to and embrace his assistants, unless it clearly appear that the word is used in such a way as to mean the assessor only. [This section does not take effect until January 1, 1909.]

Sec. 61. The words "personal property," as used in this chapter, shall include all fixtures attached to land, if not included in the valuation of such land entered in the proper land book; all things of value, movable and tangible, which are the subjects of ownership; and money, credits and investments, as defined in the following sections. [This section does not take effect until January 1, 1909.]

Sec. 62. The word "money" includes not only coin, but all notes, tokens or papers which circulate or are used in ordinary transactions as money, or currency, and deposits, which either in terms or effect are payable in money on demand. "Credits" includes all claims and demands, whether owing upon bond, note, certificate, book account, or otherwise, and whether due or not, whether payable in money, property, labor or services, except only such demands as are included in

the term "money," as above defined. "Investments" includes stocks, bonds and securities of the United States or of this state, or any other state, nation or government, or of any city, town, county, district, railroad or other corporation; and any share, portion, interest or stock in the capital, joint fund, assets or profits of any company, whether incorporated or not, or in a steamboat or other vessel, or in any adventure, business or undertaking. [This section does not take effect until January 1, 1909.]

What personal property is to be listed for taxation.

Sec. 63. All personal property belonging to persons residing in this state, whether such property be in or out of the state, and all personal property in the state, though owned by persons residing out of the state, shall be entered in the personal property book, and be subject to equal and uniform taxation, unless especially exempted by law; but personal property of all classes, except as hereinafter provided, belonging to the residents of this state, which is actually and permanently located in another state, and by the laws of such other state is subject to taxation, and is actually taxed in such other state, shall not be entered on the personal property book, or be taxed in this state. But the shares of capital stock owned by residents of this state in corporations actually located in other states and whose property is taxed by the laws of such other state, shall not be required to be listed for taxation. All moneys belonging to citizens of this state, and loaned to any person out of the state, shall be subject to taxation the same as if loaned in this state. [This section does not take effect until January 1, 1909.]

In what district personal property is to be listed.

Sec. 64. Every person required by law to list personal property shall list for taxation the tangible personal property in the magisterial district wherein it is on the first day of April; and he shall list for taxation, in the magisterial district in which he resides, the money, credits and investments subject to taxation, belonging to himself, or under his charge or control, whether the same, or the evidence thereof, be in or out of the state; but capital, money and other intangible property (except real estate), employed in any trade or business (other than agriculture) belonging to a company, whether it be incorporated or not, or to an individual, shall be assessed for taxation in the magisterial district where the principal office for the transaction of the financial concerns pertaining to such trade or business is located; or,

if there be no such office, then in the district where the operations are carried on. Goods and chattels and other tangible personal property, not exempt from taxation, which may not be assessed for taxation in the magisterial district where the same were on the first day of April, but which have been removed therefrom, shall be assessed in the magisterial district where the same were on said first day of April. But the assessment and payment of taxes in any county or district in any year shall exonerate the owner of such property in any other county or district for such year. [This section does not take effect until January 1, 1909.]

Valuation of credits and investments.

Sec. 65. The value of any credit, if the solvency of the party liable therefor be doubtful, or if the claim be disputed, shall be estimated at its probable worth. If it be payable in anything but money, its probable value in money, to be fixed by the assessor, is to be listed. If a solvent credit bear interest which has not been paid, the amount of principal and interest, calculated up to the first day of April in the year for which the assessment is made, shall be listed; but if it do not bear interest, and be not due, the interest for the time it has to run from the said first day of April, until it will be due and payable, may be deducted. Investments shall be rated by the assessor at their market price, or if there be no known market price, then at their true and actual value, to be ascertained according to the rule prescribed in section twelve of this chapter. [This section does not take effect until January 1, 1909.]

Sec. 66. When the property, stock or capital of any company, whether incorporated or not, is assessed to such company, no person owning any share, portion or interest therein, shall be required to list the same, or be assessed with the valuation thereof. [This section does not take effect until January 1, 1909.]

Sec. 67. In listing money, credits or investments the person owning the same may have deducted therefrom the amount of the indebtedness which he owes to others as principal debtor, but not what he may be liable for as surety or endorser, unless the principal debtor is insolvent and the surety or endorser is not indemnified. But before such deduction shall be allowed the person desiring the same shall make and file with the assessor an itemized statement, verified by affidavit, showing each debt which he desires to have deducted, by whom made, to whom owing, when payable and the amount thereof, including in-

terest to the first day of April of the current year. If he is liable for such debts as surety or endorser he shall also state the name of the principal debtor, and the names of his co-sureties or joint endorsers, if any, and also state any security or indemnity he may have. On receipt of such statement properly verified, if satisfied with the correctness thereof, the assessor shall deduct the amount of said indebtedness from the valuation of such debtor's money, credits and investments, but not from the valuation of any other kind of property, and shall extend the taxes upon the remainder of such money, credits and investments. If such indebtedness equals or exceeds in amount the money, credits and investments no taxes shall be extended on account of the same. The total valuation of money, credits and investments shall be placed in a separate column opposite the name of the owner thereof in the personal property book, and in the next column to the right of it shall be placed the total amount of the indebtedness to be deducted therefrom; and in another column, to the right of the last mentioned column, shall be placed the excess, if any, of such money, credits and investments above such indebtedness. If debts so stated are owing by such persons as co-obligor or as co-surety or joint indorser, with others who are solvent, he shall be allowed to deduct only so much of such debts as he may have to pay after his co-obligors or his co-sureties or joint indorsers shall have paid their proportion thereof. Such statements of indebtedness shall be filed by the assessor with the clerk of the county court, whose duty it shall be to preserve them in his office for one year from the time they were filed with him, and he shall not allow them to be examined by any person except the state tax commissioner, the prosecuting attorney, and the assessor of the county and his assistants, and at the end of said year he shall destroy them; but if the person making such statement shall be indicted for a violation of any of the provisions of this chapter, such statement made by him or his agent may be used as evidence against him at the trial of such indictment. The assessor shall furnish to any person desiring to make the statement herein provided for proper forms to be supplied by the auditor for the listing of debts. No debts shall be deducted as herein provided for unless the statement thereof be verified by the affidavit of the person listing the same, which affidavit shall be to the following effect, viz.:

"State of West Virginia, county of, ss:

"I,, do solemnly swear (or affirm) that the foregoing statement of debts owing by is, to the best of my knowl-

edge and belief, true and correct; that they are *bona fide* debts, and not fictitious obligations created for the purpose of having the amount thereof deducted from the value of money, credits and investments; that where am (is) bound as surety or endorser on any debt mentioned in said statement, I verily believe the principal debtor is insolvent, and that I have in such cases stated both the entire debt and the amount only which I verily believe will have to pay on such debt after the co-sureties or joint endorsers have paid their proportion thereof, and for which am (is) not indemnified; and that where am (is) bound with others as makers of any debt I have stated both the whole amount of the debt and the portion thereof which I verily believe will have to pay after the other solvent obligors thereon have paid their proportions: so help me, God.

“.....”

The officer administering said oath shall append thereto the following certificate, viz.:

“Subscribed and sworn to before me this the day of, 19..

“.....”

Any officer or other person who shall disclose any such statement, or any information contained therein, to any person other than the creditor entitled to the debt concerning which the disclosure is made, shall forfeit not less than one hundred nor more than three hundred dollars. Such statements shall be subject to be reviewed by the assessor and his assistants and by the clerk of the county court when reviewing the tax lists, as provided in section seventeen of this chapter; and if the assessor is not satisfied that the debts mentioned in said statement are *bona fide* debts, and correct in amounts, he may examine on oath the person or his agent, to whom any such debt purports to be payable, and also the person entitled thereto, if the same has been transferred. Any person who shall make a false statement, or who shall state fictitious debts for the purpose of having the amount thereof deducted as herein provided for, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty nor more than five hundred dollars.

Lists to be called for by the assessor.

Sec. 68. It shall be the duty of the assessor, as soon as possible after the first day of April in each year, to ascertain all personal and real property subject to taxation in the county, with the value thereof

and name of the person to whom the same ought to be assessed, and to make proper entry thereof in the land book, or personal property book, as the case may be. [This section does not take effect until January 1, 1909.]

Sec. 69. To ascertain the same, the assessor and his assistants shall call upon every person in the respective magisterial districts allotted to them, who is required by law to list any such property, for a list and valuation thereof, and he may apply to any officer or agent of a company, or any person interested therein, and shall require every person to answer under oath such questions as he may ask him in relation to any matter about which the assessor is authorized to inquire. An assessor, or any of his assistants, failing to make any call and administer the oath required by this section shall be guilty of a misdemeanor, and fined not less than twenty nor more than one hundred dollars, one-half of which shall go to the informer. [This section does not take effect until January 1, 1909.]

Sec. 70. The assessor and his assistants shall deliver to every person in the respective magisterial districts allotted to them, not previously supplied with forms, as provided in section thirteen of this chapter, proper forms for the list and valuation of such personal property and real estate as he is required by law to list; and in order to enable them to do so, the auditor shall furnish the assessor with printed forms for the purpose. If any person be absent from his residence at the time the assessor or any of his assistants calls, and there be no person on the premises to act for him, forms shall be left for him with some member of his family over sixteen years of age, or if there be no such person on the premises, such forms shall be delivered to him as soon thereafter as possible, or the proper statements otherwise procured. To the form furnished to the assessor, by the auditor, shall be appended the form of the oath to be taken by the party who is required by law to make out such list. [This section does not take effect until January 1, 1909.]

Sec. 71. Every person so called upon shall, within ten days thereafter, deliver to the assessor or to one of his assistants, or leave for him with the clerk of the county court, a full and correct statement, in the form prescribed and delivered as aforesaid, of all real and personal property and persons, on account of which he is chargeable with taxes, or which by law he is required to list on behalf of another, with the valuation of the property mentioned in said statement. He shall also take and subscribe an oath appended to or endorsed upon the said statement to the following effect, viz.:

“State of West Virginia, county of, ss:

“I,, do solemnly swear (or affirm) that to the best of my knowledge, information and belief, the foregoing statement contains a true, full and correct list of all property, real and personal, owned by on the first day of April last; that where I have been unable to exhibit any class of property to the assessor, or to his assistant, such property has been fully and fairly described to him and its true condition represented; that I have in no case sought to mislead the assessor, or his assistant, as to the entire quantity, quality or value of property; that I have reported all moneys and the value of all credits and investments owned by on said day and liable to taxation, except bonds of the United States, and except stocks in banks, trust companies and other incorporated companies whose property is assessed in the name of such corporation, either within or without this state; that since the first day of April of last year, no property belonging to has been directly, or indirectly, converted temporarily, for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind, and that I have, to the best of my knowledge and judgment, valued the said property, both real and personal, at its true and actual value on the said first day of April; by which I mean the price that could be obtained for said property at private and voluntary sale and on such terms as are usually employed in the selling of such property, and not the price which might be realized at a forced or auction sale: so help me, God.

“ ”

“Subscribed and sworn (or affirmed) to before me, this . . day of, 19 . .

“ ”

No such list shall be received by the assessor unless the same be so verified. [This section does not take effect until January 1, 1909.]

Sec. 72. Notwithstanding anything contained in this chapter to the contrary, any person may refuse to value any personal or real property, listed by him, if he exhibits the same to the assessor, who shall thereupon assess the value thereof. Any person so refusing to value the property listed by him, shall take and subscribe an oath to the following effect, viz.:

“State of West Virginia, county of, ss:

“I,, do solemnly swear (or affirm) that to the best of my knowledge, information and belief, the foregoing statement

contains a true, full and correct list of all property, real and personal, owned by on the first day of April last; that where I have been unable to exhibit any class of property to the assessor or to his assistant, such property has been fully and fairly described to him and its true condition represented; that I have in no respect sought to mislead him as to the entire quantity, quality and value of property; that I have reported all moneys, credits and investments owned by on said day and liable to taxation, except bonds of the United States, and except stock in banks, trust companies and other incorporated companies whose property is assessed in the name of such corporation, either within or without this state; that since the first day of April of last year no property belonging to has to my knowledge, either directly or indirectly, been converted temporarily, for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind: so help me, God.”

“.....”

“Subscribed and sworn (or affirmed) to before me, this .. day of, 19..

“.....”

No list shall be received by the assessor unless the same shall be verified by the oath of the person making the same, and any assessor who shall receive any such list not so verified, as required by law, shall forfeit not less than fifty nor more than two hundred dollars. Any person whose duty it is by law to list property for taxation and who shall refuse to verify such list, being called upon to do so, shall, in addition to any other penalty provided for such refusal, be denied the right to apply to any court to have the assessment and valuation of his property, which the assessor may make, changed in any manner. [This section does not take effect until January 1, 1909.]

Penalty for failure to list property correctly.

Sec. 73. If any person whose duty it is by law to list any real or personal property, being called upon by the assessor to do so, refuse to furnish a proper list thereof, or to make such oath as is required by this chapter; or if any person refuse to answer, or answer untruly, any question lawfully asked by the assessor, or refuse to be examined under oath when lawfully required by the assessor, or fail or refuse to deliver any statement required by law, he shall forfeit not less than twenty-five nor more than one hundred dollars, and he shall be denied all remedy provided by law for the correction of any assessment

made by the assessor. If any person fail to give a true list of all his property, which should be assessed, he shall, in addition, forfeit twenty *per centum* of the value of the property not listed and not otherwise taxed. Such forfeiture may be enforced for any such default occurring in any year hereafter, not exceeding five prior to the time the same is discovered. Each failure to make a true list as herein required shall constitute a separate offence, and the forfeiture shall apply to each of them, but all such forfeitures to which the same person is liable shall be enforced in one proceeding against such person or his estate. It shall be the duty of the prosecuting attorney of the county in which the defaulting taxpayer resides, or in which the property which should have been listed is located, to enforce the collection of the same in the name of the state of West Virginia against the defaulting taxpayer, or his personal representative, in the circuit court, upon motion, whereof the defendant shall have at least twenty days' notice. Either party shall have the right to have the issue tried by a jury, and the state, as well as the defendant, shall have the right to an appeal. The prosecuting attorney shall receive ten *per centum* of the amount recovered as his compensation, and an attorney's fee of ten dollars, to be taxed as a part of the costs against the defendant, in the event a judgment is recovered against him; the residue collected on said judgment he shall turn over to the sheriff and take his receipt for the same. The sheriff shall apportion said fund among the state, county, district and municipalities which would have been entitled to the tax on said property if it had been assessed, in the proportion that the rate of taxation for each purpose, for the current year, bears to the sum of the rates for all purposes. The return of the assessor showing that any person is the owner of any amount of property liable to taxation shall be *prima facie* evidence that such taxpayer was called upon by the assessor to list his property. And when the list of property returned by the appraisers of the estate of any deceased person shows an amount greater in value than the last assessment list of such deceased person next preceding the appraisement of his estate, it shall be *prima facie* evidence that such deceased person returned an imperfect list of his property: *provided, however*, that any one liable for the tax, or his personal representative, may always be permitted to prove by competent evidence that the discrepancy, between said assessment list and the appraisement of the estate, is caused by a difference in valuation returned by the assessor and that made by the appraisers of the same property; or that any property enumerated in the apprais-

ers' list had been otherwise listed for taxation, or that it was not liable to taxation. Any judgment recovered under this section shall be a lien, from the time of the service of notice, upon all the real estate and personal estate of such defaulting taxpayer, owned at the time or subsequently acquired, in preference to any other lien. [This section does not take effect until January 1, 1909.]

Sec. 74. If any person fail to furnish a proper list, or if the list furnished be, in the judgment of the assessor, incomplete or erroneous in any respect, the assessor shall proceed to list the property and assess its value, or to supply the omission and correct the errors, upon the best information he can obtain, and for that purpose the assessor may call upon any officer of the state, county or district for such proper information as it may be in his power to give, and may require any person having possession, charge or control of any personal property in the county, to permit him to examine the same in order that a fair valuation thereof may be made, and if any person refuse to do so, he shall forfeit not less than ten nor more than fifty dollars. [This section does not take effect until January 1, 1909.]

Sec. 75. Nothing in this chapter contained shall be construed to require any person to furnish, or the assessor to take, a list of the several articles of such person's household and kitchen furniture, except those specified in section one hundred and eight of this chapter. [This section does not take effect until January 1, 1909.]

Toll bridges and ferries.

Sec. 76. The assessor shall, upon the best information he can obtain, ascertain for the purposes of taxation the annual value of all ferries and toll bridges, other than railroad bridges upon which a separate toll or fare is charged, located in his county, except such as are by law exempt from taxation. He shall value such bridge or ferry each year at ten times its annual value, and enter the same in the land book in the name of the owner in the magisterial district wherein the same is located. If such bridge or ferry is on a line dividing two counties, or two districts of the same county, one-half of the value so ascertained shall be assessed in each county or district, as the case may be. [This section does not take effect until January 1, 1909.]

Certain incorporated companies.

Sec. 77. Each incorporated company having its principal office or chief place of business in this state, except railroad, foreign insurance,

telegraph and express companies, telephone companies, pipe line, car line companies and banks and trust companies, shall annually, between the first day of April and the first day of June, make a written report, verified by the oath of the president or chief accounting officer, to the assessor of the county in which its principal office or chief place of business is situated, showing the following items, viz.:

- (a) The amount of capital authorized to be employed by it;
- (b) the name and residence of each stockholder therein, the number of shares held by each, and the par value thereof;
- (c) the amount of cash capital paid on each share of stock;
- (d) the amount of money in hand, or on deposit anywhere subject to its check or draft, on the first day of April of the current year;
- (e) the amount of credits and investments, other than its own capital stock held by it on said date, with their true and actual value;
- (f) the quantity, location and true and actual value of all of its real estate, and the magisterial district or districts in which it is located;
- (g) the kinds, quantity and true and actual value of all its tangible personal property in each magisterial district in which it is located.

And in case such company desires to have its indebtedness deducted from its money, credits and investments, as hereinbefore provided, it shall also include in said report:

- (h) An itemized statement, such as is provided for in section sixty-seven of this chapter, and all of the provisions of said section sixty-seven shall apply to said statement, so far as they are applicable; which statement shall be verified by the oath of the president or chief accounting officer of each company, substantially in the form required for individuals in said section sixty-seven.

Any incorporated company failing to make the report required by this section, within the time specified, shall forfeit one hundred dollars, and shall, in addition thereto, be liable for the tax assessed upon its property at a valuation thereof to be fixed by the assessor, according to the best information he can obtain from other sources.

The oath required by this section shall be substantially as follows, viz.:

"State of West Virginia, county of, ss:

"I,, president (treasurer or manager) of (here insert name of corporation), do solemnly swear (or affirm) that the foregoing list is, to the best of my knowledge and judgment, true in all respects; that it contains a statement of all the real estate and personal

property, including moneys, credits and investments belonging to said corporation; that the valuation affixed to such property is, in my opinion, its true and actual value, by which I mean the price at which it would sell if voluntarily offered for sale on such terms as are usually employed in selling such property, and not the price which might be realized at a forced or auction sale; and that said corporation has not, to my knowledge, since the first day of April last, converted any of its assets into non-taxable securities for the purpose of evading the assessment of taxes thereon: so help me, God.

“.....”

The officer administering said oath shall append thereto the following certificate, viz.:

“Subscribed and sworn to before me by, this day of, 19..

“.....”

[The above section does not take effect until January 1, 1909.]

Sec. 78. Upon receiving the verified report required by the preceding section, the assessor, if satisfied with the correctness thereof, shall assess the value of all the property of such corporation liable to taxation, and enter the same as follows, viz.: All the property in item (*f*) shall be entered with its valuation in the land books of the county, and in the magisterial district in which the real estate is situated; all property mentioned in items (*d*) and (*e*) shall, together with their valuation, be entered in the personal property book of the county, and in the magisterial district wherein is the principal office or chief place of business of such corporation, under the appropriate heads; and all property mentioned in item (*g*) shall, together with its valuation, be entered in the personal property book of the county, and in the magisterial district wherein said property is on the first day of April. The property mentioned in items (*d*), (*e*), (*f*), and (*g*) shall constitute all the property on which any such corporation shall be liable to pay taxes. If a company have branches, each branch shall be assessed separately in the county and magisterial district where its principal office for transacting its financial concerns is located; or if there be no such office, then in the magisterial district where its operations are carried on. All locks and dams of navigation companies shall be assessed and taxed as real estate in the county and magisterial district wherein they are situated; and in case such locks and dams are located on any creek or river which is the dividing line between counties, or the dividing line between ma-

gisterial districts of the same county, one-half of the value thereof shall be assessed in each of said counties or magisterial districts, as the case may be. When the property of an incorporated company is assessed as aforesaid, no individual shareholder therein shall be required to list, or be assessed with his share, portion or interest in the capital stock of such corporation. [This section does not take effect until January 1, 1909.]

Banks and trust companies—how assessed.

Sec. 79. The shares of stock in a bank, trust company or national banking association, shall be assessed at their true and actual value to the several holders of such stock in the county, district and town where such bank, company or association is located, and not elsewhere, whether such holders reside there or not. The real and actual value of such shares shall be ascertained according to the best information which the assessor may be able to obtain, whether from any returns made by such bank, company or association to any officer of the state or United States, from actual sales of the stock, from answers to questions by the assessor as hereinafter provided, or from other trustworthy sources. The cashier, secretary or principal accounting officer, of every such bank, company or association, shall cause to be kept a correct list of the names and residences of all the shareholders therein, and the number of shares held by each, which list shall be open to the inspection of the assessor of the county, and of the state tax commissioner; and such cashier, secretary or officer shall answer under oath such questions as the assessor may ask him concerning the matters shown by said list, and concerning the value of said shares, and shall be subject to the same penalties, for failure to do so, which are imposed by law upon individuals failing to answer questions which the assessor is authorized to ask. The taxes so assessed upon the shares of any such bank, company or association shall be paid by the cashier, secretary or proper accounting officer thereof, and in the same manner, and at the same time, as other taxes are required to be paid in such county, district and town. In default of such payment such cashier, secretary or accounting officer, as well as such bank, company or association, shall be liable for such taxes, and in addition, for a sum equal to ten *per centum* of the amount thereof. Any taxes so paid upon any such share may, with interest thereon, be recovered from the owners thereof by the bank, company, association or officer paying them, or may be deducted from dividends accruing on such shares. The real estate of

any such bank, company or association shall be assessed as in other cases, and a proportionate share of such assessed value shall be deducted in ascertaining the market value of the shares. Notwithstanding anything hereinbefore provided for, any such bank, company or association may have its capital stock assessed and may pay taxes thereon as hereinafter provided, and in that case the shares of its capital stock shall not be assessed for taxation. In such case the bank, company or association electing to have its capital stock assessed shall list the same for taxation, within the time prescribed as to other taxpayers, which list shall be made as of the first day of April, and shall be in the form used in making reports to the comptroller of the currency of the United States, or the state commissioner of banking, as the case may be. It shall be verified by the oath or affirmation of the president, cashier or secretary of such bank, company or association, and be attested by the signatures of at least three of the directors. Such report shall exhibit in detail, and under appropriate heads, the resources and liabilities of the bank at the close of business on the thirty-first day of March previous. It shall especially show as of that date, the amount of the capital, surplus and undivided profits, the value of any real estate, and the amount and value of any property exempt from taxation, which property claimed to be so exempt shall be specifically described. Upon consideration of the matters shown by such list, and of any former or other return or report made by such bank to the comptroller of the currency of the United States, or the commissioner of banking in this state, and of any other information he may obtain upon the subject, the assessor shall fix the value of said capital, surplus and undivided profits, after deducting the value of such real estate and property exempt from taxation, and enter the same in his personal property book. If the capital stock of such bank, company or association is thus assessed, its real estate shall be assessed and entered in the land books as in other cases. No property shall be considered as exempt from taxation which shall have been purchased or procured for the purpose of evading taxation, whether by temporarily holding the same over the first of April or otherwise, and whether the same be in this state or elsewhere. [This section does not take effect until January 1, 1909.]

Capital used in trade or business by merchants and other individuals or firms.

Sec. 80. The value of the capital used by any individual or firm

not incorporated, in any trade or business taxable by law, shall be ascertained in the following manner: The owner, agent or chief accountant of every such trade or business, except the business of agriculture, carried on in any county of the state, shall annually, between the first day of April and the first day of June of the current year, make a written report, as of the first day of April, to the assessor, verified by his affidavit, showing the following matters and things, viz.:

(a) The amount and the true and actual value of all tangible personal property used in connection with such trade or business, otherwise than such as is regularly kept for sale therein;

(b) the true and actual value of all goods and property kept for sale and remaining unsold;

(c) the amount of all money derived from or belonging to such trade or business, on hand or remaining uninvested on that day, whether in or out of the state, payable to such individual or firm;

(d) the amount and value of all credits arising out of such trade or business and remaining unpaid on that day, whether due or not and whether in or out of the state;

(e) the amount and the true and actual value of all investments made by such person or firm whether in or out of the state, other than those hereinbefore specified;

(f) the location, quantity, and the true and actual value of all real estate owned by such individual or firm and used in such trade or business.

And in case such individual or firm desires to have indebtedness deducted from money, credits and investments it shall also include in said reports:

(g) An itemized statement such as is provided for in section sixty-seven of this chapter, and all the provisions of said section sixty-seven shall apply to said statement so far as they are applicable; which statement shall be verified by such owner, agent or chief accountant substantially in the form required for individuals in said section sixty-seven.

The assessor shall upon receipt of such report properly verified, if he is satisfied with the correctness thereof, enter the real estate in the land book of the county in the district wherein the same is situated, and assess the same with taxes, if not otherwise assessed, to the owner thereof. The personal property mentioned in said report he shall enter in the personal property book of his county and assess with taxes as follows, viz.: Items (a) and (b) shall be entered in the magis-

terial districts where they are for the greater part of the year kept or located; and items (c), (d), (e), and (g) shall be entered, under their appropriate headings, in the town or magisterial district wherein is the principal place of business of said individual or firm. If the assessor is not satisfied with the correctness of said report, he may proceed to ascertain a correct list of the property on which such individual or firm is liable to be assessed with taxes, and to value the same as in other cases. The person making the said report shall take and subscribe an oath in substantially the following form, viz.:

"State of West Virginia, county of, ss:

"I,, do solemnly swear (or affirm) that the foregoing list is true and correct to the best of my knowledge; that the value affixed to the property therein listed I believe to be the true and actual value thereof, by which I mean the price at which said property would sell if voluntarily sold on such terms as are usually employed in the sale of such property, and not the price which might be obtained if sold at a forced or auction sale; that none of the assets belonging to (here state the name of individual or firm) and used in the business of (here describe the business) have, to my knowledge, since the first day of April of last year, been converted into non-taxable securities for the purpose of evading the assessment of taxes thereon; so help me, God.

