AN ACT to incorporate the town of South Charleston in Kanawha county, West Virginia, fixing its corporate limits and prescribing and defining the powers and duties of said town and the officers of same.

[Passed February 15, 1919. In effect from passage. Became a law without the Governor’s approval.]

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Be it enacted by the Legislature of West Virginia:
Section 1. That the inhabitants of so much of the county of Kanawha as is within the bounds prescribed by section two of this act, and their successors, shall be and remain, and they are hereby made a body politic and corporate by the name of "The Town of South Charleston," and as such shall have perpetual succession and a common seal and by that name shall sue and be sued, plead and be impleaded, purchase, lease and hold real estate and personal property necessary for the purpose of said corporation.

Sec. 2. The corporate limits of said town shall hereafter be as follows:
Courses and distances of the boundaries of the above named survey are:
Beginning at a point on the north side of Kanawha river, at pool water mark and in the west line of Patrick street of the city of Charleston, West Virginia, (the said west line of Patrick street extended to the south side of the river is the present corporation line of the said city of Charleston) thence running with the said corporation line of the city of Charleston to the south side of the Kanawha river at pool water mark; thence running down the river along pool water mark nine hundred and fifty feet, more or less, to the east bank of Joplin branch; thence running up Joplin branch along its east bank five thousand two hundred and fifteen feet, more or less, to a stake with a small sycamore pointed on the east bank, and a large beech pointer on the west bank; thence leaving Joplin branch north seventy-five degrees west two thousand six hundred feet, more or less, to a stake at the southeast back corner of the Shepherd reservation; thence with back line of said Shepherd reservation, south seventy-nine degrees twenty-eight west one thousand and forty-three feet, more or less, to the southwest corner of the Shepherd reservation; thence leaving said
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23 reservations south sixty-two degrees fifteen minutes west seven
24 thousand and seventy-five feet, to a stake on the west bank of Davis
25 creek, about one hundred feet above the mouth of a small left-
26 hand branch, called branch; thence along the west
27 bank of Davis creek to pool water mark of Kanawha river; thence
28 north forty-four degrees west crossing Kanawha river about six
29 hundred feet to pool water mark on the north side of said river;
30 thence running up the river along pool water mark about three
31 (3) miles to the beginning, containing about three (3) square
32 miles, more or less.

Sec. 3. The municipal authorities of the town of South
2 Charleston shall consist of a mayor and six councilmen who,
3 together shall constitute and be known as “the common coun-
4 cil of the town of South Charleston” who shall be elected by
5 the voters of the entire town.

Sec. 4. In addition to the municipal authorities mention-
2 ed in section three of this act, said town may have a treasurer,
3 recorder, city solicitor, chief of police, chief of fire department,
4 city engineer, street commissioner, health commissioner, and
5 such other officers and agents as the said council may, from
6 time to time, create or employ. The selection of all appointive
7 officers named or provided for in this section, and the power to
8 fix their salaries, shall be vested in the council, unless otherwise
9 herein provided. The duties, in addition to those prescried
10 herein, of all appointive officers named or authorized in this act,
11 shall be prescribed by the council by ordinance, and all such
12 appointive officers, and all agents, servants, or employees of said
13 town, shall be subject to removal from office, or employment at
14 the will of the council of said town.
15 The recorder shall be elected by the voters of the entire
16 town.

Sec. 5. The mayor and councilmen as soon as they shall
2 be elected and qualified, as herein provided, shall be a body po-
3 litic and corporate by the name of “The Corporation of South
4 Charleston,” and shall have perpetual succession and a com-
5 mon seal; and by that name may sue and be sued, plead and be
6 impeached, contract and be contracted with, and may purchase
7 and hold real estate and other property necessary or proper to
8 enable it to discharge its duties, and needful for the good order,
9 government and welfare of said corporation.

Sec. 6. All the corporate powers of the said town shall
2 be exercised by the said council or under its authority, except
3 when otherwise provided.

Sec. 7. The council of said town shall have and are here-
2 by granted power to have said town surveyed; to open, vacate,
3 broaden, change of, grade and pave streets, sidewalks and gut-
4 ters for public use, and to alter, improve, embellish and orna-
5 ment and light the same, and to construct and maintain public
6 sewers and laterals, and shall in all cases except as to lighting
7 have power and authority to assess upon and collect from the
8 property benefited thereby all, or such part of the expense
9 thereof, as shall be fixed by ordinance, except as hereinafter
10 provided; to have control of all streets, avenues, roads, alleys
11 and grounds for public use in said town, and to regulate the
12 use thereof and driving thereon, and to have the same kept in
13 good order and free from obstruction, pollution or litter on or
14 over them; to have the right to control all bridges within said
15 town, and the traffic passing thereover; to change the name of
16 any street, avenue or road within said town, and to cause the
17 re-numbering of houses on any street, avenue or road therein;
18 to regulate and determine the width of streets, sidewalks,
19 roads, walks and footways for public use in said town to be done
20 and kept clean and in good order by the owners of adjacent prop-
21 erty; to enter into a contract with any internal improvement
22 company for the joint ownership of any bridge by the town and
23 such company, upon such terms as may be prescribed in the
24 contract, but such bridge shall be a public highway; to prohibit
25 and punish the abuse of animals; to restrain and punish vag-
26 rants, mendicants, beggars, tramps, prostitutes, drunken or
27 disorderly persons within the town, and to provide for their
28 arrest and manner of punishment; to prohibit by ordinance
29 the bringing into the town of any person or animal afflicted
30 with contagious or infectious disease, and to punish any vi-
31 olator of said ordinance who knows or has reason to believe
32 such person or animal to be so afflicted; to control and suppress
33 disorderly houses of prostitution or ill-fame, houses of assig-
34 nation, and gaming houses or any part thereof, and to punish
35 gaming; to prohibit within said town or within three miles
36 thereof slaughter houses, soap or glue factories and houses of
37 like kind; to control the construction and repair of all houses,
38 basements, walls, bridges, culverts and sewers, and to prescribe
39 and enforce all reasonable regulations affecting the construc-
tion of the same, and to require permits to be obtained for such
buildings and structures, and plans and specifications thereof
to be first submitted to the town council; to control the open-
ing and construction of ditches, drains, sewers, cess-pools and
gutters, and to deepen, widen and clear the same of stagnant
water or filth, and to prevent obstructions therein, and to deter-
mine at whose expense the same shall be done; and to build
and maintain fire station houses, police stations and police
courts, and to regulate the management thereof; to acquire,
lay off, appropriate and control public grounds, squares and
parks, either within or without the town limits as herein de-
fined; to purchase, sell, lease or contract for and take care of
all public buildings, and structures and real estate, including
libraries and hospitals, deemed proper for use of such town;
and, for the protection of the public, to cause the removal of
unsafe walls or buildings, and the filling of excavation to pre-
vent injury or annoyance to the business of individuals from
anything dangerous, offensive or unwholesome; to define, pro-
hibit, abate, suppress and prevent all things detrimental to the
health, morals, comfort, safety, convenience and welfare of the
inhabitants of the town, and all nuisances and causes thereof,
and to that end and thereabout to summon witnesses and hear
testimony to declare and enforce quarantine against the in-
troduction of any contagious or infections disease prevailing
in any other state, county or place, and of any and all persons
and things likely to spread such contagion or infection; to reg-
ulate the keeping of gunpowder and other combustible or dan-
gerous articles; to regulate, restrain or prohibit the use of fire-
crackers, or other explosives, or fireworks, and all noises or
performances which may be dangerous, annoying to persons or
tend to frighten horses or other animals; to provide and main-
tain proper places for the burial of the dead and to regulate
interments therein upon such terms and conditions as to price
and otherwise as may determine; to provide for shade and
ornamental trees and the protection of the same; to provide for
the making of division fences; to make proper regulation for
guarding against danger or damage from fires; to provide for
the poor of the town, and to that end may contract with the
proper authorities of Kanawha county to keep and maintain
the poor, or any number thereof, upon terms to be agreed
upon; to make suitable and proper regulations in regard to the use of the streets and alleys for street cars, railroad engines and cars, and to regulate the running and operation of the same so as to prevent injury, inconvenience or annoyance to the public; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theaters, circuses, the exhibition of showmen and shows of any kind and the exhibition of natural or artificial curiosities, caravans, menageries, pictures, motion pictures and musical exhibitions and performances; to regulate the construction, height and material used in all buildings, and the maintenance and occupancy thereof; to regulate and control the use for whatever purpose, of the streets and other public places; to create, establish, abolish and organize employments and fix the compensation of all employees; to organize and maintain fire companies and to provide necessary apparatus, engines and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said town; to levy taxes on persons, property and licenses; to license and tax dogs and other animals and regulate, restrain and prohibit therein all other animals and fowls from running at large; to assess, levy and collect taxes for general and special purposes upon all the subjects or objects which the town may lawfully tax; to levy and collect assessments for local improvements; to borrow money on the faith and credit of the town by the issue and sale of bonds in the manner prescribed by law; to appropriate the money of the town for all lawful purposes; to create, provide for, regulate and maintain all things in the nature of public works and improvements; to adopt rules for the transaction of business and for its own regulation and government; to promote the general welfare of the town and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said town and to regulate the transportation thereof, and other things through the streets; to have the sole and exclusive right to grant, refuse or revoke any and all licenses for the carrying on of any business within said town on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such market, and to acquire and hold property for market purposes; to regulate or prohibit the plac-
ing of signs, bill-boards, posters and advertisements in, or over the streets, alleys, sidewalks and public grounds of said town; to preserve and protect the peace, order and safety and health of the town and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous drugs; to make, enforce and provide local police, sanitary and other regulations, and fully exercise all lawful police powers; to appoint and fix the places of holding town elections; to erect, own, lease, authorize or prohibit the erection of gas works, system of water works or electric light works in or near the town, and to operate the same and sell the products or services thereof, and to do any and all things necessary and incidental to the conduct of such business; to provide for the purity of milk, meats and provisions offered for sale in said town, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the town, where the milk and meat therefrom are offered for sale within the said town; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality and good order of the town and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violations of such ordinances even if the offense under and against the same shall constitute offenses under the law of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of the payment of fines, penalties or costs under this act, who are otherwise unable or fail to discharge the same, by putting them to work for the benefit of the town upon the streets or other places provided by said town, and to use such means to prevent their escape while at work as the council may deem expedient; and the council may fix a reasonable rate per day as wages to be allowed such person until the fine and costs against him are thereby discharged; to compel the attendance at public meetings of the members of the council; to prevent any person, association or corporation from polluting in any manner any pond, lake, basin,
8 reservoir, stream, spring, creek, or other body of water from which the town shall take water to be used for domestic purposes by the inhabitants thereof, or from casting into any such body of water, or on the bank thereof or in such proximity thereto that the same may enter therein, any filthy, unwholesome, or obnoxious substance, object, or liquid, or anything whatsoever, injurious to the health of the people of the town; to exercise all other powers that now are or hereafter may be granted to municipalities by the constitution or the laws of the state of West Virginia; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this charter, or when not prescribed herein, in such manner as shall be provided by the ordinances or resolutions of the council.

The enumeration of particular powers of this charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated herein, impliedly thereby, or appropriate to the exercise thereof, the council shall have and exercise all other powers, which, under the constitution and laws of the state of West Virginia it would be competent for this charter specifically to enumerate.

Qualification of Voters.

Sec. 8. Every male person residing in said town shall be entitled to vote for all officers elected under this act; except no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason or bribery in an election, or who has not been a resident of this state for one year, of said town for six months next preceding the election in which he desires to vote, or unless he is bona fide resident he shall not be permitted to vote.

Sec. 9. No person shall be eligible to the office of mayor, treasurer, recorder or councilman, unless at the time of his election he is legally entitled to vote in the town election for a member of the common council, and he was for the preceding year assessed with taxes upon real or personal property within the said town of the assessed aggregate value of at least one hundred ($100.00) dollars, and shall have actually paid the taxes so assessed.

Sec. 10. On the first Tuesday in April, one thousand nine hundred and twenty, and every two years thereafter, there shall be
3 elected by the qualified voters of said town a mayor, recorder and
4 six councilmen; the term of office of said mayor, recorder and
5 councilmen shall be for the period of two years, beginning on the
6 first day of May next after their election and until their successors
7 shall be elected and qualified.