""

The officer administering said oath shall append thereto the following certificate, viz.:

"Subscribed and sworn to before me by (here insert affiant's name) this day of, 190..

""

[The above section does not take effect until January 1, 1909.]

Sec. 81. Any such person or firm, as is mentioned in the preceding section, desiring to commence business after the first day of April in any year, shall give notice thereof to the assessor of the proper county, accompanied with a sworn statement of the amount of capital invested, or intended to be invested by such person or firm in such trade or business during the remainder of the year. It shall be the duty of the assessor, upon receipt thereof, to enter the same in his personal property book under the appropriate heading, and extend the taxes to be paid thereon. But if at the time of receiving such sworn statement his personal property book shall have been completed and certified, he shall enter the amount of such capital in a supplement to the

copy of his personal property book, to be retained by him, and extend the taxes thereon. He shall also certify such entry to the auditor and the clerk of the county court, whose duty it shall be to make a like entry thereof in a supplement to the copies of the personal property book filed in their respective offices. When any personal property employed in any trade or business is assessed under the provisions of this, and the preceding section, the owner shall not be required to list the same otherwise, nor shall it be otherwise assessed to him. All personal as well as real property, not so assessed to such person or firm, shall be assessed as other like property is required by law to be assessed. [This section does not take effect until January 1, 1909.]

Transient persons—how assessed.

Sec. 82. Any transient person desiring to offer or furnish for sale, either by auction or otherwise, any goods or merchandise not assessed for the purpose of taxation in any county in this state, as provided by the preceding section, shall apply to the assessor of the county in which such goods or merchandise is about to be offered or furnished for sale, and have the value thereof ascertained and assessed with taxes, as like property is valued and assessed, and shall, before selling any of such goods or merchandise, pay to said assessor the taxes levied for the current year. If at the time of such valuation and payment of taxes the levies for the current year shall not have been ascertained, the assessor shall assess said valuation according to the rate of taxation levied for the previous assessment year for all purposes for which said goods or merchandise is liable to be assessed for the current year in the place where they are to be offered or furnished for sale. If the amount thus ascertained and paid is afterward ascertained to be in excess of the taxes levied for the current year, he shall have such excess refunded to him. The assessor shall, at the time he so values such goods or merchandise and collects the taxes thereon, if his personal property book has not been completed and certified, enter such valuation therein, under the appropriate heading, in the name of the owner of such goods or merchandise. If at the time of such valuation and collection of taxes thereon said personal property book shall have been completed and certified, he shall enter the same in the supplement to the copy of such book retained by him, and in either event he shall furnish to the auditor and to the clerk of the county court, respectively, certificates of such valuation and of the amount of taxes collected thereon by him. The auditor and said clerk shall preserve such certificates in

their respective offices, and if the entry of such valuation and assessment of taxes thereon shall not have been made in the personal property book before copies thereof have been certified, they shall also enter the amount of such valuation so certified to them in the supplements to their respective copies of said personal property book. The assessor shall deliver to such person a receipt for the amount of taxes paid by him, stating therein the character of the goods or merchandise on which said taxes were paid, the value assessed thereon, and the amount of taxes and the year for which the same were paid. Such receipt shall be signed by the assessor and attested by the clerk of the county court, and when so signed and attested shall operate as a discharge to such person holding the same from any further liability for taxes in any county of this state on account of such goods or merchandise for that year; but it shall not relieve him from all liability for taxes on account of goods and merchandise which he has not reported to the assessor to be valued, and on which he has not paid the taxes as herein provided. The assessor shall report to the clerk of the county court all taxes collected by him, under this and the preceding section, upon property assessed by him after he has completed and certified his personal property book, and it shall be the duty of said clerk to charge the same against him in the supplement to the personal property book filed with such clerk. Any such person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and shall be fined not less than fifty nor more than five hundred dollars. The assessor shall apportion the taxes collected by him under the provisions of this section, and shall account therefor to the county, district and municipality entitled thereto, according to the rate levied for the current year for each of them. Any assessor who shall fail to perform the duty required of him by this section, shall forfeit not less than twenty-five nor more than one hundred dollars. If he shall fail to account for any taxes collected by him under the provisions of this and the preceding section he shall be guilty of embezzlement, and shall, in addition to the foregoing penalty, be punished therefor according to law. [This section does not take effect until January 1, 1909.]

Receivers, commissioners and clerks of courts.

Sec. 83. The assessor shall ascertain from each person in his county, who acts under the order of any court as receiver or commissioner, the amount of all money and bonds, or other evidences of debt, under his control, and the style of the suit to which such fund belongs,

and, from the clerk of such court, the amount deposited by order of such court in any bank or savings institution to the credit of any suit in such court, and the style of such suit. The cashiers of all banks in the state shall, under oath, furnish to the assessors a list of all moneys held by such banks, and the holder thereof, for which certificates of deposits bearing interest have been issued by said banks, and the assessor shall assess the same to the person named in said list: *provided*, that said deposits are liable to be assessed under this chapter; and *provided, further*, that the sum so deposited has not already been returned by the owner thereof. [This section does not take effect until January 1, 1909.]

Assessment of railroads, car lines, telegraph and telephone lines and pipe lines.

Sec. 84. On or before the first day of April in each year a return in writing to the board of public works shall be delivered to the state tax commissioner by the owner or operator of every railroad, wholly or in part within this state; by the owner or operator of every railroad bridge upon which a separate toll or fare is charged; by the owner or operator of every car or line of cars used upon any railroad within the state for the transportation or accommodation of freight or passengers, other than such owners or operators as may own or operate a railroad within the state; by the owner or operator of every pipe line, wholly or in part within this state, used for the transportation of oil or gas, whether such oil or gas be owned by such owner or operator or not, or for the transmission of electrical or other power, or the transmission of steam or heat and power or of articles by pneumatic or other power; and by the owner or operator of every telegraph or telephone line wholly or in part within this state, except private lines not operated for a compensation. The words "owner or operator," as applied herein to railroads, shall include every railroad company incorporated by or under the law of this state for the purpose of constructing and operating a railroad, or of operating part of a railroad within this state, whether such railroad or any part of it be in operation or not; and shall also include every other railroad company, or persons or association of persons, owning or operating a railroad or part of a railroad in this state on which freight or passengers, or both, are carried for compensation. The word "railroad" as used herein includes every street, city, suburban or electric or other railroad, or railway. Such return shall be signed and sworn to by such owner or operator, if a natural

person, or, if such owner or operator shall be a corporation, shall be signed and sworn to by its president, vice-president, secretary or principal accounting officer, and shall show in detail particulars as hereinafter set forth, for the year ending on the thirty-first day of December, next preceding.

Sec. 85. In the case of a railroad, such return shall show for every such owner or operator:

(a) The whole number of miles of railroad owned, leased or operated within this state;

(b) if such railroad be partly within and partly without this state, the whole number of miles thereof within this state, and the whole number of miles without the same, including its branches in and out of the state;

(c) the railroad track in each county in this state through which it runs; giving the whole number of miles of road in the county, including the track and its branches and side and second tracks, switches and turnouts therein, and the true and actual value per mile of such railroad in each county, stating the valuation of main track, second main track, branches, sidings, switches and turnouts separately;

(d) all rolling stock owned, leased or operated, showing in separate classes: (1) the rolling stock owned; (2) the rolling stock leased or held under any conditional sale or other contract, giving such owner or operator the possession or control thereof; (3) the rolling stock used upon the line of such owner or operator, but owned by other railroad companies not owning or operating a railroad wholly or in part within this state; and (4) the rolling stock used upon such line but owned, held or operated by corporations or companies not railroad companies, or by individuals, and for each of said classes giving a detailed statement of the number and ownership of engines, car lines and cars, including passenger, mail, express, baggage, freight, sleeping, dining, parlor, refrigerator, stock and other cars of every description, and the names and addresses of the owners, and the true and actual value of all such cars used wholly or in part in this state, distinguishing between those used wholly in this state and those used partly within and partly without the state; the whole number of engines, including their appendages, used wholly or in part within this state, distinguishing between those used wholly within this state and those used partly within and partly without the same, and the true and actual value of those used wholly within the state and those used partly within and partly without the state; and the proportional value of cars and

engines used partly within and partly without the state, according to the time used and the number of miles run by such cars and engines in and out of the state; and the proportional value thereof in each county in this state within which such railroad runs;

(e) the depots, station houses, section houses, freight houses, machine and repair shops and machinery therein, and all other buildings, structures and appendages connected thereto or used therewith, including tool houses and the tools usually kept therein, together with all other real estate, other than railroad track, owned or used in connection with the railroad, and not otherwise taxed, including telegraph and telephone lines owned or used, and the true and actual value of all buildings and structures, and all such machinery and appendages, and each parcel of such real estate, including such telegraph or telephone lines, and the true and actual value thereof in each county in this state in which it is located;

(f) personal property, of every kind whatsoever, including money, credits and investments wholly held or used in this state, showing the amount and value thereof in each county;

(g) an itemized list of all other real property, with the location thereof, which list shall show as to each parcel whether it is assessed for taxation, and if so, by what officer or authority;

(h) the capital actually employed; the total amount of bonded indebtedness, and of indebtedness not bonded; gross earnings for the year, including earnings from telegraph lines, which shall be stated separately, on the whole length of road, including the branches thereof, in and out of the state, and also such earnings within this state on way freight and passengers, and the proportion of such earnings in this state on through freight and passengers carried over lines in and out of the state, to be ascertained by the number of miles the same was carried within and the number of miles without the state; and, if such owner or operator be a corporation, its actual capital stock, and the number, character, amount and market value of the shares thereof, and the amount of capital stock actually paid in;

(i) gross expenditures for the year, giving a detailed statement thereof under each class or head of expenditure.

Sec. 86. In the case of a railroad bridge upon which a separate toll or fare is charged, such return shall show:

(a) The location of the same;

(b) what railroads use it;

(c) the length of such bridge and the number of tracks on it;

(d) all other property owned by such owner or operator and used in connection with said bridge;

(e) the capital actually invested; the total amount of bonded indebtedness, and of indebtedness not bonded; gross earnings for the year from all sources;

(f) gross expenditures for the year, giving a detailed statement thereof under each class or head of expenditure.

Sec. 87. In the case of car lines used for the transportation or accommodation of passengers or freight by owners or operators, other than railroad companies making their return under this law, such return shall show for every such owner or operator:

(a) All cars and other rolling stock, giving a detailed statement of the number of cars, including passenger, mail, express, baggage, freight, sleeping, dining, parlor, refrigerator, stock and other cars of every description, and the true and actual value of all such cars used wholly or in part in this state, distinguishing between those used wholly in this state and those used partly within and partly without the state, and the true and actual value of those used wholly within the state and those used partly within and partly without the state, and the proportional value of such cars used partly within and partly without the state, according to the time used and the number of miles run by such cars in and out of the state, the railroad over which they were run, and the proportional value in each county within this state, within which such cars were run; but in any case where it may appear to the board of public works that from the nature of the employment of such cars, or otherwise, it is not practicable to show the matters hereinbefore required in this section as to the cars used in this state, and the proportional values of the cars used partly within and partly without this state and each county thereof, the board may, as to such matters, accept such other information as it may be practicable to obtain, or in its discretion the board may dispense with such showing as to any such matter;

(b) real and personal property of every kind, whatever, including money, credits and investments, and the amount thereof, wholly held or used in this state, showing the amount and the true and actual value in each county;

(c) the actual capital employed in the business of such owner or operator, the total amount of bonded indebtedness with respect to such line, and of indebtedness not bonded; the whole length of the several lines of railroad over which such cars run, including branches and

connecting lines in and out of the state; and, if such owner or operator be a corporation, its actual capital stock and the number, character, amount and market value of the shares thereof, and the amount of capital stock actually paid in; its bonded indebtedness and its indebtedness not bonded. The board of public works shall have the right to require any such owner or operator to furnish such other and further information as, in the judgment of the board, may be of use to it in determining the true and actual value of the property to be assessed to such owner or operator.

Sec. 88. In the case of a pipe line, such return shall show for each owner or operator:

(a) The number of miles of pipe line owned, leased or operated within this state, the size or sizes of the pipe composing such line, and the material of which such pipe is made;

(b) if such pipe line be partly within and partly without this state, the whole number of miles thereof within this state and the whole number of miles without this state, including all branches and connecting lines in and out of the state;

(c) the length, size and true and actual value of such pipe line in each county of this state, including in such valuation the main line, branches and connecting lines, and stating the different values of the pipe separately;

(d) its pumping stations, machine and repair shops and machinery therein, tanks, storage tanks and all other buildings, structures and appendages connected or used therewith, together with all real estate, other than its pipe line, owned or used by it in connection with its pipe line, including telegraph and telephone wires, and the true and actual value of all such buildings, structures, machinery and appendages, and of each parcel of such real estate, including such telegraph and telephone lines, and the true and actual value thereof in each county in this state in which it is located; and the number and value of all tank cars, tanks, barges, boats and barrels;

(e) its personal property of every kind whatsoever, including money, credits and investments, and the amount thereof wholly held or used in this state, showing the amount and value thereof in each county;

(f) an itemized list of all other real property within this state, with the location thereof;

(g) the actual capital employed in the business of such owner or operator, the total amount of the bonded indebtedness of such owner or operator, with respect to such line, and of indebtedness not bonded;

and, if such owner or operator be a corporation, its capital stock, the character, number and amount and the market value of the shares thereof, and the amount of capital stock actually paid in; its bonded indebtedness, and its indebtedness not bonded. The board of public works shall have the right to require any such owner or operator to furnish such other and further information as, in the judgment of the board, may be of use to it in determining the true and actual value of property to be assessed to such owner or operator.

Sec. 89. In the case of a telegraph or telephone line, such report shall show for every such owner or operator:

(a) The number of miles of line owned, leased or operated within this state, the gauge of the wire, the number of strands of wire, the material of which it is made, and, as accurately as may be, the time when the line or any material part thereof was constructed or last replaced;

(b) if such line be partly within and partly without the state, the whole number of miles thereof within this state and the whole number of miles without this state, including all branches and connecting lines in and out of the state;

(c) the true and actual value per mile of such line in each county of this state;

(d) its stations, shops and machinery therein, and all buildings, structures and appendages connected or used therewith, together with all real estate, other than its telegraph or telephone line, owned or used by it in connection with its line, and of each parcel of such real estate and the true and actual value thereof in each county in this state in which it is located;

(e) its personal property of every kind whatsoever, including money, credits and investments, and the amount thereof, wholly held or used in this state, showing the amount and value thereof in each county;

(f) an itemized list of all other real property within this state, with the location thereof;

(g) the actual capital employed in the business of such owner or operator, the total amount of the bonded indebtedness of such owner or operator, with respect to such line, and of all indebtedness not bonded; and, if such owner or operator be a corporation, its capital stock, the character, number, amount and the market value of the shares thereof, and the amount of capital stock actually paid in; its bonded indebtedness and its indebtedness not bonded.

The board of public works shall have the right to require any such owner or operator to furnish such other and further information as, in the judgment of the board, may be of use to it in determining the true and actual value of the property to be assessed to such owner or operator.

Sec. 90. All returns to be made to the board of public works, under this chapter, shall be made in conformity with any reasonable requirement of the board of which the person making the return shall have had notice, and shall be made upon forms which may be furnished by the board, and according to instructions which the board may give relating thereto, and to the description and itemizing of the property. And such owner or operator, whether a natural person, or a corporation or company, failing to make such return as herein required, shall be guilty of a misdemeanor, and fined one thousand dollars for each month such failure continues.

Sec. 91. If any owner or operator fail to make such return, in the time or manner hereby required, it shall be the duty of the state tax commissioner to take such steps as may be necessary to compel the making of such return, and to enforce any and all penalties imposed by law for such failure. The returns delivered to the state tax commissioner shall be examined by him, and if any be found insufficient in form, or in any respect defective, imperfect or not in compliance with law, he shall compel the person required to make it to do so in proper and sufficient form, and in all respects as required by law. The state tax commissioner shall arrange, collate and tabulate such returns so that they may be conveniently considered and disposed of by the board, and shall then, as soon as practicable, lay them before the board of public works. If such return be satisfactory to the board it shall approve the same, and, by an order entered upon its records, direct the auditor to assess the property of such owner or operator with taxes; and he shall thereupon assess the same as hereinafter provided. But if such return be not satisfactory to the board, or if any such owner or operator fail to make such return as herein required, said board of public works shall proceed, in such manner as to it may seem best, to obtain the facts and information required to be furnished by such returns; and to this end the said board may send for persons and papers, and may compel the attendance of any person and the production of any paper necessary, in the opinion of said board, to enable it to obtain the information desired for the proper discharge of its duties under this section. Any expenses necessarily incurred by said

board in procuring such information shall be paid by the governor out of the contingent fund.

Sec. 92. If any person shall refuse to appear before said board when required by it to do so, as aforesaid, or shall refuse to testify before said board in regard to any matter as to which said board may require him to testify, or if any person shall refuse to produce any paper in his possession or under his control, which said board may require him to produce, every such person shall be guilty of a misdemeanor, and fined five hundred dollars and may be imprisoned not less than one nor more than six months, at the discretion of the court.

Sec. 93. As soon as possible after the board of public works shall have procured the necessary information to enable it to do so, and at the latest before the first day of June, said board shall proceed to assess and fix the true and actual value of all the property of said owner or operator hereinbefore required to be returned, so far as the said board has been able to ascertain the same, in each county through which the railroad, car line, cars, telegraph, telephone, or pipe line of any such owner or operator runs, and in which any property to be assessed is. In ascertaining such value the board shall consider the return, if any, made by the owner or operator and any return which may have been previously made by such owner or operator, and all the evidence and information it has been able to procure by the means aforesaid, and such as may be offered by such owner or operator. When the board of public works has assessed any property hereby required to be returned, and has determined the valuation thereof, such assessment and valuation shall be entered of record in the book of minutes of its proceedings, and shall be certified by the secretary of the board to the auditor. Nothing in this chapter contained shall be construed to require the assessment of any part of a railroad, telegraph, telephone or pipe line until such part is so far completed as to be fit for use. As soon as such assessment is made the secretary of the board shall notify the owner or operator affected thereby of the amount thereof by written notice deposited in the post office, addressed to such owner or operator, at the principal office or place of business of such owner or operator. Such assessment and valuation shall be final and conclusive, unless the same be appealed from in the manner following, within thirty days after such notice is so deposited.

Sec. 94. Any owner or operator claiming to be aggrieved by any such decision may, within the time aforesaid, apply by petition in

writing to the circuit court of any county, in which any part of the property so assessed is situate, for an appeal from the assessment and valuation so made, as far as it relates to property in such county; and such appeal shall forthwith be allowed by such circuit court, and shall be entitled to precedence over all cases on the docket of such court and be heard as soon as possible after such appeal is docketed; but notice in writing of such hearing must be given to the prosecuting attorney of such county, and to the state tax commissioner, at least ten days beforehand. Upon such hearing the court shall hear all such legal evidence as shall be offered on behalf of the state or any county, district or municipal corporation interested, or on behalf of the appealing owner or operator. If the court be satisfied that the value so fixed by the board of public works is correct, it shall confirm the same, but if it be satisfied that the value so fixed by said board is either too high or too low, the court shall correct the valuation so made and ascertain and fix the true and actual value of such property according to the facts proved, and shall certify such value to the auditor and to the secretary of the board of public works.

Sec. 95. In case the list and valuation of the property filed with the auditor, as aforesaid, be satisfactory to the board of public works, or in case assessment of the property of such owner or operator is made by the board of public works as aforesaid, the auditor shall immediately certify to the county court of each county in which any part of the property lies, the value of the property therein of every such owner or operator as valued or assessed as aforesaid, and it shall be the duty of such court to apportion the whole of such value between the districts and independent school districts in their county in which any part of said property is situated, according to the value thereof, as near as may be, and then a proportional valuation to each municipal corporation in their county, in which any part of said property is situated, according to the value thereof, or as near as may be.

Sec. 96. The clerk of the county court of every county in which any property lies which was so assessed shall, within thirty days after the county and district levies are laid by such court, certify to the auditor the apportionment made by the county court as aforesaid, and the amount levied upon each one hundred dollars value of the property in the county for county purposes, and on each one hundred dollars of the value of the property in each magisterial district for district purposes. It shall be the duty of the secretary of the board of education of every school district and independent district in which any

part of the property lies, within thirty days after the levy is laid therein for free school and building purposes, or either, to certify to the auditor the amount so levied on each one hundred dollars value of the property therein for each of said purposes; and it shall be the duty of the recorder, clerk, or other recording officer of every municipal corporation in which any part of the property lies, within the same time, after a levy is laid therein for any of the purposes authorized by law, to certify to the auditor the amount levied upon each one hundred dollars value of the property therein for each and every purpose.

Sec. 97. Any clerk of a county court, secretary of the board of education, or recorder, clerk or other recording officer of a municipal corporation, who shall fail to perform any of the the duties herein required of him shall be guilty of a misdemeanor, and fined not less than one hundred nor more than five hundred dollars. In case of the failure of any such officer to furnish to the auditor the certificate herein required, the auditor may obtain the rate of taxation for any of said purposes from the copies of the land books on file in his office, if the same be found in such books, if not, in such other way or manner as he may deem necessary or proper for the purpose.

Sec. 98. As soon as possible after the value of the property of such owner or operator is fixed by the board of public works, or by the circuit court on appeal as aforesaid, and after he shall have obtained the information herein provided for to enable him to do so, the auditor shall assess and charge the property of every such owner or operator with the taxes properly chargeable thereon, in a book to be kept by him for that purpose, as follows:

(a) With the whole amount of taxes upon such property for state and state school purposes, if any such taxes are levied;

(b) with the whole amount of taxes on such property in each county for county purposes;

(c) with the whole amount of taxes on such property in each magisterial district for road and other district purposes, other than free school and building purposes;

(d) with the whole amount of taxes on such property in each school district and independent school district, for free school and building purposes;

(e) with the whole amount of taxes on such property in each municipal corporation for each and all of the purposes for which a levy therein was made by the municipal authorities of such corporation.

Sec. 99. No injunction shall be awarded by any court or judge to restrain the collection of the taxes, or any part of them, so assessed upon the property of such owner or operator, except upon the ground that the assessment thereof was in violation of the constitution of the United States, or of this state; or that the same were fraudulently assessed, or that there was a mistake made by the auditor in the amount of taxes properly chargeable on the property of such owner or operator; and in the latter case no such injunction shall be awarded unless application be first made to the auditor to correct the mistake claimed, and the auditor shall refuse to do so, which fact shall be stated in the bill, nor unless the complainant pay into the treasury of the state all taxes appearing by the bill of complaint to be owing.

Sec. 100. The auditor shall, as soon as possible, after the said assessment is completed, make out and transmit, by mail or otherwise, to such owner or operator, a statement of all taxes and levies so charged, and it shall be the duty of such owner or operator, so assessed and charged, to pay the whole amount of such taxes and levies into the treasury of the state by the twentieth day of January next after the assessment thereof, subject to a deduction of two and a half *per centum* upon the whole sum, if the same be paid on or before that day. If such owner or operator fail to pay such taxes and levies by the said twentieth day of January, the auditor shall add ten *per centum* to the amount thereof, to pay the expenses of collecting the same, and shall certify to the sheriff of each county the amount of such taxes and levies assessed within his county; and it shall be the duty of every sheriff to collect and account for such taxes and levies in the same manner as other taxes are levied or collected and accounted for by him.

Sec. 101. When the district and independent school district taxes and levies are collected by the sheriff he shall account for and pay the same as treasurer of such district. When such taxes and levies due to a municipal corporation are collected by the sheriff he shall pay the same to the proper collecting officer, or treasurer, of such municipal corporation or otherwise, as the council or other proper authority thereof may direct.

Sec. 102. Neither the county court of any county, nor any board of education, nor the municipal authorities of any incorporated town, shall have jurisdiction, power or authority, by compromise or otherwise, to remit or release any portion of the taxes so assessed upon the property of any such owner or operator, and when such taxes or levies

are certified to the sheriff of any county for collection, as aforesaid, it shall be his duty to collect the whole thereof, regardless of any order or direction of any such county court, board of education or municipal authority to the contrary; and if he fail to do so, he and his sureties in his official bond shall, unless he be restrained or prohibited from so doing by legal process from some court having jurisdiction to issue the same, be liable thereon for said taxes and levies he may so fail to collect, if he could have collected the same by the use of due diligence. Any member of the county court or board of education, or of the council of a municipal corporation, who shall vote to remit or release any part of the taxes, so assessed on the property of any such owner or operator, shall be guilty of a misdemeanor and fined five hundred dollars, and shall be removed from his office by the court by which the judgment of such fine is rendered, in addition to such fine.

Sec. 103. When such taxes and levies are paid into the treasury, as herein provided, the auditor shall account to the sheriff of each of the counties to which any sum so paid in for county levies belongs, for the amount due such county, and may arrange the same with such sheriff in any settlement for state taxes in such a way as may be most convenient; and the sheriff shall account to the county court of his county for the amount so received by him, in the same manner as for other county levies: *provided*, that the taxes assessed for the last year of the term of office of a sheriff shall be paid to, or settled with, the sheriff who was in office at the time the assessment was made. The amount so paid for each district and independent school district shall be added to the distributable share of the school fund payable to such district, and shall be paid upon the requisition of the county superintendent of free schools in like manner as other school moneys are paid.

Sec. 104. The auditor shall certify to the county court of every such county, on or before the first day of April in each year, the amount with which the sheriff thereof is chargeable on account of the levy upon the property of such owner or operator. He shall also certify to the county superintendent of free schools the amount of such levies due to each district and independent school district in his county for free school purposes. The amount so paid in for each municipal corporation shall, as soon as received by the auditor, be paid over to the sheriff, or the treasurer of the municipal corporation to which such taxes are due, or to such other officer of the corporation as the council may designate, and the auditor shall report such payment to the coun-

cil. But the failure of the clerk of any county court, or the secretary of any board of education, or the proper officer of any municipal corporation, to certify to the auditor the levies or apportionment, within the time herein prescribed, shall not invalidate or prevent the assessment required by this section, but the auditor shall make the assessment and proceed to collect or certify the same to the sheriff as soon as practicable after he shall obtain the information necessary to make such assessment.