Sec. 11. In all elections for mayor, recorder and council-
2 men, the officers shall be nominated by a mass convention. Any
3 political party or any number of persons desiring to place a ticket
4 upon the ballot to be voted for in said election, shall present to the
5 council at a regular session thereof, not later than the twentieth
6 day of March preceding said election, a petition containing the
7 names of legal voters of said town equal to at least ten percent
8 (10%) of all the voters of said town, asking said council to call
9 a mass convention for the purpose of nominating officers to be
10 voted for at said election. The council shall receive and examine
11 said petition and if found to comply with the provisions of this
12 act, shall order a nominating convention to be held in some public
13 assembly room in said town not later than five days after said pe-
14 tition is received, and shall order the recorder to post at least five
15 notices in public and conspicuous places in said town; said notices
16 to give the purpose, place, date and hour of said convention. Said
17 council shall designate two persons, who shall be legal voters of
18 said town, one of whom shall act as temporary chairman and the
19 other as temporary secretary of said mass convention; said per-
20 sons so appointed by said council as temporary chairman and sec-
21 retary of said mass convention shall go to the place designated
22 in said notice for holding said convention at the hour named there-
23 in, and shall call said convention to order and shall then appoint
24 a committee of three, who shall register all the legal voters pres-
25 ent at said mass convention; said registration shall show the
26 names, ages, and the length of time each person has resided within
27 said town, and shall be made in duplicate, one copy of which shall
28 be turned over to the temporary chairman of said convention and
29 the other copy delivered to the recorder of said town. Said tem-
30 porary chairman shall then, after the registration of said qualified
31 voters having been delivered to him by said committee, proceed
32 with the election of a chairman of said convention. After a chair-
33 man having been duly elected by said convention, the tempo-
34 rary chairman shall turn said convention over to said chairman
35 so elected. Said elected chairman shall then proceed with the
36-37 said convention in the nomination of the officers and shall con-
duct said convention in a proper and legal manner. Said chairman
and secretary shall certify to the council within twenty-four hours
after said convention has been held, a list of the officers nominated
by said convention; the office for which each of said persons were
nominated; the name of said ticket if named by the said conven-
tion, together with a report of all the acts and resolutions of said
convention, and the names of all the voters participating therein,
which record shall be certified to by said chairman and said se-
cretary. All questions submitted to said convention shall be de-
cided by “aye and nay” vote, and all nominations and the election
of a permanent chairman shall be made by “aye and nay” vote, and
no person shall be permitted to vote, or to be heard in said coun-
vention, unless he is a legal voter of said town and his name is
registered in said list of voters submitted to the temporary chair-
man by the committee appointed by him for that purpose. No
person’s name shall be placed upon the ballot to be voted for in
any town election unless he has been nominated by the legal
voters of the said town as above provided, except if there be no pe-
titions filed with said council asking said council to call a mass
convention, as above provided, on or before the twentieth day
of March preceding said election; then, and in that event, the
council shall, by ordinance, call a mass convention to be held within
said town for the purpose of nominating officers to be voted for at
said election. Said council shall order the recorder to give noticet
of said convention as above provided, and shall name some legal
voter of said town to act as temporary chairman of said conven-
tion, and said recorder shall act as temporary secretary of said
convention. Said convention so called by said council shall be
held and conducted as hereinbefore provided, and in event any
person appointed by said council to act as temporary chairman
of any convention does not appear at the place and time of hold-
ing said convention, or if he appears and fails or refuses to act
as same, then such person designated by said council to act as tem-
porary secretary of said meeting shall act as said chairman, and in
so acting shall call some legal voter present at said convention to
act as his secretary. The acts and proceedings of said conven-
tion so held shall be so certified and returned to said council as
hereinbefore provided.

Sec. 12. And further, any person voting or participating in
any convention as above provided, shall not be allowed or per-
mitted by the chairman, or officers, of any other convention held
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5 under this provision, to vote on any question submitted to said
6 convention upon the election of any chairman, or the nomination
7 of any candidate, whose name was presented at such convention
8 for nomination. And it shall be the duty of the recorder of the
9 said town to furnish to the temporary chairman of any convention
10 a list of names furnished him by the chairman and secretary of
11 any other convention which had been previously called for the
12 purpose of nominating officers for said election, and said officers
13 of said convention shall not permit any voter whose name appears
14 upon said list of said previous convention to participate in, or
15 vote for chairman, or for the nomination of any candidate, or upon
16 any question submitted to said convention being so held.

Elections.

Sec. 13. The first election under this act shall be held on
2 the first Tuesday in April, in the year one thousand nine hundred
3 and twenty, and on the same day every two years thereafter. Such
4 election and all subsequent elections shall be held in such man-
5 ner as is or shall be prescribed by law.

Sec. 14. The council shall meet in special session on the last
2 Monday in March and fix the place or places within said town
3 where said election shall be held; shall appoint three commission-
4 ers and two clerks, for each voting precinct, at which said election
5 is to be held, and shall appoint one member of said council to act
6 with the recorder as a ballot commissioner, which commission
7 shall have the ballot prepared and ready to deliver to the election
8 officers on the day before said election, and said election commis-
9 sioners and clerks so appointed by said council shall hold and
10 conduct said election in such manner as is or may be prescribed
11 by law; they shall open said polls at sun-up and close the same
12 at sundown; shall tabulate the vote at each voting precinct and
13 certify to the council the result of the vote of the precinct which
14 they are serving as such election officers and shall return to the
15 said town recorder a copy of such certificate, together with the
16 ballots, tally sheets, registration books, all of which shall be sealed
17 in an envelope or other container.

Sec. 15. Said council shall meet on the first Monday fol-
2 lowing said election and canvas the vote of said election and
3 shall ascertain, publish and declare the result thereof; they shall
4 keep a record of its proceedings and shall take down and record
5 any evidence, motion, and any paper filed or offered by any candi-
date, which record shall be open to the public and kept in the custody of the recorder.

Sec. 16. The council shall, on the first Monday in March, one thousand nine hundred and twenty, appoint such registration officers as it deems necessary to register all the legal voters within the corporate limits of said town, and shall furnish said election officers herein provided with a list of all the said voters entitled and qualified to vote at said town election, and said election officers shall not permit any person or persons to vote at said election unless his or their names appear upon said registration book, or list of qualified voters made by said registrars.

Sec. 17. Said council may at its regular meeting prior to said election, register any legal voter or voters whose name has been omitted by said registrars, and said council shall give five days' notice of said meeting, which notice shall state the time and place of said meeting and its intention to correct the registration of voters of said town and the registrars appointed by said council shall be present and assist said council in correcting said registration at said meeting.

Sec. 18. The first officers elected under the provisions of this act shall enter upon their official duties on the second Monday in May, one thousand nine hundred and twenty, and shall serve for a term of two years, or until their successors are elected and qualified, unless sooner disqualified, impeached or dismissed; and it is further provided that the officers elected on the second day of January, one thousand nine hundred and nineteen, shall serve in the official capacity in which they were elected until the second Monday in May, one thousand nine hundred and twenty, or until their successors are elected and qualified, unless sooner disqualified.

Sec. 19. And be it further provided as there were only five councilmen elected on the second day of January, one thousand nine hundred and nineteen, and this charter provides for six councilmen, the said five councilmen so elected and the mayor and recorder shall elect from the qualified voters of said town another councilman, who shall serve until the second Monday in May, one thousand nine hundred and twenty, or until their successor is elected and qualified, unless sooner disqualified or impeached. And after said councilman is so elected, the recorder elected on the second day of January, one thousand nine hundred
11 and nineteen, shall not vote on any ordinance, resolution or ques-
12 tion before said council.

Sec. 20. All officers so elected, shall, before taking their seat
2 or performing any of the duties of their respective offices for
3 which they were elected, take and subscribe an oath of affirmation
4 that they possess the qualifications prescribed by this act to hold
5 such office and are not subject to any of the disqualifications pre-
6 scribed therein; that they will support the constitution of the
7 United States, and the constitution of this state, and honestly dis-
8 charge the duty of the office to which they are elected to the best
9 of their skill and judgment, which oath shall be taken and sub-
10 scribed to within twenty days after said election, and be filed and
11 preserved with the other papers and books of the town.

The Tie Vote; How Decided.

Sec. 21. Whenever two or more persons receive an equal num-
2 ber of votes for mayor or councilman, such tics shall be decided by
3 the council in existence at the time the election is held; provided,
4 that the council in office at the time of the institution of such
5 contest proceeding shall hold over and remain in office for the
6 purpose of passing upon and deciding such contest, and for such
7 purposes only; and nothing herein provided shall be construed to
8 interfere with the duties, power and authority of the new or incom-
9 ing council.

Contested Elections.

Sec. 22. All contested elections shall be heard and deter-
2 mined by the council in existence at the time the election is held,
3 and the contest shall be made and conducted in the manner as pro-
4 vided for in contests for county and district afficers, and the coun-
5 cil by their proceedings in such cases shall, as nearly as practicable,
6 conform with the like proceedings of the county court in such cases.

Officers.

Sec. 23. The mayor shall be the chief executive officer of the
2 town, and shall take care that the orders, by-laws, ordinances, acts
3 and resolutions of the council thereof are faithfully executed. He
4 shall be ex officio, a justice and conservator of the peace within the
5 town and shall, within the same, have, possess and exercise all the
6 powers and perform all the duties vested in a justice of the
7 peace, except that he shall have no jurisdiction in civil cases.  
8 Any warrant or other process issued by him may be executed at  
9 any place in the county. He shall have control of the police of the  
10 town, and may appoint special police officers whenever he deems  
11 it necessary, and may suspend any policeman for cause; and it  
12 shall be his duty to see that the peace and good order of the town  
13 are preserved; and that persons and property therein are pro-  
14 tected; and to this end he may cause the arrest and detention of  
15 all riotous and disorderly persons in said town before issuing his  
16 warrant therefor. He shall have the power to issue executions  
17 for all fines, penalties and costs imposed by him or he may require  
18 the immediate payment thereof, and on default of such payment  
19 thereof, may commit the offending party to the jail of Kanawha  
20 county or other place of imprisonment in such corporation, if  
21 there be one, until the fine or penalty and costs shall be paid, but  
22 the term of imprisonment in such cases shall not exceed thirty  
23 days. In all cases where a person is sentenced to imprisonment,  
24 or to the payment of a fine of ten dollars or more, (and in no  
25 case shall a judgment for a fine of less than ten dollars be ordered  
26 or given by the mayor, if the defendant, his agent or attorney,  
27 object thereto), such person shall be allowed an appeal from such  
28 decision to the intermediate court of Kanawha county, upon the  
29 entering into a recognizance before the mayor, with surety deemed  
30 sufficient, to appear before said court on the first day of the next  
31 term thereof, to answer for the offense wherewith he is charged  
32 and to not depart thence without leave of the court. If such  
33 appeal be taken, the warrant of arrest (if there be any), the  
34 transcript of the judgment, the appeal bond and other papers of  
35 the case shall be forthwith delivered by the mayor to the clerk of  
36 said intermediate court; and the said court shall proceed to try  
37 such case in its order, and render such judgment, including that of  
38 costs, as the law and evidence may require, but no judgment shall  
39 be rendered against said town for costs on such appeal.  

Sec. 24. The mayor may from time to time recommend  
2 to the council such measures as he may deem needful for the wel-  
3 fare of the town. The expense of maintaining any person com-  
4 mitted to the jail of the county, or to any place of imprisonment  
5 in said town, by him, except it be to answer an indictment, or be  
6 under provisions of section ——— and ——— of  
7 chaper ——— of the code of West Virginia, shall be paid by said  
8 town. Said mayor shall pay all moneys received by him for fines
or by virtue of his office, belonging to said town or to the town collector and treasurer of the town within one week after he receives the same. He shall receive a compensation for his services, to be fixed by the council, exclusive of fees, and which shall not be increased or diminished during his term in office.

Sec. 25. The town recorder shall keep a journal of the proceedings of the council, and have charge of and preserve the records of the town, in the building safe or vault, if there be one. In the absence from the town of, or in the case of sickness or inability of the mayor, or during any temporary vacancy in the office of the mayor, the town recorder shall perform the duties of the mayor which pertain to him as the chief executive of said town, and be vested with all powers necessary for the performance of such duties. He shall be conservator of the peace within the town.

Sec. 26. It shall be the duty of the town attorney or solicitor, to prepare, when directed by council, all ordinances for the town, to represent the said town in all matters and proceedings in any court in which the said town is interested and perform such office duties as may be ordered by the council, and he shall receive a compensation for his services, to be fixed by the council.

Sec. 27. It shall be the duty of the chief of the police to preserve order and quiet in said town and to see that all subordinate police officers faithfully perform their official duties, and he may for good cause appearing to him, for neglect of duty, or insubordination, suspend any such officer from duty and report his actions and his reasons therefor to the next regular meeting of council for action thereon; he shall make a list of all dogs within said town liable to tax, collect the license tax thereon, and pay the same to the treasurer, as may be provided by ordinance of said town; he shall be present in the police court whenever the same shall be in session, and see that all its orders and requirements are properly executed; he shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for, and paying over, as required by law, of all money which may come into his hands by virtue of his office, with sureties to be approved by council; said bond to be in the penalty of not less than three thousand five hundred dollars, nor more than five thousand five hundred dollars, as the council may
20 prescribe; he shall receive such compensation as may be fixed
21 by council.

Sec. 28. In case a violation of any ordinance of said town is
2 committed in the presence, or within view of the chief of police,
3 or other officer, the offender may be forthwith apprehended and
4 taken before the mayor, and a complaint under oath, stating such
5 violation, there lodged and filed; and thereupon such offender
6 may be tried and dealt with according to law, without summons.
7 The chief of police shall execute with the county of Kanawha,
8 when directed to him, any process properly issued by the mayor
9 in proceedings for the enforcement of ordinances; and shall col-
10 lect by levy of execution or otherwise, and duly account for all
11 fines assessed and costs imposed in such proceedings. He shall
12 also have the right and powers, within said town in regard to
13 the arrest of persons, the collection of claims and executions and
14 the return of process, that are or may be lawfully exercised by a
15 constable of a district within the same, and shall be entitled to
16 the compensation therefor; and he and his sureties upon his
17 official bond, shall be liable to all fines, penalties and forfeitures
18 for which a constable is liable, for any dereliction of duty in
19 office, to be recovered in the same manner and in the same courts
20 that such fines, penalties and forfeitures are recovered against
21 constables. He shall pay over all fines or sums collected by him
22 to the treasurer forthwith.

Sec. 29. The presence of a majority of the council shall
2 be necessary to make a quorum for the transaction of business.

Sec. 30. The council shall cause to be kept by the town
2 recorder in a well-bound book, to be called the journal, an accurate
3 record of all the proceedings, ordinances, acts, orders and resolu-
4 tions, and in another book, to be called the book of ordinances,
5 accurate copies of all general ordinances adopted by the council,
6 both of which books shall be completely indexed and be open to
7 the inspection of any citizen of the town of South Charleston, or
8 any one required to pay taxes therein, or who may otherwise be
9 interested. All oaths of office and bonds of the officers of said
town, and all papers of the council shall be endorsed, filed and
11 securely kept by the said town recorder. The bonds of officers
12 shall be recorded in a well-bound book to be called the “record
13 of bonds.” Said town recorder shall perform all such duties as
14 may by ordinance of the council be prescribed. Said council
may bind and print in pamphlet form all the general ordinances of said town, and transcripts of such ordinances, acts, orders and resolutions, certified by the town recorder under the seal of the town, shall be deemed *prima facie* correct when sought to be used before any court or before any justice. The recorder shall also keep a book called the "order book," entering in said book, to whom paid, the amount and date of all orders of council to pay money out of the town funds.

Sec. 31. The mayor shall have no vote on questions before the council, except in case of a tie, which tie shall be decided by the vote of the mayor.

Sec. 32. The meetings of the council shall be held at such place in said town, and at such time as they shall from time to time ordain and appoint, but it shall be lawful for the council by ordinance, to vest in any officer of said town, or in any member, or number of members of their own body, the authority to call special meetings; and it shall prescribe by ordinance the mode in which notice of such meetings shall be given, and no business shall be transacted at such special meeting unless a majority of all members of the council shall be present, except that a less number may compel the attendance of absent members under such reasonable penalties as they may think proper to impose.

Sec. 33. Whenever anything for which a state license is required is to be done within said town, the council may require a town license therefor, and may impose a tax thereon for the use of the said town.

The council of said town shall have authority within said town to require and grant licenses to owners of horses, hacks, carts, wagons, drays, bicycles, automobiles and every description of wheeled vehicles and carriages kept for hire, and levy and collect taxes thereon, and subject the same to such regulations as the interests and conveniences of the inhabitants of said town, of the protection of paved streets in the opinion of the council shall require; also to license and tax hawkers, auctioneers, junk dealers and peddlers within said town, and persons who temporarily station themselves upon a street to sell or exhibit articles, and all butchers and vendors of meats, fruits or vegetables on the streets of the town may be required by the council to take out a license therefor. But nothing herein contained shall be
construed to require any inhabitant of the county of Kanawha to obtain a town license for the purpose of selling to the inhabitants of said town any meat, fruit or vegetables raised or produced by such inhabitant within said county. No license to permit the permanent occupancy for private use of an open street, alley or public square, or any part thereof, or a use for private purposes that obstructs the free use of the streets, shall be given or granted. And said council shall have the authority, by town ordinance, to grant or refuse to grant a license to keepers of hotels, inns, taverns and boarding houses, but no license shall be granted for anything prohibited by a state tax.

Sec. 34. It shall be the duty of the town collector and treasurer to receive one copy of the assessor's book, receipting to the council for the same, and for the taxes therein extended, and it shall be his duty to collect from the parties the entire amount of taxes which they are severally charged from and after the first day of October, in each year, until the first day of June, of the following year, and he shall in said book write the word "paid" opposite the name of the person so paying, and shall also receipt to said taxpayer for the taxes so paid.

(a) He shall also receive such other moneys of the town as he is authorized by this chapter to receive, and all moneys ordered paid to him by the council, giving receipts to the parties paying, and shall keep an accurate account of the same; and his books at all times shall be open for the inspection of any taxpayer or attorney of the town, and he shall produce said books to said council for inspection at any meeting thereof upon order of said council.

(b) He shall, on or before the first Monday in July of each year, furnish to the council a full, complete and detailed statement of all moneys of which he is chargeable, or may have been received by him, up to the first day of July of that year, and shall, at any time in like manner, furnish a statement of all disbursements made by him during such previous year, with vouchers evidencing the same. He shall, upon the order of the council, at any time, submit a statement of amount of which he is chargeable, and his disbursements.

(c) He shall receive all taxes upon licenses and receipt to the party paying the same, by the endorsement upon the permit granted by order of council, which permit shall be furnished...
him by the town recorder, and charge himself with the amount so
received, and report to the council at its next regular meeting
the amount so received by him.

(d) He shall, upon all moneys coming into his hands as
such town collector and treasurer, and on all moneys duly paid
or turned over to him upon orders of the council, receive as
compensation therefor a sum to be fixed by the council, not ex-
ceeding five per centum of the amount so collected.

(e) He shall, upon the expiration of his term of office,
turn over to the council all moneys, books and other property
in his possession belonging to the said town; and shall, before
entering upon the duties of his office, execute a bond with good
security, payable to the town of South Charleston, in the penalty
of not less than five thousand dollars, conditioned for the faith-
ful performance of the duties of his office, and for the accounting
for and paying as required by law of all money which may come
into his hands by virtue of his office, and the said town collector
and treasurer shall be chargeable with all of the town taxes,
levies and assessments, and all money of the town that may come
into his hands, and shall account therefor.

(f) The council shall prescribe by ordinance therein
stating what licenses of all kinds shall be applied for and which
may be granted, the term of their extension, and shall require
the payment of the taxes thereon before the delivery thereof to
the applicant.

(g) The general provisions of the state law, as embodied
in the code of West Virginia, relating to state licenses, shall be
deemed applicable to licenses of a similar character therein men-
 tioned, when granted by or under the authority of the council
of the town of South Charleston.

Sec. 35. Licenses for the keeping of dogs shall expire on
the thirtieth day of April next after they are granted, and all
other licenses may be for such time as the council may determine.

Sec. 36. The council shall have the right to institute pro-
cedings in the name of the town of South Charleston for the
condemnation of real estate, for streets, alleys, drains, market
grounds, city buildings, or other work or purpose of public utility.
Such proceedings shall conform to the provisions of chapter
forty-two of the code of West Virginia of one thousand nine hun-
7 dred and thirteen, and the expense thereof shall be borne by the
8 said town.

Vacancies.

Sec. 37. If a vacancy shall occur in the office of the mayor,
2 the council shall, at their next regular meeting fill the vacancy
3 by the appointment of some qualified person. All vacancies
4 occurring in the council shall be filled by the council. If any
5 vacancy occurs in any appointed office the same shall be filled
6 subject to the regulations of the original appointment.

Sec. 38. The council shall have and is hereby granted
2 power and authority to remove from office any elected or ap-
3 pointed officer or employee of the said town if said official or
4 employee be found guilty of misappropriation of any funds be-
5 longing to the town, or drunkenness, or failing or refusing to per-
6 form his official duty, or if he be found guilty of any other mis-
7 conduct in office. And the council is hereby specially authorized
8 to remove the mayor of said town from office if he should fail or
9 refuse to enforce the ordinances of said town, or if he should
10 refuse to permit the ordinances of the said town to be enforced,
11 or should said mayor interfere, or in any way hinder the en-
12 forcement of the ordinances of said town.

Sec. 39. Any official of said town or any responsible citizen
2 therein, desiring to prefer charges against any official under the
3 provision of this act, shall file with the town recorder a written
4 specification in duplicate, the duplicate of which, with notice of
5 the time of hearing, shall be served upon the official against whom
6 said charges are preferred, at which hearing the official so charged
7 shall have the right to be represented before the council in per-
8 son or by attorney, the right to require all witnesses to be sworn
9 and to testify under oath before said council.

Sec. 40. If any one who shall have been elected to any
2 office in said town shall not be eligible as herein prescribed, or
3 shall fail or refuse to take the oath or affirmative of office as re-
4 quired under this act within twenty days from the time he is so
5 elected, the council may declare his office so vacant and fill the
6 vacancy as hereinbefore provided.

How Funds Shall be Deposited and Disbursed.

Sec. 41. All monies belonging to the town shall be paid
2 over to the town collector and treasurer; and no money shall be
3 paid out by him except as the same shall have been appropriated
4 by the council, and upon an order signed by the mayor and re-
5 corder, and not otherwise.

Sec. 42. All moneys received by the treasurer shall be im-
2 mediately deposited in some bank within the town, which bank
3 shall be known as the town depository, and said depository shall
4 not pay out any funds so deposited by said treasurer except upon
5 an order signed by the mayor and recorder and endorsed on
6 the back thereof by the treasurer.

Sec. 43. The town council shall designate some bank or
2 banks within said town as town depository, in which bank or
3 banks all of the funds belonging to said town shall be deposited
4 therein by the treasurer of said town, which bank or banks so
5 designated by said treasurer shall execute such bond as the cou-
6 cil may, from time to time designate, which bond shall be pay-
7 able to the town of South Charleston and in such penalty and
8 with such surety as the council may fix, and the council may re-
9 quire said bank or banks so designated to pay interest not exceed-
10 ing three per cent (3%) on the average daily balance of such
11 funds of said town so deposited in said bank or banks.

Franchises.

Sec. 44. Franchises shall be granted by the council, allow-
2 ing to persons or corporations, for a limited time such occupanc-
3 of portions of the street as may be necessary for works of public
4 utility and service, such as steam railway tracks, street railway,
5 tracks, poles and trolley wires, telephone and telegraph poles
6 and subways, electric light and other electric poles, wires and
7 subways, and gas and steam pipe lines, water, water lines and
8 pipes. But no such franchise shall hereinafter be granted except
9 under the following restrictions:
10 (1) No ordinance, granting any franchise for the use of
11 the streets, alleys or public grounds for the town for any of the
12 purposes of public utility above named, or for any other purpose
13 of like nature, shall be passed unless it shall have been first pro-
14 posed in the council and notice of the object, nature and extent
15 of the franchise shall have been published at least thirty days,
15-a by the applicant, in some newspaper of general circulation in the
16 town of South Charleston, Kanawha county, before being acted
17 upon, and shall have received a vote of the majority of the mem-
bers of the council at a regular meeting after said publication. 
The votes thereon shall be taken by ayes and noes, and the same 
entered upon the journal. No such ordinance shall take effect 
until the expiration of twenty days after its passage, and if 
within the said twenty days a petition be filed with the town 
recorder signed by one-fourth of the qualified voters of the said 
town, based upon the number of votes cast at the last election, 
requesting it, the council shall submit such ordinance to the 
qualified voters of the town for ratification or rejection, at a 
special election to be held for that purpose within forty-five days 
after such petition is presented and the vote for ratification and 
for rejection cast at such election shall be entered upon 
the journal. If a majority of the votes cast at such election 
shall be in favor of ratification, then such ordinance shall take 
effect from the time the vote is entered upon the journal.

(2) Every grant of any such franchise shall be for a limited period of time. If no limit be expressly provided in the grant, the franchise shall be valid for one year only. In no case shall the franchise extend for a period exceeding fifty years.

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

(4) No grant of a franchise or the extension of, or an addition to, any line of such work, over any additional street or territory of the town, shall be made for a period extending beyond the time limited for the expiration of the franchise of the principal work of which it is an extension; and if the franchise of the principal company or work is one which was granted before this act goes into effect, and is not limited as to time, the franchise granted for the extension or addition shall nevertheless be made subject to the conditions hereof, including a time limit of not exceeding fifty years. If a franchise be secured from the town by an individual or by an independent or new company, and the work constructed thereunder afterwards becomes a part of it, or be operated as a part of a larger work of the same kind whose franchise was previously obtained and is limited to expire
earlier, such later franchise shall, by reason of such annexation, merger, or single operation, expire simultaneously with such earlier franchise.

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

Nuisances.

Sec. 45. The council of said town shall have authority to abate and remove all nuisances in said town. They may compel the owners, agents, assignees, occupants or tenants of any lots, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same by orders therefor, and the council shall by ordinance provide a penalty for the violation of such orders. Council may by ordinance regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cess pools, sinks, plumbing drains, yards, lots, area ways, pens, stables and other places where offensive, unsightly, unwholesome, objectionable or dangerous substances or liquids are, or may accumulate, and provide penalties for the violation of such regulations, which may be enforced against the owner, agents, assignee, occupant or tenant of any premises, or structure where such violation may occur. It shall be the duty of all police officers to report to the council the facts as to the existence of any nuisance known to them.

(a) If the owner, agent, tenant, assignee or occupant of any such premises, lots, property, building or structure, as is mentioned herein, shall fail or refuse to abate or remove any such nuisance, as mentioned herein, or to comply with the provisions of any such ordinance and the regulations herein contained, the council may have said nuisance abated or the provisions of said ordinance or ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of his intention so to do, and collect the expenses thereof, with one per centum per month interest added from the date of said notice, from the said owner, occupant, tenant, agent, or assignee, by distress or sale, in the
same manner in which taxes levied upon real estate for the benefit of said town are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, the same as taxes levied upon real estate in said town; which lien may be enforced by a suit in equity before any court having jurisdiction, as other liens against real estate are enforced. In cases of non-resident owners of real estate such notice may be served upon any tenant, occupant, assignee, or rental agent, or by publication thereof once a week for not less than two consecutive weeks in two newspapers of opposite politics, of general circulation in said town.

(b) And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property or amount due said owner from said agent, and such tenant, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

(c) Any expense incurred by the council as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act. The abatement or removal of any such nuisance by the town at the expense of said town, as herein provided, shall be prima facie proof that the said notice to the owner, occupant, agent or assignee, was given as herein prescribed.

(d) The council may require all owners, tenants or occupants of improved property which may be located upon or near any street or alley along which may be extended any sewer or system of sewerage, which the said town may construct, own, or control, to connect with such sewer, or system of sewerage, all privies, ponds, water closets, cess pools, drains or sinks, located upon their respective properties or premises, so that their contents may be made to empty into such sewer or system of sewerage.