Sec. 105. The taxes and levies assessed against any such owner or operator shall constitute a debt to the state or county, district or municipal corporation entitled thereto, and may be collected by action of assumpsit or other appropriate judicial proceedings, which remedy shall be in addition to all other existing remedies. The right of the state or of any county or district, or municipal corporation, to enforce by suit or otherwise the collection of taxes or levies heretofore assessed, or the right to which has heretofore accrued, shall not in any manner be affected or impaired by anything in this chapter contained.

Sec. 106. All buildings and real estate owned or held by any such owner or operator, and used or occupied for any purpose not immediately connected with the property, shall be included in such assessment by the board of public works.

Sec. 107. No railroad company or corporation shall be exempt from taxation whether the same has been or may be created, organized or incorporated under or by virtue of any general or special law or laws, or whether heretofore exempt from taxation or not, but the provisions of this chapter shall apply to all such companies and corporations without distinction or exception.

Making up the personal property book.

Sec. 108. From the information obtained as aforesaid the assessor shall proceed to make up his personal property book as follows: He shall enter therein the names of the owners of personal property and of other persons liable to capitation tax, alphabetically arranged by districts, and opposite the name of each person, in separate columns, the persons and subjects of taxation with which he is chargeable, that is to say:

(a) The number of white male residents over the age of twenty-one, not exempt from taxation on account of bodily infirmity;

(b) the number of colored male residents over the age of twenty-one, not exempt from taxation on account of bodily infirmity;

(c) the number of horses, mules, asses and jennies, and the value thereof;

(d) the number of cattle and the value thereof;

(e) the number of sheep and the value thereof;

(f) the number of hogs and the value thereof;

(g) the value of farming and gardening utensils and implements;

(h) the value of agricultural products and products of animals;

(i) the value of mined or manufactured products;

(j) the number of automobiles and bicycles, and the value thereof;

(k) the number of carriages, carryalls, gigs, buggies, coaches, hacks, wagons, carts, drays, and other vehicles not included as farming utensils, and the value thereof;

(l) the number of watches and clocks, and the value thereof;

(m) the number of pianofortes, organs, melodeons, and other musical instruments, and the value thereof;

(n) the value of all gold and silver plate and jewelry;

(o) the value of household and kitchen furniture, not otherwise enumerated. But articles assessed as property used in connection with any trade or business, or as tangible personal property of any incorporated company, shall not be enumerated under items *g, h, i, j, k, l, m, n, or o*;

(p) the value of all tangible personal property of any incorporated company, and of the tangible personal property used in connection with any trade or business;

(q) the value of all tangible property not otherwise assessed;

(r) the money of every person, firm and incorporated company;

(s) the value of credits and investments not otherwise assessed;

(t) the amount of money, bonds and evidences of debt under control of a receiver or commissioner, or deposited or invested by order of court to the credit of any suit;

(u) all money, credits and investments not otherwise assessed or exempt from taxation;

(v) in case the shares of any bank, trust company or banking association are assessed, the names of the owners thereof, and the value thereof, which names shall be arranged alphabetically under the names of each bank, in a separate list following the other entries in said book, for the magisterial district in which shares are assessed;

(w) the total amount of all personal property included in the foregoing terms;

(x) the aggregate of the indebtedness allowed to be deducted under section sixty-seven of this chapter;

(y) the net sum shown after deducting such indebtedness from the total amount of money, credits and investments;

(z) the whole amount of the taxes due from each corporation, firm and individual, and not assessed on the land books, which taxes shall be assessed on the net sum shown as aforesaid. [This section does not take effect until January 1, 1909.]

Sec. 109. If the assessor discover that any taxes on personal property were omitted in any former year, not exceeding five, he shall enter the same, with interest thereon, in his personal property book. [This section does not take effect until January 1, 1909.]

Rules applicable to both land and personal property books.

Sec. 110. The assessor shall add up the columns of figures on each page of his land and his personal property book, so as to show, at the bottom of each page, the aggregate of each column; and at the end of each district list he shall enter the aggregates from the bottoms of the respective pages pertaining to such district, with reference to the pages from which he has transferred the said aggregate; and shall there add up the same, so as to show the total of each column for the whole district. The totals thus ascertained for the several districts shall be transferred, with proper references, to the end of such book and there added up so as to show the total of each column for the whole county. [This section does not take effect until January 1, 1909.]

Property of assessor and his assistants—how assessed.

Sec. 111. It shall be the duty of the assistant assessors to report a list of all their real and personal property, with the true and actual value of the same, to the assessor, which report shall be sworn to by them as in other cases, and it shall be the duty of the assessor to revise said list and, if found to be erroneous, to correct the same as in other cases. [This section does not take effect until January 1, 1909.]

Sec. 112. The assessor shall make a particular report, under oath, to the clerk of the county court of his county, of his own real and personal property subject to taxes in his county, showing the whole amount of taxes chargeable to him therefor. He shall enter his own property and the taxes chargeable thereon upon his books in like manner as those of other persons are entered. For failing to perform any duty required of them by this and the preceding section, the assessor and his assistants shall each forfeit fifty dollars, and in addition

thereto be liable to removal from office. [This section does not take effect until January 1, 1909.]

Sec. 113. In any case in which, in consequence of there being no assessor, or from any other cause, a land book or personal property book is not made out for any county for any year thereafter, the assessor for such county shall proceed to make out the proper land and personal property books for such year, according to the rate of taxation prescribed therefor by law, and for the collection of the taxes therein charged, as if the said books had been duly made during the year to which they relate. [This section does not take effect until January 1, 1909.]

Sec. 114. If by reason of war, insurrection, riot, forcible resistance to the execution of the law, or imminent danger thereof, the assessor cannot perform his duties in his county, or any part thereof, he shall nevertheless proceed to make the assessment by reference to the former land and personal property books, or upon the best information he can obtain, and like proceedings may be had for the collection of taxes thus charged, as if assessment had been regularly made. [This section does not take effect until January 1, 1909.]

Sec. 115. In any proceeding to take or damage for public use all or any part of any property, real or personal, or in any proceedings wherein the value of any such property or any part thereof may come in question, the assessment of such property appearing on the land or personal property book, last certified before the beginning of such proceedings, shall be admissible, together with other evidence, to ascertain the value of such property. [This section does not take effect until January 1, 1909.]

Proceedings of the assessor after the books are made out.

Sec. 116. The assessor shall make three fair copies of his personal property book, and a like number of copies of his land book, and when the same shall be completed, shall present them, together with the lists mentioned in section seventy-one of this chapter, to the clerk of the county court of the county, who shall, with such assistance as may be necessary, carefully and minutely compare the books with said lists, and examine them in such other way as his information will enable him to do. The assessor shall attend at the office of the clerk, and shall assist at the examination so far as he may be desired by the clerk. The clerk shall point out to the assessor such errors, if any, as in his opinion may exist in any of the books, and every such error shall be corrected; but when the clerk and assessor cannot agree as to

the propriety of such correction, the matter shall be submitted to the prosecuting attorney for the county, and they shall conform to his decision. When the examination is completed and the additions and recapitulations, required by law, have been made and found to correspond in each of said books, the clerk shall append to each of said books an affidavit to the following effect:

"I,, clerk of the county court of county, do solemnly swear (or affirm) that I have examined and corrected the foregoing book as required by law, and the additions, proofs and recapitulations having been made as required by law, have been examined by me, and are correct and correspond with the other two land books (or personal property books) examined by me.

"....."

"Clerk of the county court of county."

The officer before whom the oath is taken shall annex the following certificate:

"Sworn to and subscribed before me, a, for the county of, on this day of, 19..

"....."

Which certificate shall be subscribed by the officer administering the oath. [This section does not take effect until January 1, 1909.]

Sec. 117. As soon as such comparison and examination shall have been completed, the assessor shall make and subscribe the following oath, at the foot of each of the three copies of the personal property book and of the land book:

"I,, assessor of the county of, do solemnly swear (or affirm) that in making the foregoing assessment I have to the best of my knowledge and ability pursued the law prescribing the duties of assessors; that I have not been influenced in making the same by fear, favor or partiality, nor by the character or residence of any owner of any property; that the valuation of each item of property is fixed according to the best information I could obtain, and that I believe such valuation to be the true and actual value thereof, by which I mean the price which could be obtained for such property if voluntarily sold on such terms as are usually employed in the sale of such property, and that such valuation is in no case made according to any rule, basis, percentage or proportion less than the whole of such true and actual value, and that I believe the entries of the lists, the additions, proofs and recapitulations in the foregoing book are correct, and the same are alike, in words and fig-

ures, to the other two copies of the land book (or the personal property book as the case may be) made by me for my county for this year: so help me, God.

“....., Assessor.”

The officer administering the foregoing oath shall append thereto a certificate in substantially the following form:

“Subscribed and sworn to before me, a for the county of and State of West Virginia, by, assessor for said county, this the day of, 19..

“.....”

Which certificate shall be subscribed by such officer. [This section does not take effect until January 1, 1909.]

Sec. 118. After the land book and personal property book have been corrected and certified, as required by sections one hundred and thirteen and one hundred and fourteen of this chapter, the assessor shall, on or before the twentieth day of July next ensuing, deliver one copy of each of said books to the clerk of the county court of the county to be by him carefully preserved among the records of his office, free for the inspection of any person, and a copy of the same, or any portion thereof, may be had at the charge of the person desiring it, and such copy of the personal property book and the land book shall also serve for laying the county levy. At the time the assessor delivers the copy of said books to the clerk, he shall also deliver to the prosecuting attorney of the county the lists mentioned in section seventy-one of this chapter, arranged in the order in which they have been entered in the personal property book. It shall be the duty of the prosecuting attorney to examine said lists, and compare them with the books, to ascertain whether the assessor has complied with his duty in swearing the persons named therein, or in any other respect, and whether the said persons have violated any of the requirements of this chapter; and if the prosecuting attorney discover any violations of law by the assessor, or any other person, it shall be his duty to take such proceedings to prosecute and punish all such offenders, as such examination and any other facts in his possession may warrant. After he has made such examination and comparison the prosecuting attorney shall deliver said lists to the clerk of the county court, who shall preserve them in his office for one year, and then destroy them, unless otherwise directed by the prosecuting attorney. [This section does not take effect until January 1, 1909.]

Sec. 119. Of the remaining copies of the personal property book

and the land book, the assessor shall turn over one copy of each to the sheriff not later than the first day of September, which shall be the sheriff's guide in the collection of taxes, and be carefully preserved by him and turned over to his successor in office. The assessor shall transmit one copy of each of said books to the auditor not later than the first day of October, with a certificate affixed thereto, or written thereon, stating that he has delivered duplicates thereof to the clerk of the county court and the sheriff, and the date of such delivery. The said copies shall be a guide to the auditor in auditing the accounts of such sheriff or collector, and shall be admitted as evidence in any proceeding against such sheriff or collector in relation to the taxes entered therein. [This section does not take effect until January 1, 1909.]

Sec. 120. The assessor may require from the officer to whom the said copies are delivered, or transmitted, an acknowledgment in writing of the receipt thereof. [This section does not take effect until January 1, 1909.]

Penalty on clerk or assessor for failure to perform his duty.

Sec. 121. If any clerk or assessor knowingly make a false entry, addition or recapitulation in the personal property book or land book, or in any copy of either, he shall for every such offence forfeit three hundred dollars. [This section does not take effect until January 1, 1909.]

Sec. 122. If any clerk or assessor fail to perform any duty required of him by sections one hundred and sixteen, one hundred and seventeen and one hundred and eighteen of this chapter, or the prosecuting attorney fail to perform the duty required of him by section one hundred and eighteen of this chapter, he shall forfeit for every such failure not less than fifty nor more than three hundred dollars. [This section does not take effect until January 1, 1909.]

Sec. 123. If any clerk, assessor or prosecuting attorney fail to perform any duty required of him by law, and there be no other penalty imposed by law for such failure, he shall forfeit for every such failure not less than ten nor more than fifty dollars. [This section does not take effect until January 1, 1909.]

Compensation allowed clerks.

Sec. 124. The clerk may make out tickets for his fees and place them in the hands of the sheriff or other officer, to be collected and accounted for in the same manner that the fees of the clerk of the cir-

cuit court are collected and accounted for. The clerk of the county court shall be subject to the same penalties as the clerk of the circuit court for issuing fee bills wrongfully. [This section does not take effect until January 1, 1909.]

Sec. 125. The auditor shall pay, out of his contingent fund, to the several assessors for all postage and express charges advanced by them in the transmission of their books or correspondence relating thereto, the accounts for which shall be verified by their affidavits. [This section does not take effect until January 1, 1909.]

Sec. 126. Unless the assessor exhibit to the county court the receipts of the proper officers, showing that the copies of the land book and personal property book have been delivered within the time prescribed in this chapter, or show to the satisfaction of the court that any delay which may have occurred was unavoidable, the court may refuse him any compensation, or may reduce his commission or allowance as to them may seem right and proper. [This section does not take effect until January 1, 1909.]

Sec. 127. When one assessor begins in any year, and the office becomes vacant before the services to be rendered by him in that year are fully performed, in consequence whereof another is elected or appointed who completes the same, the sum to be paid for the whole service of the assessor in that year shall be apportioned by the county court between the assessor last mentioned and the former, according to the services by them respectively performed. If, however, in consequence of any failure to deliver books or papers which the former had, the latter has to proceed to take the list of taxable property, and to do all that he would have to do in case there had been no previous assessor that year, then he shall receive all the compensation for the said year. [This section does not take effect until January 1, 1909.]

Sec. 128. After the copies of the land book or personal property book shall have been verified and delivered, no alteration shall be made in them, or either of them, affecting the taxes of that year. [This section does not take effect until January 1, 1909.]

Relief against taxes erroneously assessed, etc.

Sec. 129. Any person claiming to be aggrieved by any entry in any land or personal property book of any county who shall not have been notified of his assessment, or who shall not have appeared and contested the same as provided in section eighteen of this chapter, and any person claiming to be aggrieved by the assessment of a license tax

in any county, may, within one year from the verification of such book, or within six months after the assessment of such license tax, as the case may be, apply for relief to the county court of the county in which such books are made out, and in which such license tax is assessed. But he shall, before any such application is heard, give ten days' notice to the prosecuting attorney of the county, whose duty it shall be to attend to the interests of the state, county and district, in the matter. If it appear on the hearing of such application that the value, distance or bearing from the court house, or the local description of any tract of land entered in such land book, is by mistake or fraud incorrectly entered therein, or that any tract or lot of land entered in such land book is, by mistake or fraud, charged with a greater or less amount of taxes and levies than should have been charged thereon, or that any person properly chargeable with the taxes on any tract or lot entered therein is not so charged, or that there is any mistake in the name of the person charged with taxes on any tract or lot of land therein entered, or if it appear from the report of a competent surveyor, under oath, that any tract of land entered therein is by mistake or otherwise charged with a greater number of acres than it contains, or if it appear that any one has been improperly charged with taxes on personal property, or that his property has been assessed at an improper valuation, the court shall, by an order entered of record, correct any and every such error or mistake, and direct its clerk to furnish the assessor with a copy of such order, and the said assessor shall enter the same property in the next land book made out by him. A copy of any such order, or orders, entered in any court making any such correction as is herein provided for, shall be made and certified to the auditor by the clerk within twenty days after the entering of the same; such application shall have precedence of all other business before the court; but any order or judgment made upon such application shall show that the prosecuting attorney was present and defended the interest of the state. In the event it shall be ascertained that the land or personal property has been assessed too high, or is otherwise improperly assessed, and that the owner has paid the excess of such taxes, or the taxes erroneously charged, it shall be refunded to him, and, if not paid, he shall be released from the payment thereof. If the court, upon an application to correct an assessment under any of the provisions of this chapter, refuse to make the correction asked for, the applicant may have the evidence taken thereon certified by the county court, and an appeal may be taken, as in other cases, from

the order of refusal to the circuit court of the county, and such appeal, when allowed by the court or judge, shall, except as hereinafter provided, have the preference over all other civil cases pending in said court; and whenever any such assessment is corrected by the county court, or by the circuit court on appeal, the clerk of the court making the corrections shall certify a copy of such order to the auditor, and shall also furnish to the assessor a copy of the same, and said assessor shall thereupon make the correction in his land book for the next year according to such order. [This section does not take effect until January 1, 1909.]

Sec. 130. Whenever the county court or the circuit court, on appeal, shall grant relief to any such applicant against the taxes, or any part of them, assessed against him on either the land or the personal property books, or if a license tax, an order shall be made by such court exonerating such applicant from the payment of so much of such taxes as are erroneously charged against him, if the same have not been paid; and if paid, that the sum so erroneously charged be refunded to him. [This section does not take effect until January 1, 1909.]

Sec. 131. Such order, delivered to the assessor, sheriff or other collecting officer, shall restrain him from collecting so much as is erroneously charged, and if the same has been already collected, shall compel him to refund the money, if such officer has not already paid it into the treasury, and in either case, when endorsed by the person exonerated, it shall be a sufficient voucher to entitle the officer to a credit for so much in his settlement, which he is required to make. [This section does not take effect until January 1, 1909.]

Sec. 132. If what was erroneously charged has been paid into the state treasury, the order of the county court, attested by its clerk, shall entitle the claimant to a warrant on the state treasury for the amount thereof: *provided*, that application for the same be made to the auditor within one year after the date of said order. [This section does not take effect until January 1, 1909.]

The grand jury to inquire into violations of the revenue laws.

Sec. 133. It shall be the duty of every assessor to furnish the prosecuting attorney of the county a list of every violation of the revenue laws committed by any person other than himself, showing the nature and character of each violation. It shall be the duty of such prosecuting attorney to deliver such list to the foreman of the grand jury, who shall treat it as having been especially delivered in charge to the

grand jury. The said foreman, after the grand jury is discharged, shall return said list to the clerk of the circuit court, to be preserved and filed in his office. It shall also be the duty of the circuit court to specially charge the grand jury to inquire into all the violations of the revenue laws by the assessor. [This section does not take effect until January 1, 1909.]

Sec. 134. The words "tax," "taxes," "taxable," and "taxation," in this act, shall be deemed to include county, district, independent school district and municipal corporation levies in all cases not inconsistent with the context. [This section does not take effect until January 1, 1909.]

Sec. 135. Taxes for county, district, independent school district and municipal purposes shall be levied only upon the value of property ascertained under the provisions of this chapter. [This section does not take effect until January 1, 1909.]

2. Chapter sixty-two of the acts of eighteen hundred and eighty-three, entitled "An act authorizing the assessment in one tract of contiguous lands owned by the same person;" chapter one hundred and eighteen of the acts of eighteen hundred and ninety-one, entitled "An act releasing from taxation real estate that has been acquired, or may be hereafter acquired, and used for public roads, and releasing the land owner from paying taxes on lands acquired by a railroad company;" chapter nineteen of the acts of eighteen hundred and ninety-seven, entitled "An act providing for the reduction of the valuation of real estate for taxation as fixed by the re-assessment of real estate made in the year eighteen hundred and ninety-one, when the value of such real estate has been or may be reduced by reason of flood or fire," and all other acts and parts of acts coming within the purview of this act, and inconsistent therewith, are hereby repealed.

3. This act shall take effect on the first day of January, nineteen hundred and nine, and not sooner, and all sections of said chapter twenty-nine of the code coming within the provisions of this act and hereby amended or re-enacted, shall remain in force until the said first day of January, nineteen hundred and nine, except that the sections of this act numbered one to five inclusive, twelve to fifteen inclusive, nineteen to twenty-two inclusive, twenty-six, twenty-seven, thirty-nine, fifty-three, fifty-four, fifty-seven, sixty-seven, and eighty-four to one hundred and seven inclusive, shall take effect ninety days after the passage of this act, except that such parts of said sections as require or relate to an annual general assessment of all real estate

shall take effect January 1, 1909, and not sooner: *provided*, that until the year 1909, the assessor shall exercise the powers and duties by said sections assigned to the assessor and his assistants; and except, further, that the assessors in this act provided for shall be elected at the general election in 1908.

(Senate Bill No. 19)

CHAPTER 5.

AN ACT to amend and re-enact chapter thirty of the code, relating to the collection of taxes.

[Passed August 11, 1904. In effect 90 days from passage. Approved August 13, 1904.]

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| <p>Sec. 1. By whom taxes collected. 2. County court may appoint collector. 3. Bond of collector. 4. Delinquent taxes may be collected by a constable. 5 } 6 } When and how taxes collected. 7 } 8 } 9 } 10 } 11 } Of distraining for taxes. 12 } 13 } 14 } 15 } 16 } Collection of taxes out of money, or 17 } property in the hands of another.</p> | <p>Sec. 21 } 22 } List of uncollected taxes to be re- 23 } turned. 24 } 25 } 26 } When sheriff to pay taxes into treas- 27 } ury; proceedings in case of failure 28 } to pay. 29 } 30 } 31 } Sheriff's compensation. 32 } Proceeding against delinquent assess- 33 } or or collector. 34 } Right of officer to sue for taxes. 35 } Officer may distrain for taxes paid by 36 } him. 37 } Certain words defined.</p> |
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Be it enacted by the Legislature of West Virginia:

1. That chapter thirty of the code be and the same is hereby amended and re-enacted so as to read as follows:

By whom taxes are to be collected.

Sec. 1. The sheriff shall be *ex officio* treasurer of the county and shall collect the taxes assessed in his county for all purposes, subject to the provisions hereinafter contained.

Sec. 2. The county court may appoint a collector in any county when necessary to collect any such taxes.

Sec. 3. Such collector shall have a reasonable time allowed him for making his collections and accounting therefor; and shall before he acts execute a bond to be approved by said court, and filed with the clerk thereof, in the penalty of not less than five thousand dollars, to which bond the provisions of the tenth chapter shall be applicable.

Sec. 4. Delinquent taxes may be collected by a constable or other person as provided in the twenty-sixth section of this chapter.

When and how taxes are to be collected.

Sec. 5. Each sheriff or collector shall commence his collections yearly on the first day of August, or as soon thereafter as he receives copies of the land and personal property books.

Sec. 6. The sheriff shall keep an office at the county-seat, which shall be open daily during business hours.

Sec. 7. It shall be the duty of the sheriff or collector to give notice by posting at the places of voting in each district, and at not less than six other public places in the district, for at least twenty days before the time appointed, that he will attend at one or more of the most public and convenient places for the people in such districts, and to be specified in said notice, between the first day of October and the last day of November following, for the purpose of receiving taxes due by the people residing or paying taxes in said district, and that he will make a discount of two and a half *per cent.* to all such persons as shall pay all their taxes on or before the last day of November of that year, and not otherwise; which discount shall be made on the whole amount of taxes and levies of every kind so collected by said sheriff or collector. Any sheriff or collector failing to post said notice as herein required shall forfeit one hundred dollars for every such failure. The county court of any county may order that the notice hereinbefore required shall also be given by the sheriff or collector by advertising the same. After such order is made, and until it is set aside, the sheriff or collector shall, besides posting as hereinbefore required, advertise such notice once a week for three successive weeks, next preceding the first day of October in every year, in all newspapers published in said county, and for each failure so to advertise, the sheriff or collector shall forfeit one hundred dollars.

Sec. 8. All taxes shall be paid to the sheriff by the persons liable therefor on, or before, the thirtieth day of November of the year for which they were levied. He shall, on the first day of December following, proceed immediately to collect the same. Interest at the rate of ten *per cent.* per annum on the amount of each tax bill shall be added thereto from said first day of January until payment, and the fact shall be stated in the notice required in the preceding section.

Sec. 9. The sheriff shall keep separate accounts in a well bound book, in form prescribed by the auditor, of all the taxes received and disbursed by him, for the different purposes for which taxes were levied. Said book shall be subject to inspection by the state tax commissioner, any member of the county court, the clerk thereof, or the pros-

cuting attorney, at any time. Such accounts shall show the amounts received and disbursed by him for the various purposes as follows, viz.:

First, for the state; *second*, for the county; *third*, in each district and independent school district, (a) for roads, (b) for teachers' fund, and (c) for building fund. Each of said accounts shall be kept so as to show the total receipts and disbursements up to the close of business on each day; and in a separate column opposite such totals the sheriff shall ascertain and note in figures, at the close of each day's transactions, the balance due from or to him, as the case may be, on account of such funds, and shall on the following morning file a statement, signed by him, of such total receipts and disbursements and balances with the clerk of the county court, and it shall be the duty of the said clerk to post the same immediately in a conspicuous place in his office, there to remain until the next like statement is received and posted by him, when the former shall be filed and preserved in his office.

Of distraining for taxes.

Sec. 10. Any goods or chattels in the county belonging to the person or estate assessed with taxes may be distrained therefor after the last day of November in the year for which the taxes were assessed; or before that day and by the assessor, if such goods or chattels are about to be removed from the county.

Sec. 11. Where taxes are assessed on land, lying partly in one county and partly in another, the sheriff or collector of the county in which the taxes are so assessed may distrain on that part of the land lying in the other county.

Sec. 12. A tenant or other person in possession of land, claiming under the party or estate assessed with taxes on said land, for the year or years in which he is so possessed, shall be liable for the taxes thereon to the extent of his indebtedness for the rent of said lands, but no further, and may be proceeded against therefor as provided in sections fifteen, sixteen and seventeen of this chapter. If the rent be payable in a share of the crop, such share only shall be liable to distress, whether severed or not. When taxes are assessed wholly to one party or estate on a tract or lot of land, part of which has become the freehold of another, by a title recorded before the commencement of the assessment year for which such taxes are assessed, the property of the party or estate so assessed shall not be liable to distraint for more than a due proportion of such taxes.

Sec. 13. No deed of trust, mortgage upon, or sale of goods or chat-

tels shall prevent the same from being distrained and sold for taxes assessed against the grantor in such deed, or the former owner thereof, while such goods and chattels remain in the grantor's or owner's possession, nor shall any such deed prevent the goods and chattels conveyed from being distrained and sold for taxes assessed thereon, no matter in whose possession they may be found.