**Estimate of Expenses and Levy.**

Sec. 46. The council shall, on or before the first day of August in each year, prepare an estimate of the amount of money necessary and advisable to be expended for the purpose of the town for the current year next ensuing and to be provided for by the
5 levy of taxes as herein provided for such current year; in which 6 estimate the council shall include a detailed itemized estimate of 7 the money necessary to pay interest on the bonded indebtedness 8 of said town, the amount required for the several sinking funds 9 for the reduction of the principal thereof, the amount to be ex- 10 pended severally for streets, alleys, curbing, police department, 11 fire department, street paving, sewers, salaries, parks, real and 12 personal property, contingent expenses and other expenses, to- 13 gether with an itemized statement of the estimated receipts, other 14 than that to be derived by the annual levy, and council shall ap- 15 portion the rate thereof (including the estimated receipts for 16 licenses, and all other sources) among the several funds so as- 17 certained and provided for, which said apportionment, when 18 adopted, shall be spread upon the record of the council.

(a) Upon such estimate of expenses, the council shall there- 20 upon, by an ordinance, lay a levy for the ensuing tax year of a 21 sum not to exceed thirty-five cents on each one hundred dollars 22 assessed valuation of all taxable property, real and personal, sub- 23 ject to taxation in said town, as well as the capitation tax of not 24 to exceed two dollars upon every male inhabitant of said town over 25 the age of twenty-one years, who is subject to a capitation tax 26 under the laws of the state of West Virginia, and said council is 27 authorized to levy to such maximum of thirty-five cents on each 28 one hundred dollars of valuation, notwithstanding any general 29 laws now in force, or which may be enacted, restricting the powers 30 of municipal corporations to levy taxes.

(b) Whenever anything for which a state license is required 32 is to be done within said town, or within one mile of the corporate 33 limits thereof, the municipal authorities, as herein provided, may 34 require a town license to be had for doing the same, and may, in 35 any case require from any person licensed, a bond with sureties 36 and in such penalty and with such conditions as it may deem 37 proper, and the council, on notice, may revoke such license at any 38 time if the conditions of the said bond be broken.

The municipal authorities may prescribe, impose and enforce 40 reasonable fines and penalties, including imprisonment under the 41 order of the mayor of said town, or the person lawfully exercising 42 his functions, upon any person carrying or attempting to carry on 43 any business for which the said license is required without first 44 obtaining a town license therefor and paying the town license 45 tax assessed thereon. All license provided for in this chapter shall
be paid to the treasurer. For the purpose of enforcing the pro-
visions of this section, the town shall have police jurisdiction for
one mile beyond the corporate limits thereof.

(d) The council shall have the power to make all regulations
and pass all ordinances necessary and proper concerning the
granting and revoking of all licenses.

Taxes; How Collected.

Sec. 47. The town taxes annually levied by said council shall
be collected as follows:

Immediately after the annual levy for town taxes is laid, the
recorder shall extend the same on the property books made out by
him, including thereon the proper capitation taxes; he shall make
out proper tax tickets and the same after being examined, com-
pared and found to be correct by the council, shall be turned over
to the treasurer by the first day of October following the levy.
The treasurer's receipt for the gross amount thereof shall be re-
turned and entered upon record and the treasurer charged there-
with. The treasurer shall give notice by posting notices for twenty
days in five conspicuous places in said town, stating that said tax
tickets are in his hands for collection, the penalty for non-pay-
ment thereof, and the time and place when the same may be paid;
Provided, however, that the taxpayer shall have the right to an-
ticipate the payment of the whole or any part of the taxes assessed,
but on all the tickets remaining unpaid in the treasurer's hands on
the first day of January, succeeding said levy, a penalty of five per
cent shall be added and collectible, together with six per cent in-
terest per annum until paid; Provided, however, that the council
shall have the power any year, by resolution, to extend the time
that such tax tickets may remain in the treasurer's hands and be
paid to him before adding the penalty, for a period not to exceed
thirty days.
The council may by ordinance allow a discount for prompt
payments.

(a) The treasurer shall have power to collect said taxes
so placed in his hands, together with the penalty and interest
thereon, heretofore provided, to be added thereto.

(b) The treasurer shall be charged with the gross amount of
said tax tickets so delivered to him for collection and no deduc-
tion therfrom shall be allowed, unless on or before the first day
of September of each year, he makes out and returns to the coun-

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(c) Penalties and interest provided for in this section to be added to such taxes, shall not be deemed or considered as any part of the limitation in this act hereinbefore prescribed, restricting the annual town levy to thirty-five cents on each one hundred dollars valuation.

(d) The treasurer shall not take or collect anything but money for the payment of taxes.

(e) The treasurer shall perform such other duties connected herewith, as the council may require, and receive such compensation as shall be fixed by the council.

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

(g) There shall be a lien upon all real estate within said town for the town taxes assessed thereon, including such penalties and interest added thereto for non-payment thereof, as are prescribed by this act, from the first day of January of the year in which said taxes are assessed. Said liens may be enforced by appropriate suit in any court of record in Kanawha county; provided, such suit be instituted within five years from the time the said liens attached as herein provided, and such suit may either be by and in the name of the town of South Charleston as plaintiff, or said town may intervene by petition in any suit pending to sell or enforce lien against any real estate, which is subject to such liens for said taxes. The liens herein created shall have
priority over all other liens, except those for taxes due the state and county.

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

(i) The council may appoint or employ some person or firm to make the extension of the levy for town taxes and relieve the recorder of that duty, and compensate such person or firm for making said extension.

Sec. 48. The council may appoint some person or persons to assist the treasurer in collecting the taxes as herein provided, and may authorize said person so appointed to distrain, advertise, and make sale of any property in said town on which there is a lien for taxes due said town. Said person so appointed shall have all the power in the collection of taxes as is given to the treasurer herein, and all proceedings entered and acts performed by such person or persons so appointed shall be in the name and on behalf of the treasurer as hereinbefore provided.

Sec. 49 The council may appoint the chief of police to perform these duties in addition to his other duties as chief of police, but said officer so appointed, if he is not already under bond, shall, before entering upon his duties, execute a bond in such penalty as the council may fix, and all moneys collected by said person so appointed shall immediately turn the same over to the treasurer and demand a receipt therefor. In no event shall the chief of police act as treasurer of the town.

Street Paved.

Sec. 50 (a) The town council of the town of South Charleston may order and cause any avenue, street, road or alley therein to be graded, or curbed, or recurbed with stone, concrete or other suitable material, or paved or repaved, between curbs, with brick wooden blocks, asphalt or other suitable material, or to be graded and curbed or recurbed and paved or repaved as
aforesaid, or to be macadamized, or to be otherwise permanently improved or repaired, under such supervision as may be directed by ordinance or resolution, upon the best bid to be obtained by advertising for proposals therefor, except the town may do the work without letting it to contract as hereinafter provided in (d) of this section; and may purchase or condemn land for opening or widening avenues, streets, roads and alleys. The entire cost, or any part thereof designated by the council, of such grading, curbing and paving, or macadamizing, or other permanent improvements, of any of the avenues, streets, roads, and alleys as aforesaid, from and including the curb of either side thereof to the middle thereof, and the cost, or any part thereof, of purchasing or condemning land as aforesaid for street purposes, may be assessed to and required to be paid by the owners of the land, lots or fractional parts of the lots fronting or bounding on such avenue, street, road or alley so improved, except as otherwise provided in (g) of this section.

(b) Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened, or improved in such proportion of the total cost as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including opening or widening) shall not include any portion or amount paid for the paving or improvement of the intersection of avenues, streets, roads or alleys, unless the work to be done, and the payment made therefor, as especially otherwise provided therein, as follows, to-wit:

(c) Upon petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street, road or alley in said town, asking the town to grade, curb, pave, or macadamize or otherwise to permanently improve, such avenue, street, road or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvement abutting upon their property, as therein otherwise provided, but also offering to have their said property proportionately assessed with the total cost of the paving, grading and curbing, or macadamizing or other permanent improvement, of the intersection of the avenue, street, road or alley so paved or otherwise permanently improved, as petitioned for,
the council may order such work to be done as heretofore pro-
vided in this section, and the total cost thereof, including cost of intersection, to be charged to and paid by the owners of the property abutting on such avenue, street, road or alley, and that the paving assessment or certificate made or issued to cover the cost of paving, grading and curbing or otherwise permanently improving such intersections shall be made a separate and one of the last assessments or certificates due against him and their property so assessed; and the town may assume the payment of such assessment or certificate covering the cost of such intersections, or may reimburse the property owners paying the same out of its general levies for streets, but there shall be no legal obligation on the town to do so.

(d) The town itself may do such work and charge and collect the cost thereof in the manner set out in section fifty-one hereinafter. The decision of the town to do such work may be without notice or after the publication of the notice mentioned in this section, or after the rejection of all bids for the doing of the work.

(e) The cost of grading, curbing and paving, or otherwise improving the intersections, or parts of intersections, of avenues, streets, roads or alleys, on the plans adopted by the council for such work, shall be paid by the town except as otherwise provided in paragraph (c) of this section.

(f) And if any such avenues, streets, roads or alleys be occupied by street car tracks or tracks of other railroads, the cost of said improvement of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

(g) Provided, the council, if it so elects, may order and cause any avenue, street, road or alley, public park or public place to be widened, graded or changed in grade and curbed and repaved, with brick, concrete, asphalt or other suitable materials, or macadamized, or otherwise permanently improved, including the construction of the retaining walls, sewers, drains, water pipes, water dam and water courses, in connection therewith, and may purchase land, or condemn land as provided in this act, for any public avenue, street, road or alley, or part thereof, or park or other public purpose and the council
may assess all or any part of the entire cost of such improvement (or taking of land, or both) upon the abutting, adjacent, contiguous or other lots or land especially benefited by such improvements.

The council, when it decides to order the improvements under this plan, shall, by ordinance or resolution before doing the same fix the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous and other specially benefited land or lot so assessed, setting out the names of the owners, the amount of the special benefits and the approximate amount of the total cost of the proposed improvements; and the council may, in fixing such assessment, take into consideration the assessed value of the lot or land as fixed, for the last assessment year, for state and county purposes.

When the council shall deem it expedient and proper to cause any avenue, street, road or alley, or any portion thereof, in such town, to be graded, or graded and paved, curbed or macadamized, or otherwise permanently improved, or land to be acquired or taken for street purposes, as provided in (a) of this section, or shall deem it expedient and proper to cause the construction of any public sewer in or under any such avenue, street, road or alley, or land or easement therein to be acquired or taken therefor, or elsewhere, as provided in section fifty-five of this act, it shall by ordinance or resolution, order the work done, stating the method of payment thereof, and, if it be let to contract, notice shall be in the following manner, to wit:

The notice for bids or proposals for doing such improvements, either for street improvements or the construction of sewers, shall be published for at least fifteen days in two newspapers of opposite politics, of general circulation, in the town. If the publication of the notice cannot be procured in any newspaper in said town at reasonable rates, then said notice may be given in the manner directed by the council. Said notice shall state where and how the bids or proposals shall be made; and whether so stated in the notice or not, the town may reject any and all bids, for such proposed work. Before advertising for bids on the work, the town shall approve and adopt plans and specifications therefor, and the advertisement for bids, and the contract awarded thereon, shall refer to such plans and specifications. The fact that such contract shall be let for said work shall be
prima facie proof that the notice mentioned above was given as required therein.

(j) The cost of said paving, macadamizing or other permanent improvement may be paid in one or two ways (to be specified by ordinance by the council), either as set out in section fifty-one or in section fifty-three of this act.

(k) If the abutting land on any such avenue, street, road or alley, sought to be improved as aforesaid, or in which a sewer is ordered laid, is not laid off into lots by a map of record, the council, may, for the purpose of making the assessments provided for in this section and section fifty-five therein, lay off such lands into lots of such size as the council deems advisable for the purpose of laying a proper assessment against such land.

Sec. 51. (a) Said town of South Charleston is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said town, in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and the said town is authorized to sell said bonds, but not below the par value thereof, and said bonds shall bear interest not to exceed six per cent per annum, payable annually; and in the issuance and sale of said bonds the said town shall be governed by the restriction and limitations of the constitution of this state, and the restriction and limitations of the laws of this state, relating to the issuance and sales of bonds, so far as such state laws are not in conflict with the provisions of this act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interest and costs, it shall be turned into the town treasury to the credit of the interest and sinking fund of the town.