Sec. 14. No distress shall be made for taxes where the sheriff or collector has had more than one year to collect the same, unless it be for taxes returned delinquent and sent out by the auditor for collection as provided by law. But a sheriff or collector of a former term may, notwithstanding the expiration of his term of office, by himself or deputies, have the same powers of distress and sale as he possessed before said term expired, which right of distress and sale shall continue for the term of one year from the time such right accrued; but no deputy shall be permitted to qualify for such collection after the principal's office has expired.

Collection of taxes out of money or property in the hands of another.

Sec. 15. The assessor, sheriff or collector may make written application to any person believed to be indebted to any other person assessed with taxes, or to have in his hands estate of the person so assessed for payment of taxes out of such debts or estate. After the making of such application to any person, he shall not pay any money or deliver any estate to the person so assessed until said taxes are paid. If the person applied to do not pay so much money or deliver so much estate, as it may seem to the officer ought to be paid or delivered, the officer may serve such person with notice in writing to appear and answer respecting such estate or indebtedness, at a place and time to be stated therein, which time shall not be less than ten days after the service of the notice. Such notice shall also state the name of the person assessed and the amount due on such taxes. If the sum due for taxes do not exceed fifty dollars, such notice shall be to appear and answer before a justice having jurisdiction; if it exceed fifty dollars, and do not exceed three hundred dollars, either before such justice or before the circuit court of the county; and if it exceed three hundred dollars, before such court. From the time of the service of such notice the taxes shall constitute a lien on the debt so due from the person so notified, or on such estate in his hands.

Sec. 16. The officer shall endorse the time and place of service on

the original of such notice, and file it with the court or justice. If the person so notified do not appear, judgment shall be entered against him in favor of the officer for the sum due for such taxes, with costs of the proceeding.

Sec. 17. If the person so notified appear, he shall be interrogated on oath, and such evidence may be heard as shall be adduced, and judgment rendered as upon the whole case may seem proper. Appeals and writs of error shall lie as in other cases. Payment of the said taxes, in whole or in part, by the person applied to, whether made upon such application only or made toward satisfaction of any such judgment against him, shall entitle him to a credit on account of such debtor to a first lien on such estate for the amount so paid.

Sec. 18. A tenant from whom payment shall be obtained by distress or otherwise, of taxes due from a person under whom he holds, shall have credit for the same against such person out of the rents he may owe him, except where the tenant is bound to pay such tax by an express contract with such person. But a purchaser in possession of a tract or lot of land, who has not obtained his deed therefor, shall be liable for the taxes assessed thereon, and shall not recover the same from his vendor in the absence of a contract to that effect.

Sec. 19. When a tax is paid by a fiduciary on the principal, interest or profit of money of an estate laid out or invested either under an order of court or otherwise, the tax shall be refunded out of such estate.

Sec. 20. The officer collecting any taxes shall deliver to the person paying the same a written or printed receipt therefor, specifying the number of capitations; the total value of personal property; the number of acres of land, and the number of town lots, with the valuation of each tract or lot separately charged to such person, his landlord or vendor. Such receipt shall state distinctly the amount of tax paid for state, state school, county, and district purposes, and for any other purpose for which the same has been levied; and the whole amount so paid shall be accurately footed up and set down in the said receipt. Every such receipt shall be signed by the officer giving it with his own proper hand.

List of uncollected taxes to be returned.

Sec. 21. The sheriff or collector, after ascertaining which of the taxes assessed in his county can not be collected, shall, on or before the first Monday in June next succeeding the year for which such taxes

were assessed, make out alphabetical lists, by districts, of three classes:

First. A list of property in the land book improperly placed thereon, or not ascertainable, with the amount of taxes charged on such property, which shall be in the following form:

“List of property on the land book for the county of
improperly placed thereon, or not ascertainable, for the year”

| Name of person charged with taxes. | Estate held. | Quantity of land. | Description and location of land. | Distance and bearing from court house. | State tax for State purposes. | State tax for school purposes. | County tax for all purposes. | Why returned delinquent. |
|------------------------------------|--------------|-------------------|-----------------------------------|--|-------------------------------|--------------------------------|------------------------------|--------------------------|
| district. | | | | | | | | |

And the sheriff or collector on returning such list shall, at the foot thereof, subscribe the following oath: “I, A. B., (sheriff, deputy sheriff or collector) of the county of, do swear that the foregoing list is, I verily believe, correct and just, and that I have received no part of the taxes for which the real estate therein mentioned is returned delinquent, and that I have used due diligence to find property within my county liable to distress for said taxes, but have found none.”

Secondly. A list of other real estate which is delinquent for the non-payment of taxes thereon, which shall be in the same form and with the same oath made and subscribed as in the above first-mentioned list, except that the heading shall read thus: “List of real estate in the county of delinquent for the non-payment of taxes thereon for the year”

Thirdly. A list of such taxes so assessed other than on real estate, as he is unable to collect, which shall be in the following form: “List of persons and property, other than real estate, in the county of, delinquent for the non-payment of taxes thereon for the year”

| Name of person charged with taxes. | No. of capitataion. | Total value of personal property charged. | State tax for State purposes unpaid. | State tax for school purposes unpaid. | County tax unpaid. | Why returned delinquent. |
|------------------------------------|---------------------|---|--------------------------------------|---------------------------------------|--------------------|--------------------------|
|district. | | | | | | |

And the sheriff or collector returning such list shall, at the foot thereof, subscribe the following oath: "I, A. B., sheriff (deputy sheriff or collector) of the county of, do swear that the foregoing list is, I verily believe, correct and just; that I have received no part of the taxes for which the persons and property therein mentioned are returned delinquent, and that I have used due diligence to find property within my county liable to distress for the said taxes, but have found none."

Sec. 22. The oath mentioned in the preceding section shall be subscribed and taken before some person authorized by law to administer oaths, who shall certify the same.

Sec. 23. A copy of each of said lists shall be posted at the front door of the court house of the county, at least two weeks before the session of the county court at which they are presented for examination. And a copy of the said list of persons and personal property returned delinquent shall at the same time be printed for one time in two newspapers of opposite politics, if such there be in the county: *provided*, such newspapers will publish same at a cost not exceeding five cents to each newspaper for each person and his delinquencies, the cost thereof to be paid out of the county treasury. Thereafter the sheriff shall proceed to collect such delinquent taxes.

Sec. 24. The sheriff or collector of every county shall, at or before the session of said court at which the county levy is to be laid, present to said court three lists, mentioned in the twenty-first section of this chapter, for examination. The court having become satisfied of the correctness of said lists, or having corrected them if erroneous, shall

direct their clerk to certify copies thereof to the auditor. The original lists shall be preserved by the clerk in his office, and the list of real estate delinquent shall be recorded by the clerk in a well bound book to be kept by him for the purpose. After the said copies are so certified, the sheriff or collector shall not receive any of the taxes mentioned in said lists, except as provided in section six of chapter thirty-one, but they may be paid into the treasury of the state at any time before the list of delinquent lands is delivered to the sheriff for sale, as provided by section four of chapter thirty-one; or, in the case of personal property, at any time before the list is placed in the hands of an officer for collection, as provided in the twenty-sixth section of this chapter. Any person owning any part of a tract or parcel of land, the whole of which has been returned delinquent in the name of another, may, if he desire to pay the taxes on the same, do so upon complying with the requirements of sections thirty-six and thirty-seven of chapter thirty-one in reference to the redemption of land where the same has been sold and purchased by the state: *provided, however,* that if the part upon which any such person desires to pay the taxes shall be a town lot, and the same shall be designated by number or other definite description, upon any plat of such town or addition thereto, filed in the county clerk's office, and there shall be any data on the land books where such land is charged, from which the auditor can correctly ascertain the taxes properly chargeable to such lot, it shall be his duty to compute the proper proportion of taxes chargeable to such lot, and upon payment of the same such lot shall be discharged from said delinquency, without any other proceedings being necessary. In all cases where the taxes on the whole or any part of a tract of land shall be paid to the auditor, under this section, he shall give to the person, in whose name the same are paid, a receipt describing the land, giving the amount so paid, and the year or years for which the same are paid, which receipt shall be evidence of the payment of the taxes on the land therein described for the year or years specified therein. It shall also be the duty of the auditor to transmit to the clerk of the county court of each county, on or before the first day of April in each year, a list of all the real estate in his county on which the taxes have been paid under the provisions of this section. Where the taxes on a part of a tract have been paid, the same proceeding shall be had as to the remainder as if it were a separate tract returned delinquent in the original owner's name, except that it shall be described in the lists sent to the sheriff, for sale, so as to show of what land it constitutes the re-

remainder, and the quantity or part upon which taxes have been paid shall be stated, and the proper proportion of the taxes shall be computed and charged to the remainder.

Sec. 25. The copies directed by the preceding section to be certified to the auditor shall be sealed up by the clerk in an envelope, addressed to the auditor and delivered to the sheriff or collector by whom they were presented. It shall be the duty of the auditor to examine into such lists, and if he have reason to believe that they or any of them are not correct, he shall return them to the court for correction, pointing out wherein they are not correct, and giving his reason why they should be corrected as to any person or subject therein. The auditor shall credit the sheriff or collector with the amount of all state and state school taxes mentioned in said lists, if the same be presented at his office before the first day of September in the year next succeeding that for which said taxes were assessed. All taxes paid to the auditor under the preceding section shall be paid by him to the treasurer of the state, and he shall draw his warrant on the treasurer, payable to the order of the sheriff of the proper county, for the county and district taxes so received by him. He shall at the same time certify to the clerk of the county court of the same county, the amount of any such warrant and the portions thereof which are due to the county and the district in which the land is situated, respectively. The said clerk shall, in turn, notify the proper board of education of the amount due the district.

Sec. 26. A copy of the third list mentioned in the twenty-first section of this chapter, when returned to the auditor, may be placed by him in the hands of the sheriff or collector of any county for collection, to be accounted for as other taxes, within one year thereafter, or, if the auditor see fit, he may place a copy of such list in the hands of a constable for collection who, in such cases, shall have authority to collect, by distress or otherwise, the taxes mentioned in such copy, in like manner as the sheriff is authorized to collect taxes, and shall account therefor in the same manner; and he and his sureties shall be subject to all such remedies as are given to the state in like cases against sheriffs. The compensation of the officers, in whose hands the said copy is so placed for collection, shall not exceed twenty *per cent.* of the amount collected and paid into the treasury by him.

Sec. 27. Any officer who shall return in any such list real estate, persons or property as delinquent for the non-payment of taxes, when such taxes shall have been actually received by him, or where part of such taxes have been paid, without giving the proper credits, shall

forfeit, if the return was by design, ten times the amount of the taxes so actually received, and if the return was by mistake, twice the amount. Any such officer who shall return such list of real estate, persons or property as delinquent, when he had either found, or might have found, with reasonable diligence, sufficient property within his county liable to distress for the taxes for which such real estate, persons or property are returned delinquent, shall forfeit to the party injured a sum equal to five times the amount of said taxes.

When sheriff to pay into the treasury; proceedings in case of failure to pay.

Sec. 28. The taxes which by this chapter are directed to be collected for the state shall be paid into the treasury by the sheriff as follows:

One-half of all such taxes shall be paid by him on or before the twentieth day of January of the year following that for which the taxes were assessed; one-fourth on or before the first day of May following, and the remainder on or before the first day of the following August, save only as follows: A sheriff or collector who may not have qualified, or who may not have received the land and property books before the first day of October, or who shall be prevented by legal process from collecting said taxes, shall be allowed six months from his qualification, or the delivery of said books to such sheriff or collector, or from the removal of such legal restraint, to pay the said first installment into the treasury; eight months for the second, and ten months for the third installment of the taxes with which he is chargeable.

Sec. 29. If any sheriff or collector fail to pay, as required by the last section, the auditor may proceed against him for the collection of the amount due, as provided in the thirty-fifth chapter of this code.

Sec. 30. Every sheriff or collector who fails to pay, as required by the said twenty-fifth section, shall be charged with interest on the amount in arrears from the time it ought to have been paid into the treasury, at the rate of twelve *per cent.* per annum.

Sheriff's compensation.

Sec. 31. Every sheriff or collector shall be allowed a commission of five *per cent.*, subject to the deductions mentioned in section seven of this chapter, on the amount of all county levies, district levies, district levies for free school purposes, collected from the taxpayers before

the first day of February, and three and one-half *per cent.* on all taxes collected after that date, except those taxes for said purposes paid through the auditor's office from railroads and other persons and corporations, on which last mentioned taxes he shall receive a commission of one and one-half *per cent.*; and upon the amount of state taxes with which he is chargeable, if he pay the same into the state treasury within the time required by law, as follows:

Upon any sum not exceeding ten thousand dollars, seven and a half *per cent.*; upon any sum exceeding ten thousand dollars and not exceeding twenty thousand dollars, five *per cent.*; upon any sum exceeding twenty thousand dollars and not exceeding thirty thousand dollars, four *per cent.*; and upon all sums exceeding thirty thousand dollars, three *per cent.* Upon all taxes so chargeable and not paid into the state treasury within the time required by law, he shall only be allowed a commission of two and one-half *per cent.* But no commission shall be allowed upon the taxes returned delinquent, except when such real estate is sold for non-payment of such taxes. If the sheriff or collector pay any taxes into the treasury, before he has collected the same, he shall nevertheless have the same remedy for the collection thereof by distress, or otherwise, as if the same had not been paid to the state treasurer, except that he shall not have a lien on the real estate on which said taxes were assessed therefor.

Sec. 32. If any assessor or collector fail to pay, as required by the preceding section, the auditor may proceed against him for the collection of the amount due, as provided in the thirty-fifth chapter of this code.

Right of officer to sue for taxes.

Sec. 33. In addition to all other remedies for the collection of taxes due the state, or any county, district or independent school district therein, the officer whose duty it is to collect the same shall have the right to proceed by appropriate action or suit against the person liable therefor, in the name of the state, in any court of law or equity, or before any justice of the peace having jurisdiction. No such suit shall be brought therefor after five years from the time the action accrued.

Sec. 34. If any officer, whose duty it is to collect taxes, pay into the treasury of the state, or of any county or town therein, taxes due by any person before the same shall have been collected by him, he shall nevertheless have the same remedy for the collection therefor by distress, or otherwise, as if the same had not been advanced by

him, except that he shall not have a lien for such taxes on the real estate on which they were assessed.

Sec. 35. The words "tax," "taxes," "taxable" and "taxation" in this chapter shall be deemed to include county, district, independent school district and town levies in all cases, not inconsistent with the context. The word "person" in this chapter shall be deemed and taken to include an individual, firm or corporation.

(House Bill No. 2.)

CHAPTER 6.

AN ACT enacting chapter thirty-three of the code of West Virginia, relating to taxes on collateral inheritances, devises, distributive shares and legacies.

[Passed August 8, 1904. In effect 90 days from passage. Approved August 12, 1904.]

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| <p>Sec.</p> <ol style="list-style-type: none"> 1. Taxes on collateral inheritances, devises, distributive shares and legacies. 2. Amount of such tax. 3. Market value of such property, how ascertained. 4. Devise in payment of debt, taxable, when. 5. A contingent interest, life estate, etc., how apportioned. 6. Transfer of personal property; exempt in certain cases. 7. Taxes upon such transfer a lien upon said property. 8. } When the payment of such tax may be 9. } suspended; when interest charged. 10. Duty of executors, administrators, etc., as to payment of such tax. 11. Duty of foreign executor, administrator, etc. 12. Duty of county court, and clerk thereof. 13. Inventory of estates, what to show; statement required. 14. } Duty of state tax commissioner. 15. } | <p>Sec.</p> <ol style="list-style-type: none"> 16. Executor, administrator, etc., to have state tax commissioner's certificate recorded. 17. Duty of state tax commissioner when it appears that transfer mentioned in certificate is subject to tax. 18. When tax on transfers payable. 19. How, where and by whom collection of such taxes enforced. 20. Appeals from assessments. 21. Fee of clerk of the county court. 22. No final settlement of accounts of any fiduciary liable for such tax, until he files certificate of state tax commissioner. 23. State tax commissioner authorized to make compromise in certain cases. 24. Liability of fiduciary and his bondsmen. 25. Penalty for any person failing to discharge his duty under this act. 26. Certain books, etc., open to inspection of state tax commissioner. 27. Repealing section. |
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Be it enacted by the Legislature of West Virginia:

1. Chapter thirty-three of the code of West Virginia is hereby enacted as follows:

CHAPTER XXXIII.

Of taxes on collateral inheritances, devises, distributive shares and legacies.

Sec. 1. A tax, payable into the treasury of the state, shall be im-

posed upon the transfer, in trust or otherwise, of any property, or interest therein, real, personal or mixed, except a transfer to or for the use of the father, mother, husband, wife, child, or lineal descendants of the person from whom the property is transferred, or to a person or corporation in trust or use for educational, literary, scientific, religious or charitable purposes, or to the state or any county or municipal corporation thereof for public purposes, if such transfer be

(a) by will or by the laws of this state regulating descents and distributions, from any person who is a resident of the state at the time of his death and who shall die seized or possessed of the property;

(b) by will or by laws regulating descent and distributions, of property within the state, and the decedent was a non-resident of the state at the time of his death;

(c) by a resident or be of property within the state by a non-resident, by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor, bargainor or donor, or intended to take effect in possession or enjoyment at or after such death.

(d) If any person shall transfer any property which he owns or shall cause any property, to which he is absolutely entitled, to be transferred to, or vested in, himself and any other person jointly, so that the title therein, or in some part thereof, vests no survivorship in such other person, a transfer shall be deemed to occur and to be taxable under the provisions of this act upon the vesting of such title.

(e) Whenever a person shall exercise by will a power of appointment derived from any disposition of property, such appointment, when made, shall be deemed a transfer taxable under the provisions hereof.

Sec. 2. The amount of such tax shall be three *per cent.* of the market value of the property transferred, if it be transferred to the brother or sister of the decedent, grantor, vendor, bargainor or donor; five *per cent.* if to his grandfather or grandmother; and seven and one-half *per cent.* if to any other person or to any corporation.

Sec. 3. The market value of property is its actual market value after deducting debts and incumbrances for which the same is liable, and to the payment of which it shall actually be subjected. In fixing such market value, allowances shall not be made for debts incurred by the decedent, or incumbrances made by him, unless such debts or incumbrances were incurred or created in good faith for an adequate consideration, nor for any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement from any other estate or person cannot be obtained.

Sec. 4. Every devise or bequest ostensibly in payment of a debt of the testator shall be taxable upon the excess in value of the property devised or bequeathed, otherwise liable to such tax, over and above the true amount of such debt. Every devise or bequest to an executor or trustee, purporting to be in compensation for services, shall be taxable upon so much of the value of the property devised or bequeathed, otherwise liable to such tax, as is in excess of a reasonable compensation for such services.

Sec. 5. Whenever the transfer of any property shall be subject to tax hereunder and only a life estate, or an interest for a term of years, or a contingent interest to be transferred to one person and the remainder or reversionary interest to another, the state tax commissioner on the application of any person in interest, or upon his own motion, may, after due notice to the persons interested, apportion such taxes among such persons and assess to each of them his proper share of such taxes, and shall make his certificates accordingly, which shall be forwarded and disposed of in the same manner as other certificates by him herein provided for. The portion of any such taxes apportioned to any person entitled in remainder or reversion shall be payable at once, and such person shall be required to pay them in the same manner, and within the same time, as if his interest had vested in possession.

Sec. 6. A transfer of personal property of a resident of the state which is not therein at the time of his death shall not be taxable, under the provisions of this act, if such transfer or the property be legally subject in another state or country to a tax of a like character and amount to that hereby imposed, and if such tax be actually paid, or guaranteed or secured, in accordance with law in such other state or country; if legally subject in another state or country to a tax of like character, but of less amount than that hereby imposed, and such tax be actually paid, or guaranteed or secured, as aforesaid, the transfer of such property shall be taxable under this act to the extent of the difference between the tax thus actually paid, guaranteed or secured, and the amount for which such transfer would otherwise be liable hereunder. A transfer of personal property of a non-resident decedent which is within this state at the time of his death, if subject to a tax of a like character, with that imposed by this act, by the law of the state or country of his residence, shall be subject only to such portion of the tax hereby imposed by the laws of such state or country: *provided*, a like exemption is made by the laws

of such other state or country in favor of estates of citizens of this state, and the transfer thereof, but no such exemption shall be allowed until such tax provided for by the law of such other state or country shall be actually paid, guaranteed or secured, in accordance with law. A receipt or certificate from the officer of such other state or country charged with the duty of collection of such tax, or the acceptance of such guaranty or security, shall be *prima facie* evidence in this state of the fact of such payment, guaranty or security.

Sec. 7. All such taxes upon any transfer, and the interest that may accrue on such transfer shall, until paid, be and remain a charge and lien upon the property transferred, superior to any lien created after such transfer, and no title shall vest or be transferred as to any such property, except subject to the lien for such taxes, and no such property shall be paid, transferred or delivered, in whole or in part, until the payment into the treasury of the state of the amount of such tax as by the certificate of the state tax commissioner may be shown to have been assessed, as hereinafter provided. The person to whom the property is transferred, if he shall receive the same before the tax thereon is paid, and the executors, administrators and trustees having charge of every estate so transferred, shall be personally liable for such tax and interest until its payment, and no statute of limitations shall be a defence to an action for the recovery thereof.

Sec. 8. Whenever it shall be necessary in the settlement of any estate to retain property or funds for the purpose of paying any liability, the amount or validity of which is not determined, the payment of the whole or a proportionate part of the tax may be suspended to await the disposition of such claim.

Sec. 9. In the case of such a suspension the tax shall be payable when the time of the suspension expires. In all other cases the tax shall be payable as soon as the amount thereof is assessed by the state tax commissioner, as herein provided. Interest shall be charged and collected upon all taxes imposed by this act from the time when the same become payable, at the rate of four *per cent.* per annum.

Sec. 10. Every executor, administrator, trustee, guardian, committee or other fiduciary having charge of an estate, any part of which is subject to such tax, and every person to whom property is transferred which is subject to such tax, but is not in charge of any such fiduciary, shall pay the same upon the market value of all the property subject to tax, whether there are or are not devises or bequests of successive interests in the same property, and whether such successive interests,

if any, are defeasible or indefeasible, absolute or contingent. Such payment shall be made out of said estate in the same manner as other debts may be paid. Any such fiduciary may sell personal property for that purpose when necessary, and the circuit court may authorize him to sell real estate for the payment thereof in the same manner as it may authorize the sale of real estate for the payment of debts.

Sec. 11. Whenever any foreign executor, administrator or trustee shall assign or transfer in this state any stock, bond or other security liable to any such tax, standing in the name of, or in trust for a decedent, he shall have the tax assessed on such transfer by the state tax commissioner, and shall pay the tax into the state treasury on the transfer thereof; otherwise any person having authority to make or permit such transfer, who shall make or permit it, shall be liable to pay the tax if he then had knowledge, or reasonable cause to believe, that the property was liable to tax.

Sec. 12. Whenever the county court of any county, or the clerk thereof, shall have reason to believe that a transfer subject to taxation hereunder has been made, whether such belief be based on any application for the probate of a will, the appointment of any fiduciary, or the admission to record of a deed or other writing intended to take effect in possession or enjoyment, at or after the death of the maker thereof, or appearing to be in contemplation of his death, or be based on any information otherwise derived, such clerk shall report the same to the state tax commissioner. Such a report shall be made quarterly as soon as possible after the first day of January, April, July and October in each year, and shall relate to all such matters as were not covered by any previous reports. A special report may be made by the clerk at any time. If there be no reason to believe that any such transfer has been made since the date of the last preceding report, that fact shall be stated in such quarterly report, but if there be reason to believe that such a transfer has been made, such quarterly or special report shall show the nature thereof; the name of the decedent, deviser, grantor, vendor, bargainor or donor; the name or other description, and the address of the person or corporation to or for whose use or benefit any property may be transferred, and the relationship, if any, between such person and the person from whom the property is transferred, as far as the court or clerk may have any information respecting such matters; the nature of the property transferred, with such general description and approximate valuation as the court or clerk may be able to give. Any other person, whether interested in such

property or not, may make a like report to the state tax commissioner. Every such report, whether by the clerk or by any other person, shall be filed by the commissioner, and retained in his office until the tax be paid on the transfers therein mentioned, or it shall be ascertained that they are not subject to tax, and shall then be destroyed; and at all times such report shall be confidential and privileged, and its contents shall not be inspected or made known by any one, except by the state tax commissioner as to any report made by a clerk, when there shall be a question whether such clerk has complied with the provisions of this chapter.

Sec. 13. With the inventory of every estate the executor, administrator or trustee shall file a statement showing, to the best of his judgment, whether any transfer of any property mentioned in such inventory is taxable hereunder, and if any be so taxable, setting forth the same matters mentioned in the preceding section, with as much accuracy as possible; and if the estate be one, no inventory of which is required to be filed, such statement shall nevertheless be filed in the same office, and within the same time, in which an inventory is in other cases required to be filed.

Sec. 14. The state tax commissioner shall as soon as may be, from the statements and reports made by the clerk and the personal representative or trustee or other person as aforesaid, from the inventory of the estate, if there be one, and from such other information as he may be able to procure, ascertain whether any transfer of any property be subject to a tax under the provisions of this chapter, and, if it be subject to tax, shall ascertain and assess the amount of the tax to which it is subject. If in his opinion no transfer of any part of such property is taxable hereunder, he shall certify that fact in writing, made in duplicate. One of said certificates shall be forwarded by him to the clerk of the county court, who is required to make report under section twelve hereof, and the other certificate shall be forwarded to the administrator, executor or trustee having such property in charge, or to the grantee, vendee, bargainee or donee thereof. If in his opinion the transfer of any of the property so transferred is taxable under the provisions of this act, he shall in like manner certify a description of the property, or of the part thereof so liable, and of the amount of tax with which it is assessed, and shall make duplicate certificates showing those facts, one of which he shall forward to the said clerk and one to such administrator, trustee, grantee, vendee, bargainee or donee.

Sec. 15. If any transfer be not reported to the state tax commis-

sioner by the clerk of the county court or the executor, administrator, trustee, grantee, vendee, bargainee or donee, or other person, the said tax commissioner may proceed, upon such information as he can obtain, to inquire and determine whether any such transfer is subject to tax under this act, and what tax, if any, should be assessed, and shall proceed as to any such transfer and the property passing thereby, in all respects, as if the same had been reported to him as required by this chapter.