But said town shall not become indebted in any manner or for any purpose to an amount including existing indebtedness, in the aggregate exceeding two and one-half per centum on the
28 value of all taxable property therein, as provided in chapter fifty-
29 one of the acts of the legislature of one thousand nine hundred
30 and five, except for the purpose of grading, curbing, paving,
31 macadamizing or otherwise permanently improving the avenue,
32 streets, roads, and alleys therein, or constructing sewers therein
33 or elsewhere, or acquiring or taking land or easement therein
34 for street and sewer purposes, as provided for in this act, and
35 for that purpose in estimating "existing indebtedness," special
36 assessment bonds representing the cost of paving or other perma-
37 nent improvements of streets, roads or alleys, or the construc-
38 tion of sewers, or acquiring or taking land for such purposes,
39 and the cost of which is assessed against the abutting property
40 on such avenues, streets, roads or alleys, or specially benefited
41 property adjacent thereto, or on such owner, shall not be in-
42 cluded; and likewise the amount in any sinking fund, or the
43 amount invested therefor as provided by law, for the payment
44 of outstanding bonds, shall not be included in the estimate of
45 existing indebtedness; provided, that the aggregate of its debt
46 of every kind whatsoever, including such special street perma-
47 nent improvement bonds, or sewer bonds, shall not exceed five
48 per centum of the value of all taxable property therein.
49 (b) And it shall be the duty of the council to immediately
50 certify such assessments to the treasurer for collection, as herein
51 provided; and for the purpose of facilitating the collection
52 of such assessments against the properties herein, the council
53 may issue assessment certificates, with interest coupons attached
54 thereto, to be delivered to and charged against the town
55 a treasurer who shall collect the same, and as such certificate and
56 coupons are paid he shall deliver the cancelled certificates to
57 the party paying the same. A copy of said order shall be cer-
58 tified by the town recorder to the clerk of the county court of
59 Kanawha county, who is hereby required to index the same in
60 the proper trust deed book in the name of each person against
61 whose property assessments appear therein.
62 (c) The amounts so assessed against said abutting lots and
63 owners thereof, respectively, shall be paid in ten payments, as
64 follows, that is to say, one-tenth of said amount, together with
65 interest on the whole assessment for one year, shall be paid into
66 the town treasury of the town before the first day of the follow-
67 ing May; and a like one-tenth part, together with interest for one
66-a year upon the whole amount remaining unpaid before the first
67 day of May in each succeeding year thereafter, until all shall
68 have been paid. Each of said installments of one-tenth shall
69 bear interest of six per centum per annum payable annually from
70 the date of assessment; provided, however, that the owner of any
71 land, so assessed for the cost of the paving of said avenue, street,
72 road or alley, shall have the right at any time to anticipate and
73 pay the whole of such unpaid assessment and interest thereon
74 until the first day of the following May, and have the lien against
75-76 the property so assessed released as hereinafter provided.
77 (d) If any such assessment shall not be paid when due, the
78 council shall cause to be enforced the payment of said as-
79 sessment and interest in all respects as herein provided for the
80 collection of taxes due the town; and said assessments shall be a
81 lien upon the property liable therefor the same as for taxes, the
82 which lien may be enforced in the same manner as provided for
83 the sale of property for the payment of taxes and tax liens; and
84 the liens herein provided for shall have priority over all other
85 liens except those for taxes due the state and the county, and
86 shall be on a parity with taxes and assessments for
87 the town.
88 (e) When all of said assessments for grading, paving and
89 curbing, or macadamizing, or other permanent improvements
90 shall be paid in full to the treasurer, he shall deliver to the owner
91 of said property a release of the lien therefor, which may be
92 recorded in the office of the clerk of the county court as other
93 releases of liens are recorded.
94 Under this plan for the payment of the cost of such per-
95 manent improvements of avenues, streets, roads and alleys, and
96 the construction of sewers, the contractor (if the work is let to
97 contract) shall look only to the town for the payment of the
98 work, and in no sense to the abutting land owners.
99 (f) The council may contract for such paving (including
100 grading and curbing), or other said improvements to be as afore-
101 said, and may acquire or take land for street purposes, as afore-
102 said, and may, if council so elects, stipulate that the costs thereof.
103 in whole or in part, shall be paid in installments by the abutting
104 property owners, as provided in (a) of section fifty so specially
105 benefited property owners, as provided in (g) of said section, in
106 five equal installments, to be evidenced by five paving certificates
107 issued therefor, payable in thirty days and one, two, three and
108 four years, respectively, after the date of their issue, and shall
109 bear interest not to exceed six per centum per annum, payable
110 annually, or if the council deems best, in ten equal installments,
111 to be evidenced by ten paving certificates issued therefor, pay-
112 able in thirty days, and one, two, three, four, five, six, seven, eight
113 and nine years, respectively, after the date of their issue, and
114 shall bear interest not to exceed six per centum per annum, pay-
115 able annually, which certificates to be signed by the mayor
116 and recorder, or other person or persons designated of record by
117 the council, may be sold, either to the contractor doing the paving
118 or other of said improvements, or to any other person, and which
119 shall cover the entire cost of such work, or the cost of acquiring or
120 taking land for street purposes, including the cost of surveys,
121 notices and other things pertaining thereto; provided, the town
122 in negotiating and selling such certificates, shall not be held as
123 guarantor or in any way liable for payment thereof, except upon
124 the action of the council as expressed by resolution of record be-
125 fore such sale. And the certificates covering the amount of the
126 assessment shall be paid by the owner of the land, lot or fractional
127 part thereof, so assessed for the cost of said improvement on such
128-29 street, road or alley so paved or improved, of land acquired or
129 taken, as aforesaid. The amount specified in said assessment
130 certificate shall be a lien as aforesaid in the hands of the holder
131 thereof upon the lands, lot or part of lot assessed, and shall also
132 be a debt against the owner of such real estate, and said amount
133 shall draw interest from the date of said certificates, payable an-
134 nually, and the payment of the debt may be enforced as provided
135 by law for the collection of other debts, or such lien may be en-
136 forced as provided in this act in the name of the holder of such
137 certificates.

138 After a contract has been made by the council to pave or oth-
139 erwise permanently improve any public road, avenue, street or
140 alley in said town under this act, and the paving or other perma-
141 nent improvements, or any stipulated part thereon, has been com-
142 pleted, or the cost of acquiring or taking land, as aforesaid, has
143 been ascertained, the council shall assess the amount each lot
144 shall bear and shall make a written report, stating the number
145 of lots and the blocks or tracts of land when not laid off into lots
146 and the names of the owners of such lots or land when known,
147 and the amount assessed thereon; and when the said council ap-
148 proves said report, or modifies it and then approves it, a copy of
said report, so adopted by the council, when certified by the town recorder of said town, may be recorded in the clerk's office of the county court of Kanawha county in a trust deed book, and shall be a continuing tax lien upon the lot or land against which the assessment is made until the certificates as aforesaid are paid, except as otherwise provided in section sixty-one of this act, and the recorder shall index the same in the name of each lot or land owner mentioned therein.

Sec. 52. Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved or improved in such portion of the total cost (less the portion, if any, chargeable to the street or other railway company) as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley shall not include any portion or amount paid for the paving or improvement of intersections of avenues, streets or alleys.

When the paving or improvement of any such avenue, street, road or alley, or portion thereof, shall have been completed, under the contract awarded therefor, the council shall cause the several frontages abutting thereon to be measured, and cause the assessment upon each owner of land abutting thereon to be calculated, showing the proper amount to be determined as provided in the foregoing plan; and the said council shall enter the same, together with the description of the lots of land as to location, frontage and ownership, upon its record, and direct on its records that such owners and lots be assessed and chargeable with the the amounts so ascertained to be borne by them, respectively, and when so approved and entered of record the same shall be and constitute an assessment against said owners and lots for such respective amounts.

Sec. 53. The council may, if it so elects, cause the costs of any such grading, paving, curbing or macadamizing or other permanent improvements, to be paid in the following manner, to-wit:

Whenever the council shall contract for such paving or other permanent improvements to be done, and that it shall be paid in installments by the property owners, fronting on such streets, avenues, or alleys as aforesaid, the council may cause the mayor and town recorder to issue to the contractor doing the paving, or other said improvement, a certificate for each installment of the amount
of assessment to be paid by the owner of the lot, or fractional part thereof, fronting on such street, avenue, road or alley; and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof, upon the lot or part of lot fronting on the street, avenue, road or alley so improved, and said amount shall draw interest from the date of said assessment, and the payment may be enforced as set out in this act, in the name of the holder of such certificate; and after a contract has been made by the council to pave or otherwise permanently improve any public highway, street or alley in said town, under this act, and paving or other permanent improvements, or any stipulated part thereof, has been completed, the said council shall assess the amount each lot shall pay for the improvement so made, and shall make a written report, stating the number of lots and the blocks and the names of the owners of such lots when known and the amount assessed thereon; and when the said council approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to by the town recorder of said town, may be recorded in the clerk’s office of the county court of Kanawha county, in the trust deed book, and shall be a continuing tax lien upon the lot against which the assessment is made, until the certificates as aforesaid are paid, and the recorder shall index the same in the name of each lot owner mentioned therein; and upon the presentation by the lot owner of all the certificates as aforesaid against the lot owner, the clerk of said court shall mark upon the margin of the book in which said certified report is recorded, that the lien is released as to the lot mentioned in the certificate produced.

The council may order any such avenue, street, road or alley, between the curbs and between designated points, to be graded or graded and paved or otherwise permanently improved in the manner authorized and provided in section fifty hereof, and may order proper curbs of stone, cement or other suitable material to be set on both sides of the avenue, street or alley so paved or improved, and the entire cost of grading, paving and setting of curbs may be assessed to the owners of the lots or fractional parts of the lots fronting or bounding on such avenue, street or alley between such designated points in proportion to the distance so fronting or bounding owned by each, except the case of intersection, which shall be borne and paid by the city. The cost of such grading, paving and setting of curbs to be borne by the abutting owners as
herein provided, shall be paid in installments as provided in section fifty-one hereof, and shall become liens and be enforceable as provided by section fifty-one hereof and the work hereby authorized to be done by the council and the assessment therefor, hereby authorized to be made, shall be subject to sections fifty and fifty-one hereof, and the council shall proceed in relation thereto in accordance with said sections fifty and fifty-one.

Sec. 54. Upon the petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street or alley in said town asking the council to grade, curb, pave or macadamize or otherwise permanently improve such avenue, street or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvements abutting upon their property as provided for in section fifty of this act, but also offering to have their said property proportionately assessed with the total cost of the paving, grading, curbing or macadamizing or other permanent improvements of the intersection of the avenue, street or alley so paved or otherwise permanently improved as petitioned for, the council may order such avenue, street or alley to be paved or otherwise permanently improved as provided in section fifty herein and the paving certificates issued to cover such intersection shall be made separate and the last certificate due against them and their property so agreed to be assessed; and the town may pay such last mentioned certificate, or may re-imburse the property owners paying the same, out of the general levy for streets and wharves, but there shall be no legal obligations on said town to do so.

Sewer Assessment.

Sec. 55. The terms “sewer,” and “sewering,” as employed in this act, shall be construed in their most comprehensive sense, so as to authorize and include mains, laterals, connections, traps, incinerating and disposal plants, as well as the paving, repairing and improving streets, and all other necessary, convenient and useful accessories to a modern, sanitary, and efficient sewerage system. But it is understood that should a sewer be laid in a street, highway or alley of the town, which has not been permanently paved, that then the terms above shall not include the paving, repairing and improving thereof.
Whenever the council shall deem it expedient to construct public sewer in any one or more town blocks, or any part thereof, or in any street or alley, or any part of a street or alley; or to provide at once adequate incinerating and disposal plants, or any part thereof, for said town, it shall so order, and the improvement thus ordered shall be made in accordance with the following conditions, to-wit:

(1) The council shall adopt a general, comprehensive plan for sewerage and sewage disposal inclusive of a proper outlet or incinerating and disposal plants, approved by some competent sewerage engineer, and of sufficient capacity to serve the whole territory within the town limits.

(2) Upon the adoption of such plan the council shall fix by order, the time when and place where the work upon such improvement shall be begun, and whether the same shall be undertaken as a whole, or, for the time being, confined to certain designated sections, blocks, squares and streets; and if less than the whole improvement be authorized, the construction of such part or parts thereof as shall be so ordered shall be executed in accordance with the specifications therefor embraced in said general plan, so that when completed the whole shall form a properly co-ordinated system conforming to said general plan.

(3) The contract for such work, whether for the whole or for parts of said system, shall be submitted to competitive bidding, after an advertisement of not less than once a week for two successive weeks in two newspapers of general circulation in said town, and awarded to the lowest and best responsible bidder. The council, however, shall have the right to reject any and all bids; and no contract shall be made in pursuance of this authority except upon the express condition that, before the same becomes binding upon the town, the contractor, or some one for him, shall enter into and acknowledge bond, with security to be approved by the council, in a penalty double the price named in the contract for the work therein specified, with conditions that he will faithfully perform the duties and promptly and skillfully perform and complete the work provided for in said contract, and pay all costs and damages that may be sustained by said town or by any citizen, inhabitant, resident or taxpayer thereof, in respect to both persons and property, in the execution thereof, and save it and them harmless in the premises. If the council should reject all bids, it may cause the
work to be done by the town, by proper ordinance, under the
direction of the mayor and the supervision of the commissioner
of streets.

(4) The contractor shall look alone to the town for pay-
ment for the work covered by such contract.

(5) The contractor shall receive payment for his services,
not to exceed the contract price, at such times and in such sums
as the council may by said contract prescribe; but ten per cen-
tum, at least, of the contract price shall be retained by the
council for ninety days after the completion of the work speci-
fied in the contract as additional security for the proper exe-
cution of the work. The contract may contain all such other
safeguards, limitations, provisions and conditions, as are usual
and as to the council may seem fair and right.

(6) The total cost of the disposal and incinerating plants,
including the acquisition and purchase of the ground, if any,
necessary therefor, as well as the acquisition and purchase of
any other real estate necessary to the work as a whole, shall be
borne by the town.

(7) The total cost of laying sewers in public squares,
and in squares formed by the intersection of streets and alleys,
shall be borne by the town.

(8) The total cost of all other work and material inci-
dental to the laying of such sewer or sewers in any town block
or blocks, and in the streets and alleys of the town not herein
made a special charge against the town, shall be borne and paid
by the abutting property owners on either side of such portion
of any avenue, street, road or alley so seweried in proportion of
such total cost as the frontage in front of their abutting land
bears to the total frontage of all the land so abutting on said
avenue, street, road or alley in which such sewer is to be con-
structed; except that corner lots shall be estimated on a basis
not exceeding one hundred and fifty feet in depth.