Sec. 16. The executor, administrator, trustee, devisee, vendee, grantee, bargainee or donee shall cause the certificate, so received from the state tax commissioner, to be recorded by the clerk of the county court. Such certificate shall be recorded in the book wherein inventories and accounts of fiduciaries are recorded; but it shall be in compliance with this section if such a certificate be laid before a commissioner of accounts of said court at the first settlement thereafter of the accounts of any fiduciary, and be made a part of the report of such commissioner of accounts and be recorded with it.

Sec. 17. Notwithstanding any such certificates may have been made and recorded, if it afterward appear to the state tax commissioner that the transfer of the property mentioned in such certificate, or any part thereof, is subject to any tax and in addition to that mentioned in such certificate, or that it is taxable in a case where such certificate showed that it was not liable to such tax, he shall assess the proper tax thereon in addition to any tax which may have been theretofore assessed, and shall forthwith certify the amount of the same in duplicate, and forward one of such certificates to each of the persons to whom his original certificate was required to be forwarded. The certificate, so forwarded to the clerk of the county court, shall by him be forthwith recorded in the book in which deeds of trust and mortgages are recorded, and from the time of its admission to record shall constitute a lien on the property on which tax is assessed, for the amount of such taxes, and any interest accruing thereon, until the same are paid, except as against purchasers for value before such admission to record, without notice of such additional liability and as against those who may claim under such purchaser, having purchased for valuable consideration without notice of such liability.

Sec. 18. As soon as the amount of any tax upon any transfer shall be certified by the state tax commissioner, the person liable for such tax shall pay the amount thereof to the credit of the treasury of West Virginia, in the manner provided for the payment of other moneys

into such treasury, except that the certificate of the bank in which the same may be deposited shall be in duplicate, and shall describe the property upon the transfer of which the tax is assessed, and that one of such duplicate certificates of deposit shall be forwarded to the state tax commissioner. The said state tax commissioner shall at once certify, in duplicate, that all the taxes upon such transfer under the provisions of this act have been paid, and shall forward such certificates, one to the person making the payment and the other to the clerk of the county court, who shall record the same in the book in which releases are recorded. From the date when any such certificate of payment, or any such certificate that the property is not liable to such taxes, is admitted to record, the property mentioned in such certificate shall be free from any lien or claim for any such taxes, except as provided in the preceding section.

Sec. 19. If any such taxes, hereinbefore provided for, shall not be paid within sixty days from the time they become payable, or if there be an appeal with respect to the same or payment thereof be prevented by litigation or other unavoidable cause, within sixty days after the decision of such appeal or the end of such litigation or other cause of delay, the state tax commissioner shall on behalf of the state, and with the assistance of the prosecuting attorney of the county, proceed in the circuit court, by appropriate proceedings, to enforce the lien of such taxes upon any property subject to such lien, and to obtain the sale thereof, or of so much thereof as may be necessary to satisfy such lien, and relief shall be given by such circuit court accordingly. In addition to any other remedy for the collection of any tax upon such transfer, the same may be recovered in an action of assumpsit on behalf of the state of West Virginia against any person liable for such tax, and the state tax commissioner is authorized to bring such action in any circuit court or before any justice having jurisdiction, and the prosecuting attorney shall assist in the prosecution thereof. The state tax commissioner may compromise and settle the amount of any such tax when there is a controversy as to the relationship between the former owner of the property and the person to whom it is transferred.

Sec. 20. Within thirty days after the state tax commissioner shall have forwarded a certificate of the amount of tax assessed upon the transfer of any property, any person interested in such transfer, or in such property, may apply to the circuit court of any county, in which such property or the greater part thereof may be, for an appeal from the assessment so made. Such application shall be by petition in

writing, stating the names and addresses of all persons interested, showing the grounds upon which the appellant claims to be aggrieved, and an appeal shall be allowed thereon forthwith; and, until the same shall have been heard and decided, proceedings for the collection of such taxes may be stayed by order of said court for good cause shown, and upon such conditions as it may direct. Such appeal shall have precedence over other civil cases, except those relating to taxes claimed by the state, and shall be heard and decided as soon as may be. Before any such hearing reasonable notice thereof shall be given to all other persons interested, and the state tax commissioner and prosecuting attorney, who, with the said commissioner, shall defend the interests of the state. Upon such hearing the court shall consider all certificates relating to such taxes, and all other pertinent evidence that may be offered by either party. If it be of the opinion that the assessment appealed from was correct, it shall affirm the same; if it be of the opinion that the transfer was not subject to any such taxes, it shall set aside the said assessment and enter an order exonerating the property from taxes. If it be of the opinion that the transfer was subject to such taxation, but that the amount of taxes assessed was erroneous, it shall correct the assessment thereof by increasing or decreasing the amount thereof, as it may think just, and shall enter judgment accordingly. A copy of the judgment upon any such appeal shall be certified in duplicate, and forwarded and recorded as is herein provided with respect to the certificate of the state tax commissioner.

Sec. 21. For his services in recording such certificate or copy of judgment, the clerk of the county court shall be entitled to a fee of fifty cents, to be taxed to and be paid by the person to whom such property shall be transferred.

Sec. 22. In the settlement of his accounts any fiduciary making payment of the amount assessed upon any such transfer, as shown by any such certificate or judgment, may have credit for such payment upon filing the certificate of the state tax commissioner that such taxes have been paid, but no final settlement shall be made of the account of any fiduciary liable for such taxes until he shall have filed such certificate of payment.

Sec. 23. The state tax commissioner may compromise and settle the amount of such taxes whenever controversy may arise as to the ownership between the former owner of the property and the person to whom the same may have passed.

Sec. 24. Every fiduciary, and the sureties on his bond, shall be

liable upon such bond for all moneys such fiduciary may receive for taxes under this chapter, and for the proceeds of all sales of real estate received by him under the provisions hereof; and if any such fiduciary fail to perform any of the duties imposed on him by this chapter, he and his sureties shall be liable upon his bond for any damages resulting from such failure, the court under whose order he qualified may revoke his authority, and he and his sureties shall be liable to the same proceedings as if his authority had been revoked for any other cause.

Sec. 25. Any clerk or other person failing to discharge any duty imposed upon him by this act shall be guilty of a misdemeanor, and be fined, in the discretion of the court, not less than ten nor more than five hundred dollars.

Sec. 26. Every person having in his possession or control any book or paper containing any information respecting property transferred, as aforesaid, shall at the request of the state tax commissioner exhibit the same to him or to the prosecuting attorney of the county, and any person in interest shall make written answer under oath to any questions which the said state tax commissioner may put in writing concerning such property. Any person failing to comply with the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be, in the discretion of the court, fined not less than ten nor more than five hundred dollars.

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

(Senate Bill No. 13.)

CHAPTER 7.

AN ACT to amend and re-enact section twelve of chapter eighty-five of the code, relating to the appraisalment of estates.

[Passed August 11, 1904. In effect 90 days from passage. Approved August 12, 1904.]

Sec. 12. Appraisalment of estates, how made: effect of.

Be it enacted by the Legislature of West Virginia:

1. That section twelve of chapter eighty-five of the code be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 12. The personal estate of every deceased person, together with all real estate which his personal representative is authorized by will to lease or sell, shall be appraised as follows: The court by whose order any person is authorized to act as personal representative shall appoint not less than three nor more than five appraisers, any three of whom may act, in the county in which deceased last had his residence, and a like number in every other county in which there may be any goods or chattels of the deceased, or, in the case of a will, in which there may be any real estate which the personal representative is authorized to lease or sell. Said appraisers, after first taking an oath for the purpose, shall appraise at its real and actual value all the tangible personal property of every description owned by deceased at the time of his death and located in their respective counties, and all real estate in their respective counties which his personal representative is authorized by will to receive the rents from, or to lease or sell. They shall also make a list of all his intangible property of every description, including moneys, credits, investments, annuities, insurance policies, judgments and decrees for moneys, notes, bonds, accounts and all other evidences of debts, whether owing to him by persons or corporations in or out of the state; the number and value, including both the par value and the actual value of any shares of capital stock owned by him in any joint stock company or corporation, whether located in this state or elsewhere. They shall designate such intangible property as good, bad or doubtful, as to them may appear to be correct, and by whom owing and when payable, and from what time such of them as are interest-bearing bear interest.

Every such note, bond or evidence of debt shall have endorsed thereon the word "appraised," under which each acting appraiser shall sign his name. No judgment shall be rendered by any of the courts of this state upon such note, bond or evidence of debt unless and until the same shall be first shown to have been listed by the appraisers: *provided, however*, that any note, bond or evidence of debt which bears the endorsement by the appraisers, as above required, shall need no further proof that the same was listed.

The several appraisements and lists aforesaid shall be signed by the appraisers who made the same, and returned to the clerk of said court who shall record them. Every such appraisalment and list shall be *prima facie* evidence of the value of the estate embraced therein, and that it came to the hands of the personal representative.

Said appraisers shall receive each one dollar per day and their

actual expenses necessarily incurred in making said appraisal. No person shall be permitted by any means whatsoever to avoid the appraisal and listing of his estate, as herein provided.

(Senate Bill No. 28.)

CHAPTER 8.

AN ACT constituting the sheriff county treasurer *ex officio*, and prescribing certain duties of that office.

[Passed August 11, 1904. In effect 90 days from passage. Approved August 12, 1904.]

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| <p>SEC.</p> <ol style="list-style-type: none"> 1. Sheriff made county treasurer <i>ex officio</i>. 2. Must keep office at court house; certain accounts to be kept in said office. 3. Duplicate receipts for collections other than taxes to be filed with the county clerk. 4. Treasurer's office to be open during business hours; his accounts open to any taxpayer. | <p>SEC.</p> <ol style="list-style-type: none"> 5. Provisions of section 7 of chapter 30 of the code applicable to payment made in office. 6. } Treasurer's bond. 7. } 8. Deputy sheriffs to be deputy treasurers. 9. Repealing section. |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. On and after the first day of January, 1905, the sheriff shall be *ex officio* county treasurer of his county; and the words or designation "county treasurer" or "treasurer," whenever used in this chapter, shall be held and construed to mean and intend the sheriff as treasurer *ex officio* of the county.

Sec. 2. The treasurer shall keep his office at the court house for his county, in a suitable room or rooms provided or to be provided for that purpose by the county court, which shall constitute the county treasury, in which all moneys and property in his possession shall at all times be kept, unless such moneys shall be deposited by the treasurer in a bank, in which case an accurate daily deposit account thereof shall be kept by the treasurer in said office; and he shall keep in said office a fair and accurate account of all receipts and disbursements by him, showing the time when, from whom, to whom and on what account received and paid; and he shall so arrange his books that the amount received and paid on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate and distinct accounts, and he shall also keep separate and distinct accounts for the funds of each fiscal year.

Sec. 3. When any money is paid into the treasury, except for taxes, the treasurer shall give to the person paying the same duplicate receipts therefor, stating briefly but intelligently the fund or account for which paid; one of which receipts such person shall forthwith deposit with the clerk of the county court, who shall, in a well bound book to be kept by him in his office for the purpose, charge the treasurer therewith and file and preserve said receipt in his office.

Sec. 4. The county treasurer's office shall be kept open for the transaction of business at all times during business hours, and the records and accounts thereof shall be open to the inspection of any taxpayer of the county.

Sec. 5. The provisions of section seven of chapter thirty of the code shall be applicable to the payment of taxes made at the treasurer's office with like effect in all respects, as to discount and commission thereon, as if made at the designated places within the several districts.

Sec. 6. The treasurer, and his sureties on his official bond as sheriff, shall be held liable for all moneys coming into his hands as treasurer, whether or not the same shall be deposited in a bank.

Sec. 7. Any official bond given by a sheriff as to duties to be performed on or after the first day of January, 1905, shall, whether so stipulated therein or not, extend to and cover his official acts as county treasurer, the same in all respects as a bond given by him to cover the same specifically.

Sec. 8. The deputies of the sheriff shall be his deputies as county treasurer.

Sec. 9. All acts and parts of acts coming within the purview of this act and inconsistent herewith are hereby repealed.

(House Bill No. 22.)

CHAPTER 9.

AN ACT to amend and re-enact section twenty-nine of chapter thirty-nine of the code.

[Passed August 10, 1904. In effect 90 days from passage. Approved August 12, 1904.]

Sec. 29. Laying the county levy.

Be it enacted by the Legislature of West Virginia:

1. That section twenty-nine of chapter thirty-nine of the code be

and the same is hereby amended and re-enacted so as to read as follows:

Sec. 29. The county court of every county shall, at a regular session of said court, held not later than the month of July in each year, proceed to make up an estimate of the amount necessary to be levied for the current fiscal year to cover all county debts and liabilities payable during each year, including the probable expenditure for county purposes, the amount outstanding of unpaid orders on the county treasury, and a proper allowance for delinquent taxes, discount allowed on taxes paid on or before the thirtieth day of November, expense of collection and contingencies; but deducting the money in the county treasury applicable to the service of the year, and county claims, the collection of which during the year may, in their opinion, be relied on; which estimate, when approved by such court, shall be entered by the clerk in the proper record book. The said county court shall thereupon levy so many cents on every hundred dollars of the valuation of the property taxable in the county, according to the last assessment thereof, as will cover the estimated amount necessary to be raised for county purposes during the fiscal year. But such levy shall in no case, after the year 1905, exceed sixty cents on the one hundred dollars valuation of property, except for the purposes mentioned in section seven of article ten of the constitution, unless such levy shall have been submitted to a vote of the people of the county and have received three-fifths of the votes cast for and against the same.

(House Bill No. 31.)

CHAPTER 10.

AN ACT to amend and re-enact section forty of chapter thirty-five of the code of West Virginia.

[Passed August 8, 1904. In effect 90 days from passage. Approved August 12, 1904.]

Sec.

40. Auditor authorized to settle with the

sureties of sheriffs and assessors, in certain cases.

Be it enacted by the Legislature of West Virginia:

1. That section forty of chapter thirty-five of the code be and the same is hereby amended and re-enacted so as to read as follows:

Sec. 40. Whenever it shall appear to the satisfaction of the auditor

that the sureties of a defaulting assessor or sheriff will be compelled to pay the indebtedness of such defaulting officer, he may, with the advice and consent of the attorney-general, settle with such sureties by receiving the amount of the principal with interest thereon at the rate of six *per cent.* per annum: *provided*, that the sureties will pay the amount into the treasury before suit is brought.

(Senate Bill No. 10.)

CHAPTER 11.

AN ACT to amend and re-enact sections seven, twenty-two and twenty-three of chapter one hundred and thirty-seven of the code of West Virginia, relating to the fees of officers.

[Passed August 9, 1904. * In effect 90 days from passage. Approved August 12, 1904.]

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| <p>Sec. 7. Fees of clerk of the county court.</p> <p>22. Fees of jailer in civil and criminal cases.</p> | <p>Sec. 23. Payment to officers out of state and county treasury</p> <p>2. When amended sections take effect.</p> |
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Be it enacted by the Legislature of West Virginia:

1. Sections seven, twenty-two and twenty-three of chapter one hundred and thirty-seven of the code, relating to the fees of officers, are hereby amended and re-enacted so as to read as follows:

Clerk of the county court.

Sec. 7. When a writing is admitted to record by the clerk of the county court:

For receiving proof of acknowledgment thereof, entering any order in connection therewith, endorsing clerk's certificate of recordation thereon, making statement of deeds in list entered in order book, posting same, embracing it in list for assessor for making transfer on land books, and indexing in proper index, where the writing is a deed of conveyance, trust deed, lease or power of attorney concerning real estate... \$1.25

And if such writing contain more than one thousand words, for every additional thirty words..... .03

For recording a plat, whether separate from or accompanying a deed or other writing50

*Section 7, as amended, does not take effect until January 1, 1906.

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| And if such plat contain more than six courses, for each additional course | .03 |
| Where such writing is of or concerning personal and not real estate | .50 |
| And if such writing contain more than five hundred words, for each additional thirty words | .03 |
| For recording, indexing and noting release of lien..... | .50 |
| For swearing the witnesses and entering in the order, or minute book, all orders in relation to the proof of a will which is admitted to record without contest, and copying such order on the will or on a paper annexed thereto, when fully proved and but one order | .75 |
| If but partially proved on one day, for the order and entering the same on the will or paper annexed thereto..... | .50 |
| And for each subsequent order and entering the same on the will or paper annexed thereto | .50 |
| For the same services where there is a contest..... | 2.00 |
| For recording a will and the matter recorded therewith in the will book, at the option of the clerk, three cents for every thirty words or a specific fee of..... | .50 |
| For entering orders and transmitting papers in case of an appeal | .75 |
| If there be an order committing decedent's estate to an officer, for entering and copying such order and the orders of appraisal | .50 |
| If any personal representative or guardian qualify, for administering necessary oaths, making out bond, entering and copying on the will order granting probate or administration, making out copy of such order for personal representative or guardian, entering and copying orders of appraisal..... | 1.00 |
| If several personal representatives qualify on the same estate at the same time or term, only the same fee shall be charged as if one had qualified, to-wit:..... | 1.00 |
| For entering and copying an order granting a license to keep a hotel or tavern, where spirituous liquors are sold..... | 1.00 |
| For entering and copying an order granting a license to keep a hotel or tavern where spirituous liquors are sold, administering oath and taking bond..... | 2.00 |
| On application for marriage license, for administering and writing certificate of oath, issuing and registering license and recording and giving receipt for certificate of marriage.... | 1.00 |
| For search for anything in his office over a year's standing..... | .25 |

| | |
|---|-----|
| For recording a certificate and posting a copy thereof under the second section of chapter sixty-one of the code. | .50 |
| For docketing under chapter one hundred and thirty-nine of the code, a judgment, decree, bond or recognizance. | .25 |
| For re-docketing the same when required. | .25 |
| For making out a transcript of the record and proceedings in any case in due form, so that the same may be used in an appellate court, for every thirty words, three cents; and for making out in any other manner than copying, any paper to go out of the office which is not otherwise provided for, the same; or, in lieu thereof, if the clerk elect, a specific fee of. | .50 |
| For any copy, if it be not otherwise provided for, three cents for every thirty words, or in lieu thereof, if the clerk elect, a specific fee of | .35 |
| For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, and writing certificate of the president of the court or judge, if the clerk be required to do so | .50 |
| For recording and filing an inventory or sale bill, three cents, for every thirty words, or, at the option of the clerk, a specific fee of | .50 |
| For entering an order confirming the report of a fiduciary. | .50 |
| For recording such report and matter recorded therewith, for every thirty words, three cents; or in lieu thereof, if the clerk elect, a specific fee of. | .50 |
| For recording any bond required by law to be recorded, including the certificate or other evidence of its execution. | .50 |
| For recording a mechanic's lien, three cents for every thirty words; or, at the option of the clerk, a specific fee of. | .50 |
| For recording a certificate of real estate claimed as a homestead. | .50 |
| For administering an oath, not before provided for, and writing certificate thereof where the case requires one. | .15 |

Fees of jailers in both civil and criminal cases.

Sec. 22. For receiving a person in jail, twenty-five cents, and the like sum for discharging him therefrom.

For keeping and supporting a person confined in jail, for each day, in the discretion of the court, a sum not less than thirty-five cents nor more than fifty cents.

Upon the affidavit of the jailer, the county court shall allow him,

out of the county treasury, the amount actually paid for fuel necessary in heating the jail.

For attendance upon the circuit and county courts, and acting as janitor of the court house, he shall be allowed not exceeding one hundred and fifty dollars per annum, to be ascertained and fixed by the county court and paid out of the county treasury.

In cases of felony and in case of misdemeanor the fees of the jailer shall be paid out of the county treasury; and in civil cases by the party at whose instance a person is committed to jail.

Payments to officers out of the state or county treasury.

Sec. 23. There shall be paid out of the state treasury to clerks and sheriffs for services rendered the state in a civil case such fees as would be chargeable for the like service of an individual, after such fees are duly certified to the auditor.

There shall be paid by the county court according to the provisions of chapter one hundred and sixty-one of this code, the following fees, after the same are duly certified to said court:

To the sheriff or other officer, for an arrest for felony, one dollar, and for conveying any person charged with or convicted of felony, to jail, or from one jail to another, for each mile in going and returning, five cents. The officer shall also be allowed for the support of the prisoner during the removal and for assistance to make the arrest or effect the removal, such charge as may have been necessarily incurred by him, to be shown by his own affidavit, if living, or, if he be dead, by the affidavit of some credible person; and where he has assistance, by the affidavit also of each person employed by him, or by such of them as may be alive and within the jurisdiction of the court, and if none of them be alive or within the jurisdiction of the court, the court may allow such claim upon his own affidavit; such charge for assistance not to exceed, where it is making an arrest, one dollar per day for each person employed to assist him; and not to exceed, where it is in conveying a prisoner, five cents per mile going and returning, for each guard; for impaneling a jury in a case of felony, one dollar.

2. Section seven of chapter one hundred and thirty-seven of the code as amended by this act shall not take effect until January first, nineteen hundred and six; and said section seven as it now stands in the code shall be in force until January first, nineteen hundred and six. Sections twenty-two and twenty-three of chapter one hundred and thirty-seven of the code as amended by this act shall go into effect ninety days after the passage of this act.

(House Bill No. 13.)

CHAPTER 12.

AN ACT amending sections eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, thirty-four, thirty-five and thirty-nine of chapter sixty-three of the code, relating to marriages, births and deaths, and repealing sections thirty, thirty-one, thirty-two and thirty-three of said chapter.

[Passed August 9, 1904. In effect 90 days from passage. Approved August 12, 1904.]

- SEC.
18. Physician and accoucheur required to register with, and to report births and deaths to, clerk of the county court.
 19. Births and deaths to be reported by members of the family in absence of physician.
 20. Coroner and undertaker required to report deaths to county clerk.
 21. Fee for making such report.
 22. County clerk to keep record of births
 23. { and deaths.
 24. Duty of assessor as to registration of marriages, births and deaths.

- SEC.
25. County clerk to make returns to the registrar of vital statistics of marriages, births and deaths.
 26. Duty of registrar as to marriages, etc.
 34. Penalty for assessor failing to do his duty.
 35. Penalty for any person failing to comply with the provisions of sections 18, 19 or 20 of this act.
 30. State board of health to prepare proper forms.
 2. Repealing section.

Be it enacted by the Legislature of West Virginia:

1. Sections eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, thirty-four, thirty-five and thirty-nine of chapter sixty-three of the code, relating to marriages, births and deaths, are hereby amended and re-enacted so as to read as follows:

Sec. 18. Every physician and accoucheur shall register his name and post office address with the clerk of the county court of the county in which he resides, and with the clerk of the county court of every other county in which he intends to practice. Such clerk shall keep a separate book in which shall be registered the names and post office addresses of physicians and accoucheurs, which book shall always be open to inspection without fee. Every physician and accoucheur shall report every birth and death which may come under his supervision to the clerk of the county court of the county in which it may happen, stating in case of a birth, the time and place, the name of the child, if it have one, and the names of the parents; in case of a death, the time and place, the name of the decedent and the cause of death, and in either case such additional facts as may be required by the board of health, which report shall be made upon a blank form to be pre-

pared by the board as hereinafter provided, and in accordance with such instructions as may be given by it.

Sec. 19. If at any birth or death no physician or accoucheur be present, such birth or death shall within thirty days thereafter be reported, to the clerk of the county court of the county in which it took place, by the oldest resident member of the family, or if none, by the householder at whose residence it took place. Such report shall state the same facts as are required by the preceding section, and shall be made upon the form and in accordance with the instructions therein mentioned.

Sec. 20. Every coroner, or the undertaker, shall within thirty days thereafter report every death coming within his cognizance to the clerk of the county court of the county wherein such death took place, which report shall state the same facts required by section eighteen, and shall be made upon the form and in accordance with the instructions therein mentioned.

Sec. 21. Every person making a report, under the provisions of sections eighteen, nineteen and twenty, shall for every such report receive the sum of twenty-five cents to be paid out of the county treasury.

Sec. 22. The clerk of the county court shall enter upon record a full abstract of the contents of said reports of births in his said register of births, setting forth in convenient tabular form all the facts shown by said reports, and make an alphabetical index of the names of children born, or when they have no names, of the names of the parents.

Sec. 23. He shall in like manner record a full abstract of the contents of said reports of deaths in his said register of deaths, setting forth in convenient tabular form the facts shown by said reports, and making an alphabetical index of the names of the deceased.

Sec. 24. The clerk of the county court shall file and preserve in his office the reports made to him as aforesaid. On or before the first day of February in every year he shall make and furnish to the assessor of his county a copy of the indexes made by him of the marriages, births and deaths, which took place during the year which ended with the thirty-first day of December previous. The assessor shall make inquiry of all persons assessed by him, and shall ascertain whether any marriages, births or deaths took place within the county for that year which do not appear in said indexes. And if he ascertain any such he shall report them to the clerk of the county court before the first day of August, making such reports upon the appropriate forms pre-

pared by the state board of health, and in accordance with its instructions. Any person requested by the assessor to give information under this section who shall refuse to do so shall forfeit ten dollars. For every such report the assessor shall be entitled to a fee of twenty-five cents to be paid out of the county treasury. The clerk of the county court shall enter upon his appropriate register for the preceding year a full abstract of the contents of the reports made by the assessor, and shall make the proper corrections in his tabular statements and alphabetical indexes.

Sec. 25. On or before the first day of March in each year, the clerk of every county court shall transmit to the registrar of vital statistics a copy of his register of marriages, and so much of his record taken at the time of issuing such licenses, as is not contained in his said register of marriages which was taken by him within the next year preceding the thirty-first day of December, distinguishing, by appropriate columns or notes, the licenses issued on which the minister's certificates of marriage have not been returned, and the licenses containing such certificates. He shall also, on or before the first day of September in each year, transmit to the registrar of vital statistics a copy of his register of births and register of deaths happening within said year, ending the thirty-first day of December next preceding. For the failure to perform any duty required by this section, such clerk so failing shall forfeit not less than ten nor more than one hundred dollars.

Sec. 26. Such copies shall be filed and preserved in the office of the registrar of vital statistics, and said registrar shall prepare an abstract annually of marriages, births and deaths in each county, and make a report upon such registration once in every period of two years, to be laid before the legislature.

Sec. 34. If any assessor fail to procure any information respecting a marriage, birth or death, which he is by this chapter authorized or required to procure, and which he can procure, he shall, for every failure to record the information acquired by him respecting a marriage, birth or death according to this chapter, forfeit ten dollars.

Sec. 35. If any person required by the provisions of sections eighteen, nineteen or twenty of this chapter to register his name and address, or to make a report to the clerk of the county court within a specified time, fail to do so, he shall forfeit ten dollars.

Sec. 39. The state board of health shall prepare such forms and instructions, as they deem proper, for carrying out the provisions of this

chapter, and the registrar of vital statistics shall furnish such forms and instructions to the clerks of the county courts, whose duty it shall be to furnish them to such persons as are herein required to make reports, but such registrar shall not furnish to the clerks of the county courts printed blanks for marriage licenses.

2. Sections thirty, thirty-one, thirty-two, and thirty-three of chapter sixty-three of the code are hereby repealed.

(House Bill No. 26.)

CHAPTER 13.

AN ACT fixing the fees to be charged by the auditor and secretary of state and to provide for collecting and paying such fees into the state treasury.

[Passed August 2, 1904. In effect 90 days from passage. Approved August 11, 1904.]

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| <p>SEC.</p> <p>1. Fees of auditor and secretary of state, and their payment into the state treasury.</p> <p>2. Accounts of such fees to be kept by</p> | | <p>SEC.</p> <p>auditor and secretary of state; monthly and annual reports of such fees, how made.</p> <p>3. Violations of this act, a felony.</p> |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That on and after the fourth day of March, nineteen hundred and five, the secretary of state and the auditor shall charge for services rendered in their offices, respectively, the following fees to be paid by the person to whom the service is rendered at the time it is done:

Secretary of state.

For each certificate of incorporation or copy thereof, including certificates issued on new agreements, ten dollars; for each certified copy of certificate of incorporation, ten dollars; for each certificate of change of name, of increase or decrease of authorized capital stock, of change of principal office, of amendment to certificate of incorporation, five dollars; for recording a power of attorney and certificate thereof, three dollars; for any other certificate, whether required by law or made at the request of any person, five dollars.

The foregoing fees shall include the tax on the great seal or the less seal impressed on any such document, as well as the filing, recording and indexing of the same.

For indorsing and filing reports of corporations, and all other papers, one dollar each, which shall include the indexing of the same.

For any search, not less than one dollar, or at the rate of one dollar for each hour or fraction thereof consumed in making such search; and the cost of the search shall be in addition to the cost of any certificate issued pursuant thereto or based thereon.

For recording any paper, not less than one dollar, and at the rate of twenty cents for each one hundred words.

For issuing commission to a notary public, or to a commissioner of deeds, five dollars, which shall include the tax on the state seal thereon and other charges.

When the work or service is performed for the benefit of any corporation which is exempted from the payment of license tax on its charter, one-half only of the foregoing rates shall be charged.

For any other work or service not herein enumerated, the secretary of state shall charge the fees prescribed in chapter one hundred and thirty-seven of the code of West Virginia.

The auditor.

Land grants not exceeding five hundred words, one dollar and fifty cents, and for each additional five hundred words or fractional part thereof, one dollar; certificate of redemption where taxes and interest are under five dollars, one dollar; certificate of redemption, where taxes and interest are under twenty dollars, one dollar and fifty cents; certificate of redemption, where taxes and interest are over twenty dollars, two dollars; making search as to titles, etc., when not over one hour, two dollars and fifty cents; for each additional hour, two dollars; transcript of records and certifying to same when not over one hundred words, one dollar and fifty cents, and twenty-five cents additional for each one hundred words; for a certificate of re-instatement of corporation charter, five dollars; for examination of annual statement of each insurance company, ten dollars; certificate to home office, five dollars; for certificate to each agent of such insurance company, five dollars.

The fees to be charged by the auditor and secretary of state, by virtue of this or any other law, on and after the date mentioned in this section shall be the property of the state of West Virginia, and they and each of them shall account for and pay into the state treasury at least once every thirty days all of such fees, by either of them collected, to the credit of the general state fund. This act shall not apply to

the auditor and secretary of state now in office, and the laws now in force relating to fees of the auditor and secretary of state shall remain in force until the date mentioned in the first section.

Sec. 2. The said auditor and secretary of state, on and after the date mentioned in the first section, shall each keep a complete and accurate account by items of all fees collected by them, and the nature of the services rendered for which such fees were charged and collected, in one or more well bound books kept for the purpose; which books shall at all times be open for inspection and examination by the governor or any other state officer, or member of the legislature, or any party interested.

The secretary of state and the auditor shall each, within twenty days after the close of each month, make a report for the preceding month, in which he shall set out in detail every payment of money made to him, and show by whom it was paid, and for what purpose, and shall pay the amount appearing to be due to the state into the state treasury. The report of the secretary of state shall be filed in the office of the auditor, and the report of the auditor shall be filed in the office of the secretary of state.

If either of said officers shall fail to make and file such monthly report in any month within the time named, it shall be the duty of the officer in whose office it is required to be filed to report in writing the fact of such failure to the governor. All such reports shall be open to like inspection as is hereinbefore provided concerning the fee-books of said officers. And the said secretary of state and auditor shall each annually with their report, as now provided by law, report the aggregate of the fees so collected by them, and the amount paid over by them, as provided in the preceding section, which report shall be sworn to.

Sec. 3. Any willful violation of the preceding sections by said auditor or secretary of state, or any willful failure by either of them to make the reports or pay over the money or keep the account as provided for in this act, shall be deemed a felony, and upon conviction thereof the party offending shall be fined not more than five thousand dollars, and shall be confined in the penitentiary for a period not more than ten years.

(Senate Bill No. 12.)

CHAPTER 14.

AN ACT providing for the payment of the salaries of the judges of criminal and intermediate courts out of the treasuries of the several counties in which such courts sit.

[Passed August 10, 1904. In effect 90 days from passage. Approved August 12, 1904.]

SEC.

1. Salaries of judges of criminal and intermediate courts to be paid out of the county treasury.

SEC.

2. Inconsistent acts repealed.

Be it enacted by the Legislature of West Virginia:

Sec. 1. Notwithstanding the provisions of any statute to the contrary, the salary of every judge of a criminal or intermediate court, or other court established at the instance of any county, and the compensation of every person who may hold any such court when the judge of the same can not act, shall, after the first day of July, nineteen hundred and five, be paid out of the treasury of such county and not out of the treasury of the state.

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

(House Bill No. 28.)

CHAPTER 15.

AN ACT to provide for the reassessment of the value of all real estate in this state.

[Passed August 11, 1904. In effect 90 days from passage. Approved August 12, 1904.]

SEC.

1. Reassessment of real estate provided for.
 2. State tax commissioner to appoint one commissioner in each county; provision for assistant.
 3. Bond and oath of commissioner.
 4. Auditor to furnish books to commissioner; state tax commissioner to furnish instructions.
 5. } Duty of commissioner as to assess-
 6. } ments.
 7. } As to lands laid off into town lots.
 8. Clerk of county court to furnish said commissioner with copy of land books for 1904.

SEC.

9. Assessment to be completed on or before August 1, 1905.
 10. Notice to taxpayers; provision for appeal from commissioner to county court, and from the county court to the circuit court.
 11. Compensation of commissioner.
 12. Board of public works constituted board of review and equalization.— its duty as such: state tax commissioner shall attend sittings of board.
 13. Reassessment shall govern tax levy for 1906 and until the next assessment.

Be it enacted by the Legislature of West Virginia:

Sec. 1. There shall be a reassessment of the value of the real estate in this state made for the year beginning the first day of January, nineteen hundred and five, and according to the true and actual value thereof on that day.

Sec. 2. The state tax commissioner shall, within thirty days after this act takes effect, appoint one commissioner for each county in this state, who shall be a resident and freeholder thereof, and who shall not be a real estate broker or speculator in lands, whose duty it shall be to reassess the value of all the real estate in said county.

If any commissioner be of the opinion that it is impracticable to complete the assessment of the property in his county according to this act, and the instructions of the state tax commissioner, he may apply to the state tax commissioner for the appointment of an assistant, whose name and post office address he shall state in such application. If such application be approved by the state tax commissioner and the board of public works, the state tax commissioner may appoint such assistant, who shall take the same oath of office as the commissioner, and be allowed such compensation as the board of public works and the state tax commissioner shall think just and proper. Such assistant shall perform his work under the direction of the commissioner of his county and agreeably to the instructions of the state tax commissioner.

Sec. 3. Every commissioner so appointed shall, within twenty days after notice of his appointment, execute a bond with good security, to be approved by the county court of his county, or the clerk thereof in vacation, in the penalty of five thousand dollars, conditioned for the faithful performance of the duties of his office, and shall take an oath that he will support the constitution of the United States and the constitution of this state, and faithfully, honestly and impartially discharge the duties of his office to the best of his skill and judgment, and that he will neither directly nor indirectly receive or agree to receive any gift, reward or favor from the owner of any lands in his county, or any other person, to influence his action in making such assessment, and that he will without fear, favor, partiality or bias, assess all the real estate in his county according to its true and actual value, that is to say, at the price for which such property would sell if voluntarily offered for sale by the owner thereof upon the terms upon which such property is usually sold, and not the price which might be realized upon a forced sale. Such bond and oath shall be

forthwith filed and recorded in the office of the clerk of the county court, and the clerk shall, within ten days after such filing, certify copies thereof—one to the auditor and one to the state tax commissioner, and furnish therewith the post-office address of such commissioner. In case any such commissioner shall fail to qualify and give bond as herein required, or shall die or resign before completing the assessment, or the office shall for any cause become vacant, the state tax commissioner shall without delay appoint a successor; and in case any commissioner shall fail or refuse to promptly and with reasonable dispatch enter upon and complete the discharge of the duties of his office, the state tax commissioner shall declare said office vacant, and appoint a successor, who shall qualify as hereinbefore provided.

Sec. 4. The auditor shall, as soon as may be, cause to be provided for and furnished to each commissioner three books, similar in form to the assessor's land books, with such changes as the nature of the work may require. The state tax commissioner shall furnish each commissioner with specific instructions, describing in detail the manner in which he is to arrive at proper valuations of the real estate under the provisions of this act, and particularly under his oath of office, and the manner of making up his books and returns, and shall also furnish him with a copy of this act.

Sec. 5. Each commissioner so appointed and qualified shall, on the first day of January, nineteen hundred and five, proceed in person to examine all tracts of land and town lots, with all buildings and improvements thereon, in his county, and shall upon such examination and by the aid of all such information as he may be able to obtain, respecting their value, ascertain and assess the true and actual value thereof, that is to say, at the price for which such property would sell if voluntarily offered for sale by the owner thereof upon the terms upon which such property is usually sold, and not the price which might be realized upon a forced sale. In such valuation shall be taken into consideration any minerals, mineral waters, oils or gases which may underlie the surface of such lands; and as well the location of such land with reference to means of transportation for its products.

Sec. 6. In case the whole of or any interest in the minerals, mineral waters, oils, gases, coal, ore or timber, or any other assessable interest in real estate, be held by any person other than the owner of the other interests in said real estate, the same shall be assessed separately in the name of the owner thereof at its true and actual value. For the purpose of ascertaining the ownership of any such real estate or

of any interest therein, as specified in this section, and the value of the same, said commissioner shall have power to administer to and examine under oath the owner of such real estate or interest, his tenant or local agent, and also the owner of adjacent lands and such other witnesses as he may deem proper. And in case the owner of any such assessable interest in real estate shall fail to record in the county court clerk's office of such county the evidence of his title thereto, any person in interest may make and file or cause to be made and filed, in said office, an affidavit showing the fact of such ownership; and the same shall be sufficient evidence to authorize the commissioner, and as well the clerk of the county court for subsequent years, to assess such interest in the name of such owner. Any such owner refusing to answer on oath any pertinent question touching the matter of inquiry shall be guilty of a misdemeanor, and fined not less than twenty nor more than one hundred dollars.

Sec. 7. In ascertaining and fixing the value of any land within the limits of any incorporated city, town, or village, or elsewhere, which has been laid off into lots and opened up as lots by the construction and maintenance of roads and streets through the same, the commissioner shall adopt as the value of such land the value thereof as so laid off into such lots, valuing the same by the lot and not by the acre or tract.

Sec. 8. The clerk of the county court shall furnish such commissioner a copy of the land books of his county for the year, nineteen hundred and four, to aid him in making such assessment. The actual cost of making up such land book shall be allowed said clerk, the same to be paid out of the county treasury.

Sec. 9. Upon the completion of his assessment, he shall make three copies thereof in the books so furnished him by the auditor, and append thereto his affidavit to the following effect:

"I,, commissioner, appointed to reassess the value of all the real estate, in the county of, do solemnly swear (or affirm) that I have diligently endeavored to ascertain the actual value of all the tracts of land, town lots and tenements, oil, gas, coal, ore, timber and other interests, properly chargeable in my county, and have entered the same in the foregoing record; that I have faithfully, fairly and impartially and without fear, favor or bias, assessed the same with the improvements thereon, at the true and actual value thereof, as defined in the law, and in making the said books I have followed the law and been guided by the instructions furnished me by

the state tax commissioner for my guidance, and to the best of my ability and judgment: so help me, God.

“.....”

One of said books shall be filed by the commissioner in the office of the clerk of the county court immediately upon their completion, to be used by said clerk as a guide in making up the land books. The other books shall be transmitted, one to the auditor and the other to the state tax commissioner. All such assessments shall be completed and the books filed as herein provided, on or before the first day of August, nineteen hundred and five.

Sec. 10. As soon as said books are filed with the clerk of the county court, the clerk shall publish a notice in form and substance as follows:

“Notice to taxpayers.

“The taxpayers of county will take notice that the books of the reassessment of the value of the real estate of said county, made pursuant to the acts of the legislature passed at its extraordinary session held in nineteen hundred and four, have been filed in my office and are open to the inspection of any taxpayer of said county; and that the county court of said county will meet in special session at the court house of said county, on the first Tuesday of September, for the purpose of hearing the petition of any person aggrieved by such reassessment, and all such aggrieved persons are hereby notified to make application to such term of the county court.

“Given under my hand this day of, 1905.

“.....,

“Clerk of the county court.”

The clerk of the county court shall cause such notice to be published once each week, for three successive weeks, before such special session, in two newspapers of general circulation published in the county, of opposite politics, if there be such. If there be no newspaper published in the county, then such notice shall be published in some newspaper of general circulation in the county, and the clerk of the county court shall also cause a sufficient number of such notices to be printed and sign the same, and deliver them to the sheriff, and it shall be the duty of the sheriff to post securely and conspicuously a copy of such notice at each post office in the county and at such other public places therein as he shall deem best; said notices to be posted at least three weeks before the date of said special session of the county court.

The county court shall meet in special session at the court house of the county at ten o'clock in the forenoon on the first Tuesday of the

month of September, in the year nineteen hundred and five. The prosecuting attorney, and the commissioner who made the reassessment of the real estate, shall attend such session. Any person feeling himself aggrieved by the assessment of his property under this act shall present, by himself, agent or attorney, his petition for redress at said special term of the county court, stating therein the character of the correction or redress he desires. It shall be the duty of the prosecuting attorney to attend to the interest of the state and county and of each district therein at the hearing of such petition. The county court shall proceed to hear all such petitions as speedily as may be, and shall not adjourn said session longer than one week until all such petitions are heard and determined. If the state tax commissioner, the prosecuting attorney, or any taxpayer of the county, think any assessment is too low, or otherwise erroneous, he may apply to the county court to correct the same, giving to the owner of the property, his agent or attorney, at least five days' notice of such application. The county court shall carefully examine every assessment, and if they be of opinion that any assessment is too low or too high, or otherwise erroneous, they shall correct the same, giving the owner of the property, his agent or attorney, at least five days' notice previous to such action. If upon hearing the evidence offered, or upon inspection of the books, the county court shall be of opinion that there is error in the assessment under consideration or that the valuation thereof fixed by the commissioner is too high, the court shall make such order correcting the assessment as shall be just and proper. The right of appeal from any such order made by the county court shall be to the circuit court, and may be taken either by the applicant or the state; and in case the applicant or the state, by its prosecuting attorney or agent, desires to take an appeal from such order, the party desiring to take such appeal shall have the evidence taken at the hearing of such application certified by the county court, and such appeal, when allowed by the court, or judge in vacation, shall have precedence over all other cases pending in said court. A certified copy of any order entered in the county or circuit court making a change in any assessment, as is herein provided for, shall be transmitted by the clerk thereof to the auditor within twenty days after the entering of the same. Every such order shall show that the prosecuting attorney was present and defending the interests of the state. In the event it shall be ascertained that the land has been assessed too high and the owner has paid the excess of such taxes, the court shall order that the

excess be refunded to him; and if not paid, that he be relieved from the payment of such excess. No costs on such application shall in any event be taxed against the state or the applicant. The prosecuting attorney shall forthwith notify the state tax commissioner of any appeal from any order entered by the county court under this act.

Sec. 11. For the services rendered by each commissioner, under this act, he shall be allowed, for each day actually and diligently employed, such amount as may be fixed by the board of public works before his appointment, to be paid out of the state treasury; his account for services to be verified by his affidavit and presented to the state tax commissioner, and by him approved and certified to the auditor for payment. But the total compensation of such commissioner shall not in any case exceed such amount as shall be fixed for the county by the board of public works. Any commissioner failing or refusing to complete his work within the time required shall forfeit his right to compensation hereunder, unless upon good cause shown to the state tax commissioner. The cost of publishing, printing and posting the notices, required by section ten of this act, shall be audited by the county court of the county and paid out of the county treasury.

Sec. 12. The board of public works shall be and constitute a board of review and equalization for this state. Said board of equalization shall review, correct and equalize the reassessment in the several counties and any inequalities therein, and may either raise or lower such assessments in any one or more counties, to the end that the assessment shall be according to the true and actual value of the property in the several counties of the state, and that the relative assessments in the several counties may be right and just. Said board shall sit at the seat of government, and at such other places in the state as they may think best, and hear any evidence or argument that may be offered pertinent to the inquiry on behalf of any county, and may raise or lower the average valuation of property in such county, and in any other county or counties, in order that the true and actual value of all the property in the state may be arrived at. The board may summon such witnesses and hear and examine such other evidence as they may deem necessary.

The state tax commissioner shall be present at the sittings of the board, and furnish said board all such information as he shall have or may be able to procure in relation to, and shall advise with said board respecting, the review so to be made by it. When said board shall have completed its labors, it shall report the result thereof to the audi-

tor, who shall forthwith certify the same to the clerk of the county court of each county, who shall, in his future actions in respect to the assessment of real estate within his county, be governed thereby.

Sec. 13. The reassessment made under the provisions of this act shall apply to and govern the taxes for state, county, district and municipal purposes to be levied and collected for the year nineteen hundred and six, and until the next assessment.

(Senate Bill No. 28.)

CHAPTER 16.

AN ACT to prohibit the expenditure of public moneys and the incurring of obligations upon the state or any county or school district, without proper authority.

[Passed August 11, 1904. In effect 90 days from passage. Approved August 12, 1904.]

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| <p>Sec.</p> <p>1. Unlawful for a state institution to expend more than its appropriation, except when.</p> <p>2. Unlawful to divert appropriations; or to create debt, when.</p> <p>3. County courts and boards of education</p> | <p>Sec.</p> <p>prohibited from creating debt in excess of funds at their disposal.</p> <p>4. Violator of the provisions of this act to be personally liable for such debt.</p> <p>5. Repealing section.</p> |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. It shall be unlawful for the superintendent, manager, any officer, board of directors, regents, or any person or persons, board or body, acting or assuming to act for and on behalf of any institution kept or maintained in whole or in part by this state, to expend for any fiscal year any greater sum for the maintenance, or on account of such institution, than shall have been appropriated by the legislature therefor for such year; except it be necessary for current expenses, and then only by and with the consent of the board of public works, duly entered of record in its proceedings before the expenditure or any part thereof shall have been made.

Sec. 2. It shall be unlawful for any such officer, board, body or person to expend for the erection, improvement or repair of any building or structure, or for the purchase of any real estate or other property, or upon any contract or undertaking whatsoever to be performed in whole or in part by the state, any sum exceeding that which shall have been appropriated or authorized therefor by the legislature, nor

shall they incur any debt or obligation on any such account, not expressly authorized by the legislature, nor use in part payment only upon the purchase or construction of any land or structure any sum which shall have been appropriated or authorized by the legislature in full payment for such object.

Sec. 3. It shall be unlawful for any county court or board of education to expend any money or to incur any obligation or indebtedness not expressly authorized by law to be paid or incurred by such body. Nor shall such county court or board of education make any contract, express or implied, the performance of which, in whole or in part, would involve the expenditure of money in excess of funds legally at the disposal of such county court or board of education, as the case may be.

Sec. 4. Any such officer or person who, in violation of any of the provisions of this act, shall expend any sum or amount of money, incur any debt or obligation, or make or participate in the making of any such contract, or shall be party to any such in any official capacity, shall be personally liable therefor both jointly and severally, and an action may be maintained therefor by the state, county, district or any person prejudiced thereby, in any court of competent jurisdiction. And there shall be no liability upon the state, county or district, or the funds thereof, on account of any such debt, obligation or contract.

Sec. 5. All acts and parts of acts coming within the purview of and inconsistent with this act are hereby repealed.

(Senate Bill No. 23.)

CHAPTER 17.

AN ACT to amend and re-enact section ten of chapter seventeen of the code, and further to amend said chapter by adding provisions respecting requisitions by public institutions, their methods of accounting, and the examination of the accounts of such institutions and of disbursing officers.

[Passed August 11, 1904. In effect 90 days from passage. Approved August 12, 1904.]

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| <p>Sec. 10. Auditor may administer oaths in relation to claims and may use seal.</p> <p>20. Requisition of public institutions to be accompanied by statement of the treasurer.</p> <p>21. Auditor not to issue warrant unless, when.</p> | <p>Sec. 22. Auditor to examine financial transactions of public institutions.</p> <p>23. Auditor shall publish summary of results of such examinations in his biennial report; also to report specially, when.</p> |
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Be it enacted by the Legislature of West Virginia:

1. Section ten of chapter seventeen of the code is hereby amended and re-enacted so as to read as follows:

Sec. 10. The auditor may administer oaths in relation to any claim presented to him in his official character. He may have and use an official seal, which may be affixed to any official certificate or other paper intended to be used outside of this state.

2. Said chapter seventeen is further amended by adding thereto the following, as sections twenty, twenty-one, twenty-two and twenty-three:

Sec. 20. No requisition shall be made upon the auditor for any money appropriated for the penitentiary, the university or preparatory branches thereof, the West Virginia schools for the deaf and the blind, the West Virginia asylum, the reform school, the industrial home for girls, the several normal schools, colored institutes, hospitals for the insane, and miners' hospitals, or for any other public institution for education, charity or correction, unless such requisition shall be accompanied by the statement in writing, of the treasurer or other financial officer of such institution, showing the amount of money in his hands to the credit of such institution, or otherwise in its control, on the day such requisition is forwarded for payment.

Sec. 21. Every board of regents, board of directors, or other boards or officers authorized by law to issue requisitions upon the auditor for payment of money out of the state treasury, shall, before

any such money is paid out of the state treasury, certify to the auditor that the money for which such requisition is made is needed for present use, for the purposes for which it was appropriated; and the auditor shall not issue his warrant to pay any money out of the state treasury unless he is satisfied that the same is needed for present use for such purposes.

Sec. 22. The auditor, in person or by clerk deputed for the purpose, shall examine the financial transactions, affairs and condition of every public institution, and shall examine the financial transactions and affairs of every officer or person authorized to disburse moneys received from the state treasury, so far as such transactions and affairs relate to the duties of his office, appointment, position or authority under the state; and shall ascertain whether the funds received by every such institution, officer or person from the state treasury were needed when drawn and were expended properly and in compliance with law. To this end the auditor, or such clerk, may require the production before him of all books, vouchers and papers relating to the matters aforesaid, and may require a written statement, under oath, as to any matter he may deem pertinent. The auditor shall instruct the accounting and disbursing officers of all state institutions as to the form and manner in which their reports of receipts and disbursements shall be made to the governor for the use of the legislature. The auditor shall give instructions to all such officers, and to the accounting and disbursing officers of counties, respecting the methods of keeping their accounts and making their statements, which instructions shall set forth all provisions of law relating thereto, and such further regulations not inconsistent with law as to the auditor may seem proper. The auditor shall furnish to all institutions and persons concerned blanks and forms for making reports, and so far as practicable, for keeping accounts; and all such officers shall keep their accounts and make their reports in the form so prescribed, and upon the blanks furnished for the purpose.

Sec. 23. The auditor shall set forth in his biennial report a summary of the results of the examinations hereinbefore directed, and shall report specially to the governor upon any such matter whenever he shall deem it proper, or whenever he may be required by the governor to do so.

(Senate Bill No. 24.)

CHAPTER 18.

AN ACT to amend and re-enact sections four and fourteen of chapter one hundred and five of the code, relating to the sale of lands for the benefit of the school fund.

[Passed August 10, 1904. In effect 90 days from passage. Approved August 12, 1904.]

Sec.

4. Commissioner of school lands; his appointment, oath and bond.
 14. Annual report of commissioner of

school lands, of his receipts and disbursements, etc.

Be it enacted by the Legislature of West Virginia:

1. Sections four and fourteen of chapter one hundred and five of the code, relating to the sale of lands for the benefit of the school fund, are hereby amended and re-enacted so as to read as follows:

Sec. 4. The circuit court of every county shall at its second regular term in the year nineteen hundred and five, and in every fourth year thereafter, appoint a commissioner of school lands, whose term shall continue for four years and until his successor is appointed and qualified. Vacancies occurring shall be filled by appointment by the circuit court for the unexpired term. Such commissioner shall perform the duties and exercise the powers hereinafter provided for. Every such commissioner shall, before entering upon the duties of his office, take an oath in open court that he will faithfully, to the best of his skill and judgment, execute the duties of his office, and shall give bond with good security to be approved by the court, in a penalty to be fixed by the court, but at least of two thousand dollars, conditioned that he will faithfully and impartially discharge the duties of his office, and will pay over and account for, according to law, all moneys, bonds and other securities, which may come to his hands by virtue of his office. He shall, as far as possible, see that every officer, having any duty to perform under this chapter performs the same as therein required, and report any failure of any such officer to do so to the circuit court of his county. The court may, whenever in its opinion it is proper to do so, require such commissioner to give a new or additional bond, as prescribed by section twenty of chapter ten of this code, and all the provisions of said section, and of section twenty-one of said chapter, shall be applicable to said new or additional bond when given.