(9) When said sewer is completed, in whole or in part,
and connected up with the disposal plant, or other outlet, ready
for use, then, as to so much and such part or parts thereof as
have been so completed and connected up, the town engineer or
other person or persons having said work in charge, shall report
to the council in writing the total cost, together with a descrip-
tion of the lots and lands abutting thereon, their location,
frontage, depth and ownership, so far as ascertainable, with the
amount chargeable against each lot and owner thereof estimated on the basis above named. The council shall verify said report, and correct any errors that appear upon the face thereof, and give notice by publication once a week for two successive weeks in some newspaper of general circulation published in said town that, on a day named in said notice, an assessment under this act will be laid against abutting property and the owners thereof in the amounts and against the owners, respectively, appearing in said report, for the sewers constructed in the blocks, streets and alleys in the notice designated. Any owner or owners of abutting property shall have the right to appear before the council on or before the day fixed in said notice and move the review and revision of any such proposed assessment. The council shall have the power, in its discretion, to make any proper correction and adjustment of the proposed assessment complained of; provided, the application therefor be made within the time limited by said notice, but not, if made afterwards. At the expiration of the time fixed by said notice if no application for review or revision of any assessment be pending or, if pending, then upon the determination thereof, the council shall proceed to lay an assessment on the basis aforesaid against the lots and lands abutting on such sewer, and the respective owners thereof, and cause the same to be entered upon its records, together with a description thereof substantially as reported by said commissioner, and from the date of such entry the amounts so reported, laid and found, shall constitute an assessment against the lots and lands, and the owners thereof, and in the amounts therein named, respectively.

It is expressly provided, however, that in apportioning said cost the amount assessed against the abutting property owner shall in no case exceed a sum equal to a charge of one dollar and twenty cents per front foot for inside and one dollar and seventy-five cents per front foot (calculated to a depth of not exceeding one hundred and fifty feet) for corner lots.

A copy of the order making such assessment, certified by the town recorder, shall be filed for record with the clerk of the county court of Kanawha county, and be recorded and indexed by him in the proper deed-of-trust book, or judgment lien docket, in the name of each owner against whose property assessments appear therein.

Immediately upon the entry of such assessments the council
133 shall certify the same to the treasurer for collection, and from 
134 the time of filing the same for record in the office of the clerk 
135 of the county court such assessments shall be a lien against the 
136 lots and lands in respect to which the assessment was made. 
137 The amounts so assessed against said lots and lands and 
138 the owners thereof shall be payable in ten installments as fol- 
139 lows: One-tenth thereof within sixty days from the date the 
140 same is certified to the treasurer for collection; one-tenth thereof, 
141 with interest from date of entry, on the first day of May next 
142 ensuing; and one-tenth thereof, with interest from the date of 
143 entry, payable May first of each year, on the first of May in each 
144 year thereafter, until the whole thereof shall have been paid; 
145 provided, however, that any owner or owners so liable for any 
146 part of the costs of such sewers shall have the right at any time 
147 within sixty days after certification as aforesaid, to anticipate 
148 the payment of such installments, or any of them, and to dis- 
149 count the same for cash on the basis of two and one-half per 
150 cent. To each of said installments remaining unpaid at ma- 
151 turity, or to any part thereof, a penalty of five per cent shall be 
152 added, in addition to the interest, and payment thereof enforced 
153 in all respects as provided for the collection of other town levies; 
154 all of which charges, assessments and penalties shall be a lien 
155 upon the property liable therefor the same as other town levies 
156 and enforced in the same manner. The liens herein provided 
157 for shall have priority over all other liens, except for state and 
158 county levies, and shall be on a parity with other taxes and 
159 assessments made for the benefit of the town. Upon payment of 
160 any such assessment the treasurer shall deliver to the party 
161 making payment a release of the lien therefor substantially in 
162 the form and to the effect provided by the statutes of West Vir- 
163 ginia for the release of liens created by deeds of trust, judg- 
164 ments, or otherwise, which shall be admitted to record by the 
165 clerk of the county court in the same manner as other releases, 
166 should such assessment not be paid to the treasurer, or being 
167 paid to him not be turned over by him to the treasurer, and it 
168 be made to appear to the satisfaction of the council that the 
169 same has been actually paid to any person authorized to receive 
170 the same, the council may direct the mayor or recorder, or treas- 
171 urer or other person specially designated for the purpose, to exe- 
172 cute a release of the lien securing the same, and the recordation 
173 thereof shall release said lien.
(10) The owner or owners of any lot abutting upon any street in said town in which a public sewer is or may hereafter be laid and constructed, on which lot any business or residence building is or shall hereafter be erected, and which building is not otherwise lawfully connected with a public sewer, a part of the sewerage plan aforesaid, may be required and compelled by the council, or by the board of health of the town, to connect such building with such sewer. Notice to so connect shall be deemed sufficient if given to the owner, lessee, or occupant of such building. Each day's failure to comply with such notice, and to make such connection by such owner or owners, after the lapse of ten days from the day such notice is given, shall be a misdemeanor, and a separate and new offense under this act, and each such offender shall be punishable, on conviction by a fine of not less than five dollars nor more than twenty-five dollars. Jurisdiction to hear, try, determine and sentence for violations of this section is vested in the police court of said town. Notwithstanding anything herein, however, if said owner or owners shall fail to comply with such notice, the council may also, by ordinance, order such connection to be made at the expense of the owner, and the cost thereof to be certified to the clerk of the county court of Kanawha county for record, and the same shall constitute a lien upon the lots and lands of said owner or owners abutting on such sewer from the date of filing said certificate for record with the same force and effect and with the same penalties and remedies as in the case of the assessments hereinbefore provided for.

(11) Whenever the council deems it expedient to permanently pave or re-surface any street or alley, or any part thereof, of said town, not then served by a public sewer, and it is in the interest of economy that a sewer should first be laid therein, in anticipation of being later made a part of the general sewerage system hereinbefore mentioned, it shall have the power, and it is hereby authorized, to order the construction of such sewer and to assess against and collect of the abutting property owners the same proportion of the cost thereof, upon the same terms, with the same rights, remedies and penalties in all respects, as provided for the construction of the general sewerage system hereinbefore set forth; excepting, however, that the right to lay such assessments and to collect the same shall not be
dependent upon the connection of such sewer with the disposal plant, or outlet, as a matter precedent to the payment therefor. (12) The council of said town is also authorized and em-
powered to order and cause to be constructed in said town, or part within and part outside the limits of said town, any public sewer, either main or lateral, or both, by contract, or direct by the town, for the benefit of said town or any part thereof, and to purchase land or easement therein, or to condemn land and ease-
ment therein, in the manner provided in this act, for such sewer; and when the board shall order the construction of any such sewer or any part thereof in said town, the owners of the prop-
erty abutting thereon, or abutting upon an avenue, street, road or alley, in which such sewer shall be constructed, or abutting on any land or easement therein specially procured for the purpose of the construction of a sewer therein, may be charged with all or any part of the cost thereof, including the cost of such sewer at and across intersections at avenues, streets, roads and alleys adjacent thereto. If said work is let to contract, the provision of section fifty shall apply.

(13) When said sewer is completed in any block, or be-
tween two designated points, the council shall cause a report to be made in writing, setting out the total cost of such sewer and a description of the lots or land as to location, frontage and own-
ership liable therefor, including the cost of acquiring or taking land or easement therein for such purposes and cost of surveys, notices, etc., therefor, together with the amount chargeable against each lot or piece of land and the owner thereof. If any lot fronts on two streets, or on a street and a road, or on a street (or road) and alley, in which a sewer is constructed, it may be assessed on both said street, or street and road, or street and alley. Said council shall enter an order upon its records setting forth the location and owner or each lot or piece of land, and the amount of said sewer assessments there against, calculated in the same way as provided for street paving in section fifty herein. The entry of such order shall constitute and be an assessment for such proportionate amount so fixed therein against said respective lots and land and the owners thereof; and said board shall thereupon certify the same to the treasurer for col-
lection; and for the purpose of facilitating the collection of such assessments against the properties herein, the council may issue assessment certificates, with interest coupons attached thereto,
255 to be delivered to and charged against the town treasurer who
256 shall collect the same, and as such certificates and coupons are
257 paid he shall deliver the cancelled certificates to the party paying
258 the same; and the town recorder shall file a certified copy of said
259 order with the clerk of the county court of Kanawha county, who
260 shall record same in the proper trust deed book, and index the
261 same in the name of each owner of any lot or land thus charged
262 with said assessment, and the assessments so made shall con-
263 stitute and be a lien upon said lots or land, respectively, which
264 shall have priority over all other liens except for taxes due the
265 state and county, and shall be on a parity with other taxes and
266 assessments due the town.
267 (14) The amounts so assessed against said abutting lots
268 or land, and which shall be a lien there against, shall be collected
269 in the manner provided in this act for the collection of paving
270 liens. Said assessments shall be divided into five installments,
271 each for one-fifth of the amount thereof, and the first due and
272 payable in thirty days, the second in one year, and the third in
273 two years, the fourth in three years and the fifth in four years,
274 from the time of certifying the same to the treasurer except as
275 hereinafter provided in this section, all bearing interest at six
276 per centum per annum from such date, payable annually; and
277 the town council may issue sewer certificates thereon, as of said
278 date, as further evidence of said indebtedness and lien therefor,
279 and said certificates may be sold or negotiated, at not less than
280 par and without any kind of discount, to the contractors doing
281 such work, or other person if the board deem it expedient;
282 provided, the town in negotiating and selling such certificates
283 shall not be held as guarantor in any way liable for payment
284 thereof, except upon the direct action of the council as expressed
285 by resolution of record before such sale. But the owner of the
286 land or lot so assessed may at any time anticipate and pay such
287 assessment or certificate with interest thereon on the whole un-
288 paid amount till the time when the next certificate shall be-
289 come due. If such assessment shall not exceed fifteen dollars, it
290 shall be in one amount, due and payable thirty days from date;
291 if more than fifteen dollars and less than thirty dollars, then in
292 two installments of equal payments, due and payable in thirty
293 days and one year respectively, from date; and if more than
294 thirty dollars, then in five equal installments and payable as
295 first aforesaid.
Provided, the council may, if it so elects, order and cause the construction of any such sewer, and may acquire or take land or easement therein, either in or outside said town, or both, for said sewer purposes, and assess all or any part of the cost thereof upon and against the abutting, adjacent, contiguous and other lots or land especially benefited by the construction of such sewer, and said assessment shall be a lien upon such lots or lands, and a debt against the owners thereof for the amount so charged against them respectively, which debt may be collected as provided by law for the collection of other debts of like kind, and which lien may be enforced in the same manner as provided for the enforcement of paving liens in this act.

The council, when it decides to order the construction of the sewer under this plan, shall, before doing the same, fix, by ordinance or resolution, the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous, and other specially benefited land or lots so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed sewer, and the board may, in fixing such assessments, take into consideration the assessed value of the lots or land as fixed, for the last assessment year, for state and county purposes.

Sec. 56. It shall be lawful for said town of South Charleston to issue and sell its bonds, as provided in this act for the sale of other paving and sewer bonds, to pay the town’s part of the cost of the construction of said sewers and the paving or other permanent improvements of streets and alleys, as required by this act; and said town may levy taxes, in addition to all other taxes, authorized by law, to pay such bonds and interest thereon; provided, that the total indebtedness of the town for all purposes shall not exceed five per centum of the total value of all taxable property therein.

(a) It is especially provided that no bonds shall be issued under the provisions of this act, unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of said town, and shall have received three-fifths of all votes cast at said election for and against the same. The council of said town may provide by ordinance for submitting to the people at any regular election, or special election called for that purpose, the question of whether or not said town shall be author-
ized to issue bonds for the purpose specified in this act; but the or-
dinance relating to the issuance of said bonds, and the submission
of the same to the vote of the people, need not specify in detail the
location of the improvements contemplated to be paid out of said
aggregate issue authorized thereby; and if at such election the
people, by their vote thereon, shall authorize the issuance of said
bonds, said council may order the sale of same, as needed for said
improvements, dealing with all the requirements set forth in this
act; and notwithstanding the provisions of sections two, three and
six of chapter forty-seven-a of the code, it shall be sufficient de-
scription of the purpose for which said election is held for the
ordinance calling the same, or submitting said question to a
vote at any general election, if it shall recite that it authorizes the
council to issue bonds for the purpose of grading, paving, curbing,
sewering, or otherwise permanently improving the streets, roads
and alleys of said town, at such times as to the council shall seem fit
or expedient.

The provisions of chapter forty-seven-a of the code, concern-
ing bond elections, shall, so far as they are not in conflict with the
provisions of this chapter, apply to the bond election and special
bond election herein provided for.

Sec. 57. For the purpose of leasing, purchasing or erecting
owning, maintaining and operating a system of water works, elec-
tric or other lighting systems for the town and the inhabitants
and industries thereof, and the territory adjacent to the town of
South Charleston which the council may from time to time agree
to supply from the town water works or lighting system, as pro-
vided for in this or any other act of the legislature, said town of
South Charleston is hereby authorized to issue and sell its bonds,
which shall bear interest not to exceed six per cent per annum,
interest payable annually, by which to procure funds for such pur-
pose, and for said purpose the town may issue and sell its bonds to
an amount equal to two and one-half per centum on the taxable
property therein in addition to the aggregate of its debts for all
other purposes, and of every kind whatsoever; provided, that the
total indebtedness of said town for all purposes shall not exceed
five per centum of the total value of all taxable property therein.
But said town shall not make such issue and sale of bonds
without at the same time providing for the collection of a direct
annual tax sufficient to pay annually the interest on such debt
and the principal thereof within and not exceeding thirty years,
20 and for the purpose of aiding in the payment of any bonds issued
21 under the provisions of this act, to enable the town to lease, own,
22 operate and maintain a water works and electric light-
23 ing system, the council of the town are hereby authorized to lay a
24 levy of not exceeding ten cents on the one hundred dollars valu-
25 ation of all taxable property in the town, which said levy may be,
26 in addition to the aggregate of all other levies authorized by law;
27 and any revenue derived from said water works and electric light-
28 ing system over and above the expense of operating and maintain-
29 ing the same, shall be applied to the payment of the bonds issued
30 therefor.

Sec. 58. The cost of any improvement contemplated in this
2 act and for which assessments may be made, shall include the cost
3 and expenses of making the assessments, the expenses of the pre-
4 liminary and other surveys, and of printing and publishing all no-
5 tices required to be published and serving the notices on property
6 owners, and the cost of construction.
7
8 Proceedings with respect to improvements shall be liberally
9 construed by the council and the courts, to secure a speedy comple-
10 tion of the work at a reasonable cost and the speedy collection of the
11 assessments after the time has elapsed for their payments, and
12 merely immaterial objection in such cases shall be disregarded.

Sec. 59. In setting forth the lots and lands abutting upon
2 the improvements, it shall be sufficient to describe them as the lots
3 and lands bounding and abutting upon said improvement between
4 and including the termini of said improvement, or by the descrip-
5 tion by which they are described on the land books of the county
6 in which said lots are situate; and this rule of description shall
7 apply in all proceedings in which lots or lands are to be charged
8 with a special assessment.

Sec. 60. When work shall have been completed on any ave-
2 nue, street, road or alley, or part thereof, as provided in section fifty
3 or section fifty-one, or the construction of any sewer or other work
4 shall have been completed on any avenue, street, road or alley, or
5 part thereof, or elsewhere, as provided in section sixty-one, and said
6 assessments thereagainst shall have been calculated as provided in
7 this act, the council shall give notice, by publication at least once
8 a week for two successive weeks in two newspapers of opposite
9 politics, of general circulation, in said town, that an assessment
10 under this act is about to be made against the property so assessed
11 and the owners thereof, mentioning the kind of work and the
12 location thereof, and the owners of said property shall have a right
13 to appear before said council, either in person or by attorney or
14 agent, at any regular or special meeting called for that purpose.

Sidewalks and Shade Trees.

Sec. 61. The council is authorized and empowered to cause to
2 be put down a suitable curb of brick, stone or other material along
3 and for the footways and sidewalks of the avenues, streets, roads
4 or alleys of said town, and to order and cause the laying or re-lay-
5 ing or repair of sidewalks and gutters of such material and widths
6 as the council may determine, and the planting or re-planting of
7 and caring for shade trees along said avenues, streets, and roads
8 at such points and in such manner as the council may determine,
9 and to require the owners or occupiers of the land or lots or
10 parts of lots facing upon said avenues, streets, roads or alleys to
11 keep such side sidewalks clean and in good repair, and to grade
12 the plot of ground on either side of the sidewalk between the street
13 curb and the property line and keep the same sodded with grass
14 and free of weeds and obstructions, and otherwise in good condi-
15 tion and repair. The owners or occupiers of the land or lots abut-
16 ting upon such avenues, streets, roads or alleys shall not lay any
17 such sidewalk, curb or gutter, or plant any such shade trees, unless
18 specially required to do so by resolution adopted by said council,
19 and then only in the manner prescribed by said council, but said
20 town may lay such sidewalk, curb or gutter and plant or re-plant
21 and care for said shade trees, or may let said work to contract,
22 and in either case the total cost of said work, or such part thereof
23 as the council may direct, shall be charged upon and against the
24 land or lots abutting upon such avenue, street, road or alley, which
25 assessment shall be and remain a lien upon said land or lots the
26 same as taxes levied upon real estate in said town, which lien may
27 be enforced by a suit in equity before any court having jurisdic-
28 tion as other liens against real estate are enforced. The amount
29 so assessed against any land or lot shall also be a debt against the
30 owner of such land or lot, which may be collected as other debts
31 are collected, in any court having jurisdiction, and shall be due
32 and payable in ninety days from the completion and acceptance of
33 such work as certified to by the council, with six percent interest
34 thereon from the date of such record acceptance. And in ascen-
35 taining the amount to be assessed against any corner lot
for the cost of laying any such sidewalk and planting trees in
front or alongside thereof, the council may assess the total cost of
laying such sidewalk, and planting trees, in front or alongside
said lot and extended to the curb or gutter of the intersection of
the avenues, streets, roads or alleys at that point.

When such work is done by the town, and not to contract, the
council shall certify such assessments to the treasurer of the town
for collection, who shall account for the same as directed by the
council or by ordinance, and the treasurer shall accept payment,
when tendered, of the amount of said assessment with interest
to the date of payment, and unless said assessments shall have
been paid within ninety days from the date of such assessment,
then a copy of such report shall be certified by the town recorder
to the clerk of the county court of Kanawha county, who is hereby
required to record and index the same in the proper trust deed
book in the name of each person against whose property assess-
ments appears therein. If any such assessment shall not be paid
when due, the council shall cause to be enforced the payment of
said assessment and interest in all respects as herein provided for
the collection of taxes due the town; and said assessment shall be
a lien upon the property liable therefor, the same as taxes, which
lien may be enforced in the same manner as provided for the sale
of property for the non-payment of taxes and tax liens; and the
liens herein provided for shall have priority over all other liens
except those for taxes due the state and county, and shall be on
a parity with taxes and assessments due the town. When such
assessment shall have been paid in full, and a lien therefor shall
be of record in the county clerk's office, the treasurer shall execute
and deliver to the owner of said property a release of said lien,
which may be recorded in the office of the county clerk as other
releases of liens are recorded.

The council may, if it so elect, let said work to contract, and
certificates may be issued for the amount of said assessments
which may be sold to the contractor doing the work, or other per-
son in full of the total cost, in the same manner as provided for
paving certificates in section fifty-three herein; provided, the
town, in negotiating and selling such certificates, shall not be
held as guarantor or in any way liable for payment therefor, ex-
cept upon the direct action of the council as expressed by resolu-
tion of record before such sale. Said certificates, to be signed by
the mayor or town treasurer, or other person or persons designated
of record by the council, shall bear date as of the time when such
work is accepted and certified by the council, and shall be due and
payable in ninety days from date hereof, with six per cent interest.
When the council shall have received said work, it shall at the
same time make said assessments upon written report; and at the
end of ninety days from date thereof, upon the demand in writing filed with the town treasurer of the holder or holders of the
unpaid certificates issued to cover said assessments, said town
treasurer shall certify a copy of said report, only in so far as it re­lates to the owners against whom said exhibited certificates re­main unpaid, to the clerk of the county court of Kanawha county,
who shall record and index the same as other liens of like kind are
recorded and indexed, and the same shall be and remain a lien
upon the real estate against which said assessments are made, as
set out in said certified report and said lien may be enforced, in
the name of the holder of such certificate in the same manner as
set out in section fifty-three in this act.
Before letting such work to contract, the council shall adver­tise the same once a week for two consecutive weeks in two news­papers of opposite politics in the town of South Charleston, of
general circulation, setting out the time and place for receiving
proposals for such work and referring to the specifications made
therefor; and the town reserve the right, whether stated in such
notice or not, to refuse any and all bids for the work. On re­fusal of said papers to publish said notice at reasonable rates,
the council may, by resolution, direct how such notice may be
given. The fact that such contract shall be awarded for said
work shall be prima facie proof that said notice was given as
required herein. Such lien, as represented by certificate, may
be released of record in the office of the county clerk in the same
manner as paving liens, represented by certificate, are released
of record, as provided for in section sixty-two herein; and in no
event shall such assessment be and remain a lien in said certified
report so recorded in the office of the county clerk, unless at the
end of said one year period a suit shall be pending for the en­forcement of said lien, or the amount thereof shall, in some way,
be involved in a suit pending at the end of said one year period.
All such work, whether done by the town direct, or through
contractors, shall be under the supervision of the street depart­ment of the town or some person designated for that purpose by
the council.
If the owner or occupier of any such lot or land shall be re-
quired by the council to lay or re-lay, clean or repair any such
sidewalk, curb or gutter, or shall be required to grade the space
on either side of the sidewalk between the street curb and the
property line, and keep the same sodden and free from weeds or
obstruction, and otherwise in good condition and repair, written
or published notice shall be given to such owner or occupier in the
manner provided by ordinance or resolution adopted by the coun-
cil, and the neglect or refusal of such owner or occupier to do the
work, in the manner and within the time required by the council,
as set out or referred to in said notice, shall be an offense and
may be punished as provided by ordinance; and after the expira-
tion of the time set out in said notice for the doing of said
work, and the same remains undone, the council may do or cause
to be done, said work and assess and collect the cost thereof in the
manner, upon either plan, and to the full extent set out in this
section.

Release of Lines.

Sec. 62. In addition to the provisions for the release of
said assessment liens, either for street paving or other per-
manent street improvements, or construction of sewers, as else-
where set out in this act, on the presentation by the land
or lot owned of any of the certificates issued as aforesaid against
him or his predecessor in title to such lot, the clerk of the county
court shall mark upon the margin of the trust deed book at which
said certified report is recorded, that the lien is released to the
land or lot mentioned in such certificate to the extent of the
amount of the certificates thus exhibited; and the county recorder
shall thereupon write across the face of each of said certificates
the date of their production to him for the release of lien and
shall sign his name thereto in his official capacity for which he
shall receive in advance a fee of twenty-five cents for each certi-
ficate so marked, from the person demanding the release of the
lien aforesaid; but if more than one of the serial certificates
against the land or lot or lots shall be produced at the same time,
the fee of the county recorder shall not exceed twenty-five cents
for the release of the liens as to all of the certificates thus produced
and relating to the same real estate.

Provided, that the owner of any lot or land against which
any paving or sewer certificate is an unreleased lien of record shall make and produce to the county recorder an affidavit, or some person for such owner shall make and produce such affidavit, setting out therein that such certificate (or certificates) has been paid in full, and after diligent search, cannot be found, said county recorder shall, upon the payment of a fee of twenty-five cents, file and preserve said affidavit as a public document and shall forthwith note the release of said lien to the extent of said lost certificate (or certificates) and the lots or land against which it is a lien upon the margin of the trust deed book, as aforesaid, and noting therewith the filing of said affidavit; which shall operate as a release of such lien to the extent of such marginal notation. If the affidavit so filed be false, the person making oath and subscribing thereto shall be guilty of a felony, and upon conviction thereof shall be fined not to exceed five hundred dollars, or sentenced to be confined in the penitentiary for a term of not more than one year, or both, in the discretion of the court passing sentence.

Provided, further, that any paving or sewer lien, which may be created in consequence of the provision of this act, or any lien, which may have heretofore been created in consequence of an act of which this is an amendment, for an assessment, the last payment of which is not yet due, shall not, under any circumstances, be a lien against the lot or land or fractional part of the lot or land, against which it may have been assessed and made a lien, for a longer period than one year after the last assessment or certificate of the same date and group, representing such lien, shall have become due and payable, unless some suit or action, at the termination of said one year period, shall be pending for the enforcement of such lien, or unless the amount of the lien or some part thereof is in some way involved in a suit or action pending at the end of said one year period; and further, that no such paving or sewer lien heretofore placed to record in said county court clerk's office for an assessment, the last payment of which is past due, shall remain or be a lien against the real estate therein described for a longer period than one year from the time this act takes effect, unless a suit shall be pending at the end of each one year period for the enforcement of said lien, or the amount thereof shall in some way be involved in some action then pending.
All of the assessment certificates, which may be issued under the provisions of this act, shall be made payable at the office of the treasurer, who shall receive payments thereon when due if tendered to him, and interest thereon from the date of such payments shall cease. The treasurer shall keep a separate and special account of all said sums of money received by him, and he shall hold said money in trust for the person who thereafter delivers to the treasurer for cancellation any and all certificates on which said treasurer has received full payment as required; but the owner of said certificates shall not be entitled to interest on said sum after the date of payment thereof to the treasurer.

When the whole amount of any such assessment lien shall have been paid to the treasurer as aforesaid, or the treasurer shall be convinced that all of the paving or sewer certificates against any land, lot or fractional part of lot, shall have been paid in full, he shall, when demanded, execute a release of said lien in the manner hereinbefore provided for the release of paying liens.

Sec. 63. All existing ordinances of the town of South Charleston not inconsistent with this charter or applicable under the altered form of municipal government provided by this charter shall be and continue in full force and effect as ordinances of the town of South Charleston, until amended or repealed or until they expire by their own limitations; and no existing right, action (civil or penal), suit or proceedings, or contracts, shall be effected in the change of the form of government of the territory set out in section two of this act; but all shall continue as though no such change had taken place; and all debts, penalties and forfeitures which have accrued, or which may hereafter accrue by virtue of anything heretofore done or existing, shall inure to the benefit of the town and may be sued for and recovered by said town as though this charter had not been adopted. Nothing herein, however, shall legalize or make legal any invalid indebtedness of the town of South Charleston heretofore contracted or incurred or impair any defense against the payment of the same; nor shall the adoption of this charter in any wise interfere with any proceedings heretofore instituted relating to the levy and collection of taxes, special assessments, or levies of any nature, or with any proceedings to enforce the payment of the same, and all contracts heretofore entered into by the town of South Charleston...
23 to shall remain in full force and effect and be completed under 24 ordinances existing at the time of the adoption of this charter.