Annual report of the commissioner of school lands of his receipts and disbursements, etc.

Sec. 14. The commissioner of school lands of each county shall report to the circuit court of his county an itemized account of his receipts and disbursements, if any, for the preceding year, at such term of said court as may be fixed by an order entered of record therein. Such report shall be referred by an order entered to a special commissioner appointed by the court for the purpose, who shall settle, state and report the said account in the same manner as accounts are settled and stated in other cases, and report the same to the court; or if he finds the account so referred to him to be correct, he may so report without restating the same. And whenever any such report is confirmed by the court, it shall be the duty of the clerk thereof to forward to the auditor a duly certified copy of such accounts, and of the order confirming the same, and to certify to the clerk of the county court the amount to be paid to the sheriff for the county and to the several boards of education of his county, the amount to be paid to the sheriff for the district and on account of what fund. The commissioner of school lands shall at the time of making the said report also make a report to the auditor, setting forth all the tracts of land in his hands that have been forfeited to the state, giving a full description of the same as follows: The names of the parties in whose names the land was forfeited; the number of acres; the years for which the taxes were unpaid and for which the land was returned delinquent and subsequently purchased by the state; the amount of taxes reported by the auditor at the time it was purchased by the state; what action has been taken by him in regard thereto. He shall also report, in like manner, all lands for which he has instituted proceedings in the name of the state for lands forfeited to the state by reason of not being on the land books for five years or more. He shall also report the amount then in his hands due the state, the county and any district or town. The report hereby required to be made to the auditor shall be made upon a blank form to be furnished by the auditor. Every commissioner failing to make any report required by this section shall be guilty of a misdemeanor and be fined not less than one hundred nor more than one thousand dollars, and be removed from office. It shall be the duty of the state tax commissioner to take steps to enforce the provisions of this section, and to collect any moneys which any commissioner of school lands may have received and have failed to pay to the state or county, or any district or town, after he should have done so.

in the year: *provided*, the tax in any one year shall not exceed the rate of fifty cents on every one hundred dollars valuation, according to the latest available assessment. The proceeds of this levy, together with the money received from the state as aforesaid, shall constitute a special fund to be called the "teachers' fund," and no part thereof shall be used for any other purpose than the payment of teachers' salaries, first, for the current year, and any part of said fund not so expended shall be appropriated to the payment of any existing indebtedness created for said purpose. Upon the failure of any board of education to lay such levy as hereby required, or any other levy provided for in this chapter, they shall be compelled to do so by the circuit court of the county by a writ of *mandamus*, unless good cause be shown to the contrary. But in case the levy provided for in this section shall not be sufficient to run the schools of the district five months, the board may increase such levy to the amount actually necessary, but such increase or special levy shall not exceed in the aggregate twenty-five cents on the hundred dollars valuation of said property.

Sec. 45. It shall not be lawful for the board of education of any district, or independent school district, to contract for or expend in any year more than the aggregate amount of its quota of the general school fund, and the amount collected from district or independent school district levies for that year, together with any balance remaining in the hands of the sheriff or collector at the end of the preceding year, and such arrearages of taxes as may be due such district or independent school district. But in districts where there is a town with an enumeration of youth of school age of three hundred or over, the board of education of such district may borrow money and issue bonds therefor for the purpose of building, completing, enlarging, repairing or furnishing school houses in such town. Said bonds shall be payable not exceeding twenty years from their date and the rate of interest thereon shall not exceed six *per centum* per annum, and said bonds shall not be sold for less than par, but in no other case shall any debt be incurred by such board to be paid out of school money for any subsequent year: *provided*, that no debt shall be contracted under this section which shall, including existing indebtedness, in the aggregate exceed five *per centum* on the value of the taxable property in said district, to be ascertained by the last assessment for county taxes previous to the incurring of such indebtedness, nor without at the same time providing for the collection of a direct annual tax sufficient

to pay annually the interest on the said debt, and the principal thereof within and not exceeding twenty years; and *provided, further*, that no debt shall be contracted under this section unless all questions connected with the same shall have been first submitted to a vote of the people of the said district, and shall have received three-fifths of all the votes cast for and against the same. Such election shall be held and conducted in the same manner as the general school election provided for in this chapter. If the trustees of any district, or any board of education, shall make any agreement for the employment of a teacher in violation of this section, or for any other object concerning free schools under their charge, so as to occasion thereby the aggregate of the just claims against the board of education of the district or independent school district, in any year, to exceed its aggregate receipts as aforesaid for such year, such board of education, or trustees, shall be individually responsible to the teacher or other person with whom such agreement is made. The board of education of each district and of each independent school district, in each county, shall require its secretary, ten days prior to the first day of July in each year, to prepare and post at each place of election within said district, or independent school district, an itemized statement, duly sworn to by the president and the secretary of said board, showing all moneys disbursed by said president and secretary by orders on the sheriff, or otherwise, within the school year last preceding, distinguishing between the teachers' fund and the building fund. The statement shall give the name of each person to whom an order shall have been issued and shall state the object for which it was given.

Sec. 60. There shall be levied state taxes on property as provided in section fifty-one of chapter thirty-two of the code, and the proceeds of such levy, together with two-sevenths of the license privilege and franchise taxes collected by the state after April first, 1905, shall constitute a fund for the support of free schools. If such taxes on property and said two-sevenths shall not be equal to the proceeds of the state tax for free schools collected for 1904, then so much more out of the state treasury as may be necessary to make up an amount equal to the proceeds of said state school tax for 1904; and such amount necessary is hereby appropriated annually, and together with the interest of the invested school fund, the net proceeds of all forfeitures, confiscations and fines which accrued to the state during the previous year, the proceeds of annual capitation tax, dividends on bank stock held by the board of the school fund, and the interest accruing

on stock invested in United States bonds, shall be set apart as a separate fund to be called "The general school fund," and shall be annually applied to the support of free schools throughout the state, and to no other purpose whatever. It shall be distributed to the several counties in the state in proportion to the number of youth therein, according to the latest enumeration made for school purposes; but the auditor shall first deduct therefrom the aggregate salary of the state superintendent of free schools and the necessary traveling and contingent expenses of his office, together with such other sums as may be required to be paid by him out of the general school fund. Fifty *per cent.* of this distributable sum shall be paid on the fifteenth day of September, and the remainder on the fifteenth day of December, of each year, in the manner provided in the sixty-first section of this chapter.

Sec. 62. Upon being officially notified by the secretary of the board of education in the manner provided for in the forty-fourth section of this chapter that the board of education has authorized the levy for school purposes, the county superintendent shall issue his requisition on the auditor, payable to the order of the sheriff of his county, for the amounts due such districts as may have made the levy aforesaid, which shall be paid in two equal installments, payable on the fifteenth days of September and December, respectively; whereupon the auditor shall issue his warrant upon the treasurer in favor of the sheriff for the amount of such requisition, indicating in writing upon said warrant the depository upon which the same shall be drawn, and the treasurer shall thereupon be authorized and required to draw his check upon said depository for the said amount. The requisition of the county superintendent shall be in form or in substance as follows:

"Office of the County Superintendent of Free Schools. County of, the day of 19....

"Auditor of West Virginia:

"Pay to the order of, sheriff of county, dollars, the amount of state school fund apportioned to the district, (or independent school district) of in said county for the year 19.... And I hereby certify that said district (or independent school district) has made the levy required by law, for school purposes, and that said sheriff has given the bond required by law.

".....,
"County Superintendent of Schools."

(Senate Bill No. 6.)

CHAPTER 20.

AN ACT to amend and re-enact section ten of chapter one hundred and sixty-three of the code of West Virginia, relating to the penitentiary.

[Passed August 12, 1904. In effect 90 days from passage. Approved August 12, 1904.]

Sec. 10. Guards: how appointed.

Be it enacted by the Legislature of West Virginia:

1. Section ten of chapter one hundred and sixty-three of the code, relating to the penitentiary, is hereby amended and re-enacted so as to read as follows:

Sec. 10. The board of directors shall appoint a sufficient number of guards to preserve order and enforce discipline among the convicts, to prevent escapes, and to remove all persons convicted and sentenced to the penitentiary from the place where confined, all of whom shall be under the control of the warden; but the number thereof shall not be increased or diminished except upon the recommendation of the warden.

(Senate Bill No. 7.)

CHAPTER 21.

AN ACT to amend and re-enact sections ten, twelve, sixteen and seventeen of chapter one hundred and sixty of the code of West Virginia, relating to the execution of judgments, and to repeal sections fourteen and fifteen of the same chapter.

[Passed August 6, 1904. In effect 90 days from passage. Approved August 12, 1904.]

Sec.

10. How sentence executed.
 12. How prisoners removed to the penitentiary: expenses, how paid.
 16. Additional guards may be summoned, when.

Sec.

17. Guards privileged from arrest, when.
 2. Repealing section.

Be it enacted by the Legislature of West Virginia:

1. Sections ten, twelve, sixteen and seventeen of chapter one hundred and sixty of the code, relating to the execution of judgments, are hereby amended and re-enacted so as to read as follows:

Sec. 10. The clerk of the court pronouncing said sentence shall, as soon as may be after sentence, deliver a certified copy thereof to the proper officer of said court, who shall retain the custody of the person so sentenced until delivered to a properly authorized guard sent by the warden for removal of said person to the penitentiary. And the clerk of such court shall also forthwith transmit to the warden of the penitentiary a copy of the indictment, conviction and sentence, under the penalty prescribed in section thirteen of this chapter. And the warden shall upon the receipt of such copy, as soon as it may be, send a guard, or two guards at the most, to the place where such person is confined to remove said person to the penitentiary. Such guard or guards shall remove said person so sentenced to the penitentiary and there deliver him. And the said warden or deputy warden, as hereinbefore provided, shall proceed, unless a suspension of execution be ordered, at the time and place named in said sentence, to cause the convict under sentence of death to be hung by the neck, as prescribed by section nine of this chapter. At the execution there may be present, besides the officers of the court imposing such sentence, such other officers and such guards and assistants as the officer executing the sentence shall see fit. He shall request the presence of the prosecuting attorney in said court, the clerk thereof, and twelve respectable citizens, including a physician and surgeon, and such representatives of the press as he may desire; and he shall permit the presence of the counsel of the convict, and such ministers of the gospel as he shall desire, and such of the convict's relations as the officer shall deem prudent.

Sec. 12. Every person sentenced to confinement in the penitentiary shall remain in the custody of the proper officer of the court pronouncing such sentence until he be delivered to a guard sent and duly authorized by the warden of the penitentiary for the removal of such person to the penitentiary. If such officer fail to make such delivery upon the request of such court he shall forfeit one hundred dollars. The warden of the penitentiary shall, so far as consistent with the safe conveyance of prisoners to the penitentiary, cause as many prisoners from the same or several counties to be removed to the penitentiary at the same time, and to that end shall send with the guard authorized to receive such prisoners as many additional guards as are necessary for the purpose, having due regard to economy as well as to the safe conveyance of the prisoners. If in the judgment of the officer of the court pronouncing sentence any facts exist making

proper the employment of more guards than usual, he shall bring such facts to the attention of the warden of the penitentiary. The necessary expenses of every such prisoner or convict during his removal to the penitentiary, as well as the necessary expenses of the guard sent for that purpose, shall be paid by the auditor out of the funds appropriated for criminal charges.

Sec. 16. If on the way to the penitentiary or other place, in consequence of an attempt made, or reasonably apprehended, to rescue the prisoner, or in consequence of any other unforeseen danger the guard to whom such prisoner was delivered is satisfied that more guards than accompany him are necessary, he may summon such additional guards as are necessary.

Sec. 17. All guards while proceeding to the place where a prisoner is confined for the purpose of removing him to the penitentiary or other place, and while engaged in such removal, shall be privileged from arrest, except for felony and breach of the peace, allowing for such privilege one day for every two hundred miles of railroad travel and one day for every twenty miles of other travel.

2. Sections fourteen and fifteen of said chapter of the code are hereby repealed.

(House Bill No. 11.)

CHAPTER 22.

AN ACT to amend and re-enact sections two, six and sixteen of chapter three of the acts of eighteen hundred and eighty-nine, as amended by chapter twenty-six of the acts of eighteen hundred and ninety-seven, relating to the "West Virginia Reform School," and to add sections seventeen, eighteen and nineteen to said chapter.

[Passed August 12, 1904. In effect 90 days from passage. Became a law without the approval of the Governor.]

Sec.
 1. Sections amended and enacted.
 2. Board of directors.
 6. What persons may be committed to the reform school and how.
 16. Fees of justices, constables and jurors.
 17. County court to pay fifty dollars a year

Sec.
 on account of each minor, in certain cases.
 18. Duty of superintendent and auditor respecting list of minors kept in said school.
 19.)

Be it enacted by the Legislature of West Virginia:

1. That sections two, six and sixteen of chapter three of the acts of eighteen hundred and eighty-nine be amended and re-enacted so

as to read as follows, and that three sections, numbered seventeen, eighteen and nineteen be added to said chapter.

Sec. 2. The board of directors from and after the first day of May, nineteen hundred and five, shall consist of five members, not more than three of whom shall be of the same political party. The governor shall, during the month of April of said year, nominate and, by and with the advice and consent of the senate, appoint the five directors for the terms of office following: One for one year, one for two years, one for three years, one for four years, and one for five years, their terms of office to begin on the first day of June, nineteen hundred and five.

One of said board of directors shall be a resident of the county of Taylor, and of the other four no two shall be residents of the same county. The terms of the directors now in office shall terminate with the last day of May of said year.

During the month of May in every year after the year nineteen hundred and five, the governor shall nominate and, by and with the advice and consent of the senate, appoint one member of said board whose term of office shall be five years, and begin on the first day of June following his appointment.

The governor may in like manner fill any vacancy which may occur in the board for the unexpired term.

Any person appointed to such board during the recess of the senate shall discharge the duties of the office until the next meeting thereof.

Sec. 6. A male minor under the age of sixteen years may be committed to and received into the West Virginia reform school for the reasons and in the manner following:

First. By a justice of the peace of the county in which he resides, on complaint and due proof made to him by the parent, guardian or other person having the custody and control of such minor, that by reason of incorrigible or vicious conduct such minor has rendered his control beyond the power of the parent, or guardian or such other person, and made it manifestly requisite that, from regard for the morals and future welfare of such minor and the peace and order of society, he should be placed in said school. In all such cases, however, the parent, if of sufficient means, and the guardian where the minor has sufficient estate, shall pay toward the cost of maintaining such minor in said school such sum as the board of directors may fix, not exceeding the rate of one hundred dollars a year while the minor remains in said school. The justice who commits such minor shall,

as part of the proceeding, ascertain and certify as part of his commitment, whether the parent is of sufficient means to pay the sum; or if the commitment is at the instance of the guardian, whether the minor has any estate out of which such sum can be paid. In case the means of the father or such other person are sufficient, or the minor has estate out of which such sum may be paid, the minor shall not be received into such school until arrangements satisfactory to the board have been made to secure the payment of the sum aforesaid.

Second. By the same authority, upon complaint under oath, and due proof before the justice that such minor is a vagrant, incorrigible or vicious in disposition and conduct, and that his parents, guardian, or other person having custody of or authority to control him, are depraved or otherwise unfit, unwilling or unable to exercise care and discipline over such minor.

Third. When his parents, guardian, or other person having custody or control of such minor, may desire to place him therein for temporary restraint and discipline, and the parent, guardian or such other person shall agree and contract with the board of directors for his support and maintenance.

Fourth. By the several courts of this state, as provided in the next section.

Sec. 16. Justices, constables and jurors shall receive the same fees in a proceeding for committing a boy to the reform school as are allowed by law for similar services in misdemeanor cases, and such fees shall be paid in like manner as fees of such officers and persons are paid in misdemeanor cases. Any officer taking a boy to the reform school shall be allowed five cents a mile for each mile necessarily traveled in going to and returning from such school, and, in addition thereto, the amount actually expended by him for the transportation of such boy, which shall be paid out of the county treasury.

Sec. 17. The county court of every county after the year nineteen hundred and five shall pay into the state treasury the sum of fifty dollars a year on account of each minor from the county who shall be received in said school of the second or fourth class mentioned in section six; or of the first class when the cost of the support and management of such minor is not paid by the parent or other person having custody and control of the minor, or out of the estate of such minor, for each year such minor shall remain in such school, and at the rate of fifty dollars a year, on account of any such minor for any part of a year less than the whole he may be kept in said school.

Sec. 18. The superintendent or principal of said school shall before the tenth day of January in each year, after the year nineteen hundred and five, make out and certify to the auditor a list by counties of all such minors as are mentioned in the preceding section, who are kept in the school during the preceding year or any part of it, showing as to each minor what part of the year he was so kept in the school, and to which class he belonged. On receiving such list the auditor shall charge to each county fifty dollars on account of each minor who was kept in such school during the preceding year, and a proportionate amount on account of each minor kept in school for any part of such year less than the whole.

Any money in the treasury of the state to the credit of any such county from whatever source arising, and not appropriated to pay any other debt of the county to the state, shall be applied, so far as necessary, to the payment of the sums so charged; if any sum in the treasury due the county shall not be sufficient to pay the whole amount so charged against it, such sum shall be applied as a credit on the amount charged, and the balance shall remain a charge against the county.

Sec. 19. Within ten days after receiving such list the auditor shall certify to the county court of such county a list of the minors from the county in such school, stating the class to which each belongs, the length of the term during the year he was in such school, as shown by the list certified by the principal or superintendent, and the amount due from the county on his account and the total amount due on account of all. He shall credit on such statement whatever amount has been applied as a payment thereon from any funds of the county in the treasury.

Such statement shall be a receipt to the county for any amount so credited, and shall be a bill for any amount still appearing to be due from the county. Unless the bill shall have been paid by the application of funds of the county in the state treasury, the county court shall at its next levy term provide for the payment of the same, or such part as may not have been paid, and cause the amount to be paid into the state treasury.

If the amount so due from any county be not paid in a reasonable time after such levy term, the auditor may, in the name of the state, apply to the circuit court of the county for a *mandamus* to require the county court to provide for and to pay the same, or he may proceed in the name of the state by any other appropriate remedy to recover the same.

2. All acts and parts of acts coming within the purview of this act and inconsistent therewith are hereby repealed.

(House Bill No. 12.)

CHAPTER 23.

AN ACT to amend and re-enact chapter seven of the acts of eighteen hundred and ninety-seven, and as amended by chapter thirty-two of the acts of nineteen hundred and three, concerning "The West Virginia Asylum."

[Passed August 12, 1904. In effect 90 days from passage. Approved August 12, 1904.]

| Sec. | Sec. |
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| 1. Name, location and control of asylum at Huntington. | 12. } Roll of patients to be kept; expense of |
| 2. Board of directors. | 13. } keeping patients how paid. |
| 3. Quorum: by-laws. | 14. } How county court may be compelled to provide for sum due state under |
| 4. } Superintendent and assistants. | 15. } this chapter. |
| 6. Treasurer, duties of. | 16. Pay patients may be received, when. |
| 7. Semi-annual statement of treasurer to be forwarded to Auditor. | 17. Provision for separate wards for male and female, white and black patients. |
| 8. } What class of persons admitted to said institution: how patients transferred | 18. How and when patients discharged. |
| 9. } from one asylum to another. | 19. Compensation of physician and witnesses. |
| 10. } How persons may be committed to said institution. | 20. Compensation of board of directors. |
| | 21. Penalty for officer failing to discharge his duty under this act. |
| | 22. Repealing section. |

Be it enacted by the Legislature of West Virginia:

1. That chapter seven of the acts of eighteen hundred and ninety-seven, and as amended by the acts of nineteen hundred and three, be amended and re-enacted so as to read as follows:

Sec. 1. The institution is to be known as "The West Virginia Asylum," established by chapter seven of the acts of eighteen hundred and ninety-seven, and shall be conducted in the buildings at Huntington heretofore or hereafter erected. It shall be under the control of a board of directors as hereinafter provided.

Sec. 2. The board of directors shall consist of five members, not more than three of whom shall be of the same political party. One member may be a resident of the county of Cabell, and of the other four no two shall be residents of the same county. Not later than the month of May, nineteen hundred and five, the governor shall nominate and, by and with the advice and consent of the senate, appoint the five directors for the terms following: One for one year, one for two

years, one for three years, one for four years, and one for five years; their terms to begin on the first day of June following their appointment. Not later than the month of May of every year, after the year nineteen hundred and five, the governor shall in like manner appoint one director, whose term shall begin on the first day of June following his appointment. Vacancies in the board shall be filled by the governor for the unexpired term in like manner as appointments are made.

Any director appointed during the recess of the senate shall serve as such until a meeting of the senate. The board shall be a body corporate under the name of "The West Virginia Asylum," and as such may sue and be sued, implead and be impleaded, and have and use a corporate seal.

It may receive and hold donations and grants of property for the use and benefit of such institution. No director shall have any personal interest, direct or indirect, in any contract relating to such asylum or its interests.

Sec. 3. The board shall choose one of their number as president, and in his absence one of their number as president *pro tem*. A majority of the board shall constitute a quorum, but the board may designate business, of a nature to be specified by it, which may be transacted by a stated number of the directors less than a majority. It shall make such by-laws, rules and regulations, not contrary to law, for the management of the institution and for the government, discipline, employment and disposition of the patients therein, as in their judgment may be wise.

Sec. 4. The board shall appoint a superintendent, and as many assistant superintendents as may be necessary, who shall be practicing physicians and graduates of reputable medical colleges, a treasurer and such other officers as may be necessary, who shall continue in office during the pleasure of the board and whose compensation shall be fixed by it.

Sec. 5. The superintendent and his assistants shall have such powers and discharge such duties as may be prescribed by the board.

Sec. 6. The treasurer shall be custodian of all funds belonging to, or for the use of, the asylum, and disburse the same under the rules and regulations of the board. Any drafts or checks drawn by him shall be countersigned by the superintendent, and in addition thereto any draft drawn by him on the state treasury for an appropriation, or any part thereof, shall be accompanied by a copy of the order of the board certified by the president, directing the same. No such

draft shall be honored until all moneys drawn for any preceding year have been accounted for. The treasurer shall settle his accounts at least semi-annually and as much oftener as the board may require.

Sec. 7. The board shall transmit to the auditor certified copies of the semi-annual settlement of the treasurer as soon as the same shall have been made.

Sec. 8. The class of persons who shall be admitted as patients in said institution shall consist of epileptics, cataleptics (sane or insane), idiots and such other incurable defectives as the board of directors may deem eligible, but in no case to include tubercular or cancerous persons, or those afflicted with leprosy.

All persons eligible to this institution under the rules of the board of directors, or as above defined, who are not charges upon the county or likely to become such, but who may desire to be admitted to said institution, may be so admitted upon payment of the actual cost of their maintenance and treatment: *provided, however*, that such admittance is not to the exclusion of worthy, eligible charity patients whose applications are pending at the time such pay patients apply. Nothing in this act is to be construed as excluding from said institution those who are inmates thereof at the time of the passage of this act.

The governor of West Virginia may, when in his judgment he deems it necessary, transfer patients from either the Spencer or Weston hospitals for insane to this institution, or from the West Virginia asylum to either of the hospitals for insane; but the board of directors must so regulate their rules for admission of patients that each county, having applications filed, shall have its *pro rata* according to population when patients are received other than by direction of the governor, as above set forth. The same laws governing other insane are hereby made applicable to the insane patients admitted to or to be admitted to the West Virginia asylum.

Sec. 9. Any resident of the state belonging to any of the above enumerated classes may be received into such asylum, as hereinbefore provided.

Sec. 10. Whenever it is desired that any person, belonging to any class mentioned in section eight of this act, incapable of deciding and acting for himself should be admitted to such asylum, the father, guardian, or other person having control or custody of such person, may file his petition in writing under oath before the county court of such county, showing the facts relied on to entitle him to be received into the asylum; and in addition thereto the name of such person, his

age, residence, former occupation, the estate of such person, if any, and especially the nature of his disability, and cause thereof, if known. In such case reasonable notice shall be given to such person of the time, place and purpose of filing such petition. The court shall hear all evidence offered, and take all proper steps to ascertain and determine whether such person shall be sent to such asylum. If, upon such hearing and investigation, the court determines that such person should be admitted to such asylum it shall enter such finding of record and order such person to be taken to and placed in such asylum. In any such proceeding a guardian *ad litem* shall be appointed for such person. In any other case, any person such as is mentioned in section eight desiring to enter such asylum shall file in his own name a like application asking to be sent to such asylum, on which like proceedings, so far as applicable, shall be had before the court, and if the facts warrant it, such person shall be ordered sent to the asylum: *provided*, that said application shall be accompanied by a certificate of some practicing physician of good standing to the effect that he has made an examination of the physical condition of the applicant, and is of opinion that he is incurable, which certificate shall be sworn to. If upon such investigation the court shall determine that the applicant is entitled, under the provisions thereof, to admission to said asylum, it shall enter the same of record, and direct the conveyance of the applicant to said asylum.

Sec. 11. When a county court shall have made any such order as is mentioned in the preceding section, the clerk of such court shall transmit a certified copy of the same forthwith to the superintendent of the asylum, who shall at once notify the clerk whether there is room in the asylum for such person. When it is ascertained that there is room for him, he shall be sent at once to the asylum. He shall, however, not be received into such asylum until he has been examined by the superintendent, one of the directors, and such of the assistant superintendents, if any, as may be called into consultation, and found by them to be a proper subject to be received. The cost of taking or sending such person to the asylum and his return to the county, in case he is not received, shall be paid by the county court; but in no case shall more than two dollars a day for the time necessarily taken in going to and returning from such asylum be paid, in addition to actual necessary expenditures on the trip in any such case.