Sec. 64. All acts and parts of acts inconsistent herewith are 2 hereby repealed.

CHAPTER 2.

(House Bill No. 44—Mr. Neale.)

AN ACT to amend and re-enact chapter three of the acts of the legislature of one thousand nine hundred and nine, incorporating the city of Huntington, as amended by chapter seventy-three of the acts of the legislature of one thousand nine hundred and thirteen, and chapter seven of the acts of the legislature of one thousand nine hundred and fifteen, and to repeal certain sections of the said chapters of said acts, and to repeal all acts or parts of acts inconsistent with the provisions of this act, and to consolidate into one act the whole charter of the city of Huntington.

[Passed January 30, 1919. In effect from passage. Became a law without the Governor's approval.]

Sec.
1. City of Huntington.
2. Describing corporation limits.
4. Municipal authorities.
5. Corporate powers.
6. Board of commissioners; duties, powers, privileges.
7. Citizens' board.
8. President and vice-president of citizens' board.
9. City clerk, ex-officio clerk of the citizens' board.
10. Enter upon duties, when.
11. Vacancies on board; how filled.
12. Vacancy in office of president; how filled.
13. Approval of franchises by citizens' board.
14. Charges against members of board of commissioners.
15. Removal from office of commissioner.
17. Departments of city government.
18. Describing departments of city government.
19. Public offices to be maintained.
20. In case of tie vote; how decided.
21. Mayor; duties and powers.
22. Additional officers.
23. Qualification of voters.
24. Primary election for selection of candidates; method of holding same; registration of voters for.
25. Elections; date of and method.
27. Oaths of office.

Sec.
30. Official bonds.
31. Tenure of elective office.
32. Tenure of appointive office.
33. Salaries; how paid.
34. Salaries of assistants.
35. Special workmen and day laborers.
36. Duties of appointive officer.
37. Meetings of board of commissioners.
38. Special meetings.
39. Vote, how taken.
40. Minutes of the meetings.
41. Meetings of citizens' board.
42. Special meetings.
43. Attendance of witnesses; punishment for contempt.
44. Quorum.
45. Vacancies in office of commissioner; how filled.
46. Absence of officers.
47. Cannot hold any other office.
48. Appointive officers cannot hold other office.
49. Purchase of supplies.
50. Police judge; powers and duties of police judge.
51.
52.
53. Franchises; granting of; provisions relative thereto.
54.
55.
56.
57. Licenses; granting and revocation of same.
58. Declaring and abating nuisances.
59. Sewage connection may be required.
60. Sidewalks and shade trees.
61.
62.
63. Taxes, levies, assessments, ascen-
Be it enacted by the Legislature of West Virginia:

That chapter three of the acts of the legislature of West Virginia of one thousand nine hundred and nine, incorporating the city of Huntington, as amended by chapter seventy-three of the acts of the legislature of West Virginia of one thousand nine hundred and thirteen, and as amended by chapter seven of the acts of the legislature of West Virginia of one thousand nine hundred and fifteen, be amended and re-enacted, and that certain sections of the said chapters and acts be repealed, and that all acts and parts of acts inconsistent with the provisions of this act be repealed, and to incorporate and consolidate into one act a charter for said city of Huntington as constituted by this act to read as follows:

ARTICLE I.

The City of Huntington.

Section 1. That part of the county of Cabell included in the 2 limits hereafter mentioned in section two is hereby made a city 3 corporate and body politic by the name of "The City of Hunting-4 ton," and as such shall have perpetual succession and a common 5 seal, and by that name may sue and be sued, plead and be im-6 pleaded, and purchase, lease, sell and hold real and personal prop-7 erty necessary to the purposes of said corporation.

Sec. 2. The corporation territory limit of the city of Hunt-2 ington shall be as follows, to-wit:
3 Beginning at a stake at low water mark on the Ohio river 4 (southerly side thereof), about one-half mile above the mouth of 5 Four Pole Creek, and at the intersection of the easterly line of the 6 Williams land with said low water mark; thence easterly and up 7 the Ohio river, with low water mark thereof, to its intersection
8 with low water mark of the easterly side of the Guyandotte river;
9 thence southerly, with the low water mark of the Guyandotte river,
10 with the easterly side thereof, to a point directly opposite the
11 mouth of the Crump branch, a tributary of said Guyandotte
12 river on the westerly side thereof; thence westerly in a straight
13 line and crossing Guyandotte river to the mouth of said Crump
14 branch; thence southerly with the westerly line of the Isaac Cump
15 lands to what is known as the Military line; thence westerly with
16 said Military line to its intersection with the south-easterly cor-
17 poration line of the city of Huntington as heretofore constituted
18 by chapter one hundred and fifty of the acts of the legislature of
19 one thousand nine hundred and one, it also being the easterly line
20 of the lands of the Huntington Land Company (formerly the
21 Central Land Company of West Virginia); thence with said
22 corporation line (and likewise line of said land company), in a
23 south-westerly direction, crossing Four Pole creek, to the south-
24 east corner of the lands of said land company (and likewise the
25 south-east corner at said corporation boundary); thence following
26 the lines of said corporation line (and likewise the lines of said
27 land company), in a westerly and northerly direction, respectively,
28 to and crossing said Four Pole creek to the north bank thereof;
29 thence in a westerly direction and down Four Pole creek with
30 the north bank thereof, to the intersection of said creek with the
31 southerly line of the right of way of the Chesapeake and Ohio
32 Railway company; and continuing westerly with said southerly
33 line of said railway right of way to its intersection with the
34 easterly line of the Williams land; thence northerly with said
35 easterly line of said Williams land to the beginning, and the
36 corporate limits of the city of Huntington as defined and em-
37 braced within this act and charter shall be and remain unchanged
38 hereby and in exact accordance with the limits thereof prior to
39 the passage and at the time of the passage of this act.

Boundaries of Wards.

Sec. 3. The territory of said city shall be divided into seven
2 (7) wards; and such divisions shall be as follows:
3 First ward—To include the territory lying west of First street
4 east, projected southerly to the south corporation line.
5 Second ward—To include the territory lying east of First
6 street and west of Tenth street, and between the Ohio river and
7 the Chesapeake and Ohio right of way.
Third ward—To include the territory east of Tenth street and west of Seventeenth street, between the Ohio river and the Chesapeake and Ohio right of way.

Fourth ward—To include the territory east of Seventeenth street and west of Twenty-eighth street, between the Ohio river and the Chesapeake and Ohio right of way.

Fifth ward—To include the territory east of Twenty-eighth street between the Ohio river and Chesapeake and Ohio right of way to Guyandotte river, and that portion of the city of Huntington east of Guyandotte river.

Sixth ward—To include the territory east of First street and west of Sixteenth street between the Chesapeake and Ohio right of way and the south corporation line.

Seventh ward—To include the territory east of Sixteenth street to Guyandotte river, and between the Chesapeake and Ohio right of way and the south corporation line.

It is provided, however, that the board of commissioners hereafter provided for, after the expiration of three years from the time this act takes effect, may, by ordinance, fix the boundaries and increase the number of wards, but such ordinance shall not be effective until it is confirmed by the citizens' board by a majority of said board.

ARTICLE II.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Huntington shall be four commissioners and a mayor, who shall constitute a board of commissioners, and shall be known as the "Board of Commissioners of the City of Huntington."

Corporate Powers.

Sec. 5. All the corporate powers of said city shall be vested in and exercised by the board of commissioners, or under its authority, except as otherwise provided in this act.

Sec. 6. The board of commissioners of said city shall have and are hereby granted power to have said city surveyed; to open, vacate, broaden, change grade of, grade and pave streets, sidewalks and gutters, for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon and collect from the property benefited
8 thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city, and the traffic passing thereover; to change name of any street, the renumbering of houses on any street, avenue or road therein; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks and footways for public use in said city, to be done and kept clean and in good order by the owners of adjacent property; to enter into a contract with any internal improvement company for the joint ownership of any bridge by the city, and such company, upon such terms as may be prescribed in the contract, but such bridge shall be a public highway, and the interest of the company shall be only such proportionate part thereof as it may pay for; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit and punish by fine, the bringing into the city by steamboats, railroads, or other carriers, of paupers, or persons afflicted with contagious diseases; to control and suppress disorderly houses, houses of prostitution or ill fame, houses of assignation and gaming houses, or any part thereof, and to punish gaming; to prohibit within said city or within one mile thereof slaughter houses, soap, or glue factories and houses of like kind; to control the construction and repair of all houses, basements, walls, bridges, culverts and sewers, and to prescribe and enforce all reasonable regulations affecting the construction regulations of the same and to require permits to be obtained for such buildings and structures, and plans and specifications to be first submitted to a city architect or building inspector; to control the opening and construction of ditches, drains, sewers, cesspools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstruction therein, and to determine at whose expense the same shall be done; to build and maintain fire station houses, police stations, and police courts, and to regulate the management thereof; to acquire, lay off, appropriate and control public grounds, squares and parks, either within or
of commissioners determines that any real estate is necessary to be acquired by said city for any such purposes, or for any public purpose, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the extent and upon the same conditions as such power is conferred upon public corporations by chapter forty-two of the code of West Virginia, of the edition of one thousand nine hundred and six, and as now amended; to purchase, sell, lease or contract for and take care of all public buildings and structures and real estate, including libraries and hospitals, deemed proper for the use of said city; and for the protection of the public; to cause the removal of unsafe walls, or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances, and to that end and thereabout to summon witnesses and hear testimony; to regulate the keeping of gun powder and other combustible or dangerous articles; to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks, and all noises or performances, which may be dangerous, annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences; to make proper regulations for guarding against danger of damage from fires; to provide for the poor of the city, and to that end may contract with the proper authorities of Cabell county to keep and maintain the poor or any number thereof, upon terms to be agreed upon; to make suitable and proper regulations in regard to the use of the streets and alleys for street cars, railroad engines and cars, and to regulate the running and operation of the same as to prevent injury, inconvenience or annoyance to the public; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theaters, circuses, the exhibit of showmen and shows of any kind, and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions, and performances, and other things or business on which the states does or may exact a license tax, to organize and maintain fire companies and to
provide necessary apparatus, engines, and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals, and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business and for its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof, and other things, through the streets; to have the sole and exclusive right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which the state exacts a license tax; to establish and regulate markets and to prescribe the time for holding the same; and what shall be sold in such market, and to acquire and hold property for market purposes; to regulate the placing of signs, bill boards, posters and advertisements in, on or over the streets, alleys, sidewalks and public ground of said city; to preserve and protect the peace, order and safety and health of the city, and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium, and poisonous drugs; to appoint and fix the places of holding city elections; to erect, own, lease, authorize or prohibit the erection of gas works, telephone plants electric light works and water works, or ferry boats, in or near the city, and to operate the same, and sell the products and services thereof to the inhabitants and industries of the city, and the inhabitants and industries of the territory outside of the city, under such rules and regulations, and for such compensation as the board of commissioners may from time to time prescribe, and to do any and all things necessary and incidental to the conduct of such business, including the right in any franchise hereafter granted to fix and change the charges and prices for which the service or article of the person or company operating any such plant or works, or any other public utilities or public service corporation under such future franchise, may be held by their patrons or consumers; to build, hold, purchase, own and operate toll bridges; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of
inspecting the same and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruit, vegetables, or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city; where the milk and meat therefrom are offered for sale within said city; to prescribe and enforce ordinances and rules for the purposes of protecting the health, property, lives, decency, morality and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violation of such ordinances even if the offense under and against the same shall constitute offenses under the law of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of any payment of fines, penalties or costs under this act, who are otherwise unable or fail to discharge the same, by putting them to work for the benefit of the city upon the streets or other places provided by said city, and to use such means to prevent their escape while at work as the board of commissioners may deem expedient; and the board of commissioners may fix a reasonable rate per day as wages to be allowed such persons until the fine and costs against them are thereby discharged; to compel the attendance at public meetings of the members of the board of commissioners; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hundred and six. For all such purposes, except that of taxation, the board of commissioners shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city, excepting any other municipal corporation or part of any other state within said one mile limit; provided, however, that nothing herein contained shall be construed as limiting the city from going beyond its territorial limits to lease, purchase or erect, operate and maintain a water plant, or system, or any part thereof, or from furnishing and selling water to consumers outside the city.

Said city of Huntington, as constituted by this act, shall retain, keep and succeed to all rights, privileges, property, interest, claims and demands heretofore acquired by, vested in or transferred to the said city of Huntington, and said city of Central City, and the town of Gandyotte as heretofore constituted.
And the board of commissioners shall have the right to establish, construct and maintain landings, ferries, wharves and docks on any ground which does or shall belong to said city, or which it shall acquire, and to sell, lease, repair, alter, or remove any such landings, ferries, wharves, buildings, or docks which have been, or shall be so constructed, and to levy and collect reasonable duty on vessels, and other crafts coming to, or using said landings, ferries, wharves, docks and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used; and to have the sole right, under state laws and in the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits.

To the end that the city and its inhabitants and industries may be furnished with an adequate supply of water for all needful purposes, the said city is hereby authorized to acquire and hold by gift, purchase, condemnation, or otherwise, such real estate or interest therein or personal property either within or without the city limits, as may from time to time be necessary or convenient, for use in connection with such plants, works, structures, pipe lines or other property, in and about leasing, constructing, operating and maintaining a water works and system; which water works and system may also be used to supply water to the inhabitants and industries of such territory outside the city, as the board of commissioners may from time to time elect, for adequate compensation.

The water rates shall be fixed by the board of commissioners