Sec. 12. The superintendent shall keep a roll or list of all patients in the asylum, showing as to each, the name, age, disability or afflic-

tion from which he is suffering, the time admitted, the county from which he came or was sent, and the time during the preceding year he was in the asylum. The clerk of the county court of any county having patients in such asylum shall keep a like list. The cost of providing buildings and lands for said asylum and of the maintenance of the same, and for board and supplies for the patients, the pay of the superintendents and all other employes, and all other proper and legitimate expenses of maintaining the same, shall be paid out of the state treasury appropriated for the purpose; but every county in the state shall, after the year nineteen hundred and five, refund to the state by paying into the state treasury fifty dollars per annum, or at that rate per annum, for every patient or inmate admitted from such county, including patients transferred from the hospitals for the insane, but excepting those admitted under the provisions of section sixteen of this act. At every levy term of a county court it shall estimate for and levy a sufficient amount to meet all such expenses. The superintendent of the asylum, on or before the tenth day of January of each year, shall certify to the auditor a list of all patients in the asylum during the whole or any part of the preceding year, showing together on such list, under the name of the county, the number from each county, and also showing as to each patient whether he was in the asylum the whole term or part thereof, and if only part thereof, what part. As soon as such list is received by the auditor he shall charge to each county on account of each patient who is in the asylum from such county for the whole of the year, fifty dollars, and on account of each patient from the county who is in the asylum for only part of such year, he shall charge the county for the time such patient was in the institution at the rate of fifty dollars for the year. Within ten days after the receipt of such list by the auditor he shall certify to the county court, of every county in the state, a list of the patients for the county in the asylum during the year, whether the whole of the year or less, each patient was therein, the amount charged for each patient and the total amount charged on account of all such patients. Which statement and list shall constitute a bill against the county for the total amount thereof. Relations of any inmates of the asylum shall be liable to the county court to the same degree and in the same order, when of sufficient means, for the amount paid for the maintenance and treatment of such inmate as provided for the support of the poor by section fourteen of chapter forty-six of the code.

Whenever there is in the treasury of the state any sum of money

due any county from any source, the same shall at once be applied on the bill aforesaid against the county, and the fact of such application of such fund shall be reported by the auditor to the county court of the county, which report shall be a receipt for the same.

Sec. 13. When there is no sum in the state treasury due any county to be applied on such bill, or when the amount in such treasury due any county is insufficient to pay such bill in full, the county court of any such county shall, at its first term at which a levy is made after such bill is certified to it, provide in the levy for the payment of such bill or the balance due thereon, as the case may be, and cause an order to be drawn therefor on the treasurer of the county in favor of the auditor.

Sec. 14. If any county court fail to provide for or fail to pay any sum so due, the auditor may apply in the name of the state to the circuit court of the county for a *mandamus* to require the county court to provide for and to pay the same, or he may proceed in the name of the state by any other appropriate remedy to recover the same.

Sec. 15. In any such proceeding the prosecuting attorney of the county alone, or with such additional counsel as the auditor may employ, shall represent the state.

Sec. 16. Any resident of this state belonging to any class of afflicted persons hereinbefore enumerated, and able to pay the cost of his maintenance and treatment, may be received into the asylum, upon examination as in other cases, upon such terms and conditions as to payment for maintenance and treatment, and upon such security for such payment, as the board of directors may prescribe.

Sec. 17. There shall be in said asylum separate wards for male and female patients; as well as for white and black patients.

Sec. 18. Whenever it shall appear to the board of directors that any patient in the asylum has recovered from his disability, or will not submit to the rules of government in said asylum, it shall be the duty of said board to discharge such patient and, in the case last mentioned, shall return him to the care of the county from whence he was sent to the asylum.

Sec. 19. The compensation of physicians and witnesses employed in the examination made by the county court, upon the application of a patient seeking admission to said asylum, shall be such as may be prescribed by the county court holding such examination and paid out of the county treasury.

Sec. 20. The members of the board shall each be allowed as compensation for his services four dollars a day for each day necessarily employed, and the amount necessarily and actually expended by him in traveling to and from the asylum to attend meetings of the board.

Sec. 21. If any director of said asylum, clerk of a court or other officer, shall fail to perform any duty required of him by this act, or shall offend against any prohibition contained herein, he shall forfeit not less than fifty nor more than one hundred dollars.

Sec. 22. Chapters forty-four and fifty-five of the acts of the legislature of nineteen hundred and one, and all other acts or parts of acts coming within the purview of this act and inconsistent therewith, are hereby repealed.

(House Bill No. 24.)

CHAPTER 24.

AN ACT to create and establish the independent school district of Chester, county of Hancock.

[Passed August 1, 1904. In effect from passage. Approved August 2, 1904.]

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| <p>Sec.</p> <p>1. Independent school district of Chester created.</p> <p>2. Limits co-extensive with borough of Chester.</p> <p>3. Submission of this act to a vote of the people for ratification, provided for.</p> <p>4. Vacancies in office of school commissioner, how filled.</p> <p>5. Board of education.</p> <p>6. Secretary of board of education, duties of.</p> <p>7. Meetings of board of education.</p> <p>8. Additional powers and duties of the board.</p> <p>9. Board to control schools.</p> <p>10. Board given power to establish schools, prescribe branches, system of grading, etc.</p> <p>11. What persons admitted to said schools.</p> <p>12. Separate schools for colored children.</p> <p>13. Superintendent, appointment and duties of; how removed.</p> | <p>Sec.</p> <p>14. Teachers; appointment and removal</p> <p>15. } of.</p> <p>16. Unexpended school money, how disposed of.</p> <p>17. Levy authorized.</p> <p>18. Rate shall not exceed thirty-five cents.</p> <p>19. Commissioners now in office to act until election.</p> <p>20. } Bonds authorized for buildings: in-</p> <p>21. } debtedness not to exceed ten per</p> <p>22. } cent of value of taxable property.</p> <p>23. Proclamation of president respecting election for issuing bonds.</p> <p>24. How such election held.</p> <p>25. Ballots.</p> <p>26. Assessment and collection of levies; bond of collector.</p> <p>27. Settlement and compensation of collector.</p> <p>28. How money paid out by collecting officer.</p> |
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Be it enacted by the Legislature of West Virginia:

Sec. 1. That in the event a majority of the votes cast at an election to be held on the third Tuesday of September, one thousand nine hundred and four, be in favor thereof, the following described territory in the county of Hancock shall, after the result of such election

is ascertained and declared, be the independent school district of Chester, to-wit: the town of Chester and territory contained within the limits of said town, shall constitute one school district to be called, "The Independent School District of Chester."

Sec. 2. That the said independent school district of Chester shall, at all times, be confined within the corporate limits of the said town of Chester, whether the said corporate limits be extended or retracted from their present location at the passage of this act.

Sec. 3. At a special election to be held in pursuance of law within Grant district of Hancock county, on the third Tuesday of September, one thousand nine hundred and four, it shall be the duty of the county court of Hancock county to submit to the legal and competent voters residing in Grant district, the question of the adoption or rejection of the provisions of this act, of which election the said county court shall give thirty days' notice by posting the same in three public places within said Grant district, or by publication of said notice once a week for four weeks prior thereto, in some newspaper of general circulation in Hancock county, or both. Said election shall be held and conducted, and the result thereof ascertained and declared, in all respects as now provided by law for general elections in this state. The officers to conduct said election and the ballots to be voted thereat shall be appointed and prepared by the said county court, which said ballots shall have printed thereon, "For Independent District" and "Against Independent District," and the legal voters in said district voting at said election in favor of the establishment of said independent district shall strike from the ballot voted by them the words, "against independent district," and those voting at said election against the establishment of said independent district shall strike from their ballots the words, "for independent district." The said ballots and the necessary booths, ballot-boxes, poll-books, and all other appliances required by law and necessary for the holding of such election, shall be furnished and supplied by the said county court, which shall also perform all the duties and be subject to all the penalties prescribed by law for ballot commissioners. The expense of said election shall be paid by the board of education of Grant district, in case a majority of the voters voting at said election is against the establishment of said independent district; but if otherwise, such expense shall be paid by the board hereinafter provided for and elected at said election. At the said election there shall also be elected by the legal voters residing within the boundaries mentioned in the first section

of this act, three commissioners, also residing and being legal voters within said boundaries, whose term of office shall expire, one of said commissioners on the first Thursday in January, one thousand nine hundred and six; one, one year thereafter; and one, two years thereafter; the ballot to be voted designating the term of office of each member.

At the regular municipal election for the town of Chester to be held on the first Thursday in January, one thousand nine hundred and six, and annually thereafter, there shall be elected at the same time and places one commissioner, who shall hold his office for three years and until his successor is elected and qualified. The said three commissioners so selected at any such election under the provisions of this section to be designated the board of education of the independent school district of Chester; but no commissioner shall receive any compensation for his services as such.

Sec. 4. Any vacancy that may occur in the office of school commissioner by death, resignation, refusal to serve or otherwise, shall be filled by the board of education of the district at their first regular meeting thereafter, or as soon as circumstances will permit, by the appointment of a suitable person, who shall hold his office until the next election of school commissioners, when a commissioner shall be elected for the unexpired term.

Sec. 5. The board of education shall elect annually, at their first meeting, one of their members to act as president of said board, who shall perform all the duties which are required to be performed by such officer of any board of education, which may not be inconsistent with the provisions of this act.

The board shall elect at the same time a secretary, who shall perform such duties for said board as are required of secretaries of other boards of education.

The president shall have one vote as commissioner, and shall not vote upon any question arising in the board by reason of being said officer.

Sec. 6. The secretary shall record in a book provided for the purpose, all the official acts and proceedings of the board, which shall be a public record, open to the inspection of all persons interested therein. He shall preserve in his office all papers containing evidence of title, contracts and obligations; and in general shall record and keep on file in his office all such papers and documents as may be required by any of the provisions of this act, or by any order of the board of education.

He shall annually, between the first and twentieth of July, make report to the county superintendent of such facts in his possession as may be required by the general school law of the state. For his services he may receive such compensation, not exceeding one hundred dollars per annum, as the board may allow. In his absence, the board may appoint a secretary *pro tempore*.

Sec. 7. The board of education shall hold stated meetings at such times and places as they may appoint, not less than two members being required to constitute a quorum for the transaction of business. Special meetings may be called by the president, or, at the request of any member, by the secretary. The concurrence of two members of the board shall be required to elect superintendent or teachers, and to decide all questions involving the expenditure of money. The members of the board of education shall receive no compensation.

Sec. 8. The board of education of the independent school district of Chester shall be a body corporate in law, and as such may purchase, hold, sell or convey real or personal property for the purpose of education within the district; may receive any gift, grant, donation, or devise; may become party to suits and contracts and do other corporate acts. They shall have the management and be vested with the title to all real and personal property for the use of public schools within the district, and shall manage and dispose of the same as will, in their opinion, best subserve the interest of the district.

Sec. 9. The board of education shall have exclusive control of all schools within the district; shall have power to make all necessary rules and regulations for the government of the schools of the district, for the admission of pupils therein, for the exclusion of pupils whose attendance would be dangerous to the health or detrimental to the morals or discipline of the school. They may prescribe text-books for the use of the schools in the district, supplementing the list adopted for the county, and may furnish books and stationery for the use of indigent children in attendance at the schools. They may furnish all necessary apparatus and books for the use of the schools, and incur all other expenses necessary to make the system efficient for the purpose for which it was established, and pay the same from the building fund of the district.

Sec. 10. The board of education shall have power to establish within the district such schools, including a high school, by such name as may be prescribed by said board, as may in their judgment be best for the interest of the district. The branches to be taught in the high

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

Sec. 11. Admission to the various schools of the district shall be gratuitous to all children, wards and apprentices, or actual residents within the district between the ages of six and twenty-one years: *provided*, that admission of pupils, residents of one sub-district to the schools of another shall rest with the board of education. Non-residents of the district may be allowed to attend the schools of the district upon payment in advance of such tuition as the board of education may prescribe.

Sec. 12. The board of education shall establish within the district one or more separate schools for colored children, whenever they may deem it necessary, so as to afford them as far as practicable the advantages and privileges of a free school education. All such schools shall be under the management and control of the board of education, and shall be subject to like general regulations as other schools of the district.

Sec. 13. Annually, on the first meeting in July, or as soon thereafter as circumstances will allow, the board shall appoint a superintendent of schools for the district, and fix his salary. Said superintendent, in addition to the duties specified in this act, shall perform such other appropriate duties with relation to the schools of the district as the board may prescribe. He shall be liable to removal by the board of education for any palpable violation of law or omission of duty, but he shall not be removed unless charges shall be preferred to the board by a member thereof, and notice of a hearing, with a copy of the charges delivered to him, and an opportunity be given him to be heard in his defence. When the office shall have become vacant from any cause, before the expiration of the term for which the superintendent shall have been elected, the board of education shall fill the same by appointment for the unexpired term. It shall be the duty of the superintendent to make such report to the board of education, of the character and condition of the schools of the district, as shall enable the secretary to make his required report to the county superintendent. The superintendent shall not directly or indirectly receive

any gift, emolument or reward for his influence in recommending the use of any book, apparatus or furniture of any kind whatever in the schools of the district. And upon conviction thereof, after having been given a hearing as hereinbefore provided, he shall be discharged from further duty.

Sec. 14. Teachers shall be subject in all respects to the rules and regulations adopted by the board of education, and they may be removed by the board for incompetency or grossly immoral conduct, upon complaint of the superintendent or any member of the board.

Sec. 15. The board of education shall appoint all teachers for public schools of any grade within the said district, and fix their salaries, at a meeting held not later than the third Monday in August of any year, excepting that for the school year beginning September, one thousand nine hundred and four, the salaries fixed and the teachers employed by the board of education of Grant district shall be recognized for such school year; but no person shall be employed to teach a school of the grade for which the appointment is made, including the superintendent, without having a satisfactory certificate obtained and issued as required by law in the examination of teachers for the public schools of this state. All appointments of superintendent and teachers shall be in writing.

Sec. 16. All school moneys, whether belonging to the teachers' or building fund of Grant district, which may be unexpended when the provisions of this act take effect, or to which said district may be entitled for the year nineteen hundred and four, shall be divided between the said Grant district and the independent school district of Chester, in proportion to the amount of taxable property in each of said districts, after the creation of the said independent school district of Chester.

The latest available assessment for state and county purposes shall be taken as the basis of such settlement and division. It shall be the duty of the board of education of each of said districts, within three months after the passage of this act, to make the settlement provided for in this section.

Sec. 17. It shall be the duty of the board of education at their annual meeting, not later than the first Monday in August next following, and annually thereafter, to ascertain as nearly as possible the amount of money, in addition to all of the available funds, which ought to be expended for school purposes in said district to keep the schools in session at least eight months in the year; for which amount

the board shall levy a tax upon the property included in the district and the residents thereof, and the same shall be collected under the provisions of the general school law of the state.

Sec. 18. The taxes to be raised as aforesaid for both teachers' and building fund in said school district shall not exceed the rate of seventy-five cents on every hundred dollars valuation, according to the last assessment made for state and county taxation.

Sec. 19. Until commissioners are elected and qualified, the board of education now in office shall be governed by the provisions of this act, and shall exercise the powers herein conferred upon the board of education.

Sec. 20. The board of education of the district of Chester is hereby authorized and empowered, at any time after this act takes effect, to issue and sell the bonds of said district, and with the proceeds erect one or more public school buildings within and for the use of the said district; such bonds to bear interest at a rate not exceeding six *per centum* per annum, and to become payable in not less than five nor more than twenty years from the date thereof.

Sec. 21. No indebtedness incurred under this act shall exceed, when added to any existing indebtedness of said district, ten *per centum* of the value of the taxable property of said district, such value to be ascertained by the next preceding assessment made with reference to state and county taxes; nor shall such bonds be issued without due provisions for the assessment and collection of a direct annual tax sufficient to pay annually the interest thereon, and the principal thereof at their maturity; nor unless all questions connected therewith shall have been first submitted to a vote of the qualified voters of the said district, and three-fifths of all the votes cast at such election shall have been in favor of such issue. When the said board shall deem it expedient to exercise the power hereby conferred, an order shall be made and placed upon the minutes at a general meeting specifying the purpose, amount and denomination of the bonds proposed to be issued, the date of maturity and the plan adopted to meet the payment of the principal and the accruing interest. Such bonds shall be of the denomination of one hundred dollars, or a multiple thereof.

Sec. 22. The board may provide in such order for the payment, after three years, of the principal of one or more of such bonds in each year, so that when they become payable according to their face, not more than one bond will remain unpaid or unprovided for; or a sinking fund may be created with a view to the payment of the aggregate or principal when they become so payable.

Sec. 23. At least four weeks before the election to take the sense of the voters as to any proposed issue of bonds, the president of the board shall issue his proclamation to the voters of the district, notifying them of the time and places of holding the same, and the object and purpose thereof, embodying therein a copy of said order, and such proclamation shall be inserted once a week for four weeks, next previous to the day designated, in the different newspapers published in the county, and posted for a period of thirty days at the front door of the post office, and at three or more places in the district.

Sec. 24. Such election, or elections, shall be held and conducted in the same manner as the municipal election of the town of Chester, at such time, after this act takes effect, as shall be designated by the board of education, and at its usual places of voting in said district, and shall be held and conducted by the officers appointed by the board of education to hold such election, in accordance with the law of the state, and the rules and regulations governing the election of municipal officers for said town; and the officers conducting such election shall ascertain and certify the result to the secretary of said board within three days thereafter. Such result shall within ten days after the same is so certified be noted on the minutes, and the certificate filed with the clerk. The board of education is hereby vested with the power to appoint the officers required by law to hold and conduct such election.

Sec. 25. Any person voting in favor of such issue of bonds shall have upon his ballot the words written or printed, "For Ratification," and any person voting against such issue, the words written or printed, "For Rejection," and all ballots shall be sealed up and deposited with the said secretary. In the event that the result of such election is favorable to such issue the board shall have authority to purchase upon reasonable terms real estate within the district suitable for the purpose, and to erect thereon such new public school buildings, and to sell upon the best terms practicable the school buildings now used and the land upon which they are located, applying the proceeds of such sale to such purposes; and, should a surplus remain, to the payment of the interest of such bonds.

Sec. 26. The assessments made under the provisions of this act shall be levied by said board of education and collected by the same officer as the levies for the town of Chester are made and collected, and the amounts of said levies shall be charged in full to said officer, who shall be held to account for the same; but said board of education

shall not, during any one year, incur any expense that shall exceed the amount of available funds received for school purposes during that year. But the board of education shall require of said collecting officer bond with sufficient penalty and good security in manner and form as required by law, to be approved by said board, for the proper accounting of said funds and performance of his duties as such collecting officer.

Sec. 27. The collecting officer shall annually make such settlement with the said board of education as the general school law may provide; and for collecting and disbursing the taxes assessed by the board of education he shall be entitled to receive a commission of not more than five *per cent.* upon the amount collected. He shall receive nothing for receiving and disbursing the state fund.

Sec. 28. No money shall be paid out by the officer collecting the taxes levied in said independent school district of Chester except on an order signed by the president and secretary of the said board of education, and specifying on its face the particular account to which the same is chargeable and the purpose for which it is drawn, nor shall any credit be allowed to the said collecting officer in his statement, which settlement shall be made annually with the said board, upon any voucher except such order.

(S. J. R. No. 3.)

JOINT RESOLUTION NO. 1.

[Adopted July 28, 1904.]

Authorizing the auditor to draw his warrant upon the treasurer for the *per diem* due and mileage of the members of the legislature, and mileage of the chief clerks of the respective houses, and the *per diem* of the officers and attaches of the senate and house of delegates.

Resolved by the Legislature of West Virginia:

That the auditor is hereby authorized, in advance of appropriations therefor, to issue his warrants upon the treasurer for such amounts as are or may become due to the several members, officers and attaches of the senate and house of delegates for their *per diem*, upon the proper requisition of the clerk of the senate and sergeant-at-arms of the house, respectively, and the said auditor is further authorized to issue his warrants for the mileage of the members of the two houses, and the chief clerks thereof, as soon as the said mileage is ascertained and fixed, upon the proper requisition being presented to him therefor.

(H. J. R. No. 2.)

JOINT RESOLUTION NO. 2.

[Adopted August 10, 1904.]

Fixing the per diem to be paid assistant janitors of the capitol building during the session of the legislature.

Resolved by the Legislature of West Virginia:

That R. M. Conker, Aaron Hudson, L. D. Miller, Albert Peppers, S. W. Stephenson, S. P. Spalding, E. F. Smith and W. E. Preston

be allowed one dollar and fifty cents in addition to their regular *per diem* of one dollar and fifty cents per day from the time they were respectively employed by the janitor in preparing the capitol building for the meeting of the legislature to the end of this session, one-half of which shall be paid out of the contingent fund of the senate and one-half out of the contingent fund of the house, upon the approval of the accounts by the janitor and the clerks of the senate and house, respectively.

(S. J. R. No. 5.)

JOINT RESOLUTION NO. 3.

[Adopted August 11, 1904.]

Providing for the printing and distribution of advance copies of the acts of this session, and the indexing and binding of the journals of the respective houses.

Resolved by the Legislature of West Virginia:

That the chief clerks of the two houses be directed to cause to be printed, by the public printer, five hundred advance copies of the acts of this extraordinary session, without index, for distribution among the members of the legislature and officials; said public printer shall print and deliver said advance copies to said clerks within thirty days after the adjournment of this session. Upon receipt of same said clerks shall without delay forward by mail to each member of the legislature at least three copies thereof; and the sum of thirty dollars out of the contingent fund of the house of delegates, and the sum of twenty dollars out of the contingent fund of the senate is hereby appropriated, and is directed to be paid upon the warrant of the proper officers of the respective houses, to pay the postage thereon.

In the event the public printer be unable, from any cause, to print and deliver said advance copies within the time required by this resolution, then the said clerks are directed and required to have the same done elsewhere, and to pay for any such printing which it may be necessary for said clerks to have done, there is hereby appropriated the sum of three hundred dollars out of the contingent fund of the house of delegates, and two hundred dollars out of the contingent

fund of the senate, or so much thereof as may be necessary, the same to be paid upon the warrant of the proper officer of the respective houses.

Said clerks are also directed after they shall have completed the work of indexing their corrected journals, to cause said journals and the bills printed in the respective houses during this session to be bound in a single volume.

For the extra work provided for in this resolution, which includes the indexing of the journals, the time of said clerks is hereby extended forty-five days, the per diem to be paid out of the contingent fund of the senate and house, respectively, upon proper warrants being drawn therefor, and the auditor is authorized and directed to pay the same.

(H. J. R. No. 5.)

JOINT RESOLUTION NO. 4.

[Adopted August 12, 1904.]

Providing for the printing and distribution of the acts and journals of this session of the legislature.

Resolved by the Legislature of West Virginia:

1. That the clerk of the house shall prepare the acts of the present session of the legislature for printing, together with index and other matter to be printed with the acts, as soon as may be, and have six thousand copies of the acts printed.
2. The clerk of the house and the clerk of the senate shall prepare the journals of the two houses for printing, as soon as may be, and that there be four hundred copies of each of said journals printed.
3. The secretary of state shall dispose of said acts and journals as is now provided by law, except that he shall send to each member of the legislature twenty copies of the acts of this session of the legislature.

HOUSE CONCURRENT RESOLUTION NO. 1.

[Adopted July 20, 1904.]

Resolved by the House of Delegates, the Senate concurring therein:

That a committee of two on part of the senate, and three on the

part of the house, be appointed to jointly wait on the governor and notify him that the legislature is now in special session pursuant to his proclamation dated the sixteenth day of July, 1904, with a quorum of each house present, and awaits any communication he may desire to make.

The members of said committee to be appointed respectively by the president of the senate and the speaker of the house.

HOUSE CONCURRENT RESOLUTION NO. 2.

[Adopted July 26, 1904.]

Resolved by the House of Delegates, the Senate concurring therein:

That the joint rules of the last regular session of the legislature governing the senate and house of delegates be adopted as the joint rules governing this special session, until otherwise ordered.

HOUSE CONCURRENT RESOLUTION NO. 3.

[Adopted August 1, 1904.]

RELATING TO THE DEATH OF HON. M. G. TRUMBO.

WHEREAS, The members of this legislature have learned with profound sorrow of the death of the Hon. M. G. Trumbo, a member of the house of delegates from the county of Pendleton, which occurred in this city at seven o'clock this morning; and,

WHEREAS, He held some of the most responsible positions of honor and trust in his county and was known and recognized as one of the most prominent and leading citizens of this section of the state; and,

WHEREAS, As a member of this body he was recognized as an honest, intelligent and faithful servant of his people; therefore,
Resolved by the House of Delegates, the Senate concurring therein:

That, in recognition of this fact, a committee of four from the house and two from the senate be appointed by the speaker of the house and the president of the senate, respectively, to accompany the remains to his late home for interment, and that as a further mark of respect the two houses of the legislature shall adjourn at three o'clock tomorrow until ten o'clock on Friday next.

HOUSE CONCURRENT RESOLUTION NO. 4.

[Adopted August 12, 1904.]

Resolved by the House of Delegates, the Senate concurring therein:

That a joint committee be appointed, consisting of two members on the part of the senate and three on the part of the house, to wait upon his excellency the governor and inform him that the legislature will adjourn *sine die* today, and ask him if he has any further communication to make.

SENATE RESOLUTION.

[Adopted by the Senate July 26, 1904.]

RESPECTING THE DEATH OF HON. SAMUEL GEORGE.

WHEREAS, Since the adjournment of the last session of this body an All-Wise Providence has taken from earth the venerable Senator Samuel George, of the county of Brooke, an associate whom we loved, and whose life and example was of the highest type and worthy of the greatest emulation; a citizen; one of the most patriotic; a business man, one of the most successful; and a legislator, one of the ablest and most conservative; and that in his death the State of West Virginia has lost one of its best men; therefore, be it

Resolved, That as a mark of respect to his memory, the Senate do now adjourn until to-morrow morning at ten o'clock.

HOUSE RESOLUTION.

[Adopted by the House of Delegates July 20, 1904.]

RESPECTING THE DEATH OF HON. JOHN S. GAREE.

WHEREAS, Hon. John S. Garee, a member of the house of delegates, from Braxton county, has recently been removed by the hand of death, thereby depriving this body of a most capable, conscientious and faithful member, and the state of one of its most respected and upright citizens; be it

Resolved, That in the death of the Hon. John S. Garee this body

loses the services of one of its most faithful, patriotic and intelligent members, who rendered conspicuous service to his constituents and to the state at large, during the last regular session of this body, and whose presence, wise and conservative counsel will be greatly missed during this present session; and be it further

Resolved, That out of respect to his memory this house do now adjourn until 10 o'clock A. M. tomorrow; and be it further

Resolved, That these resolutions be spread upon the journal of the house of delegates, and that the clerk thereof be directed to send an engrossed copy to the family of the deceased.

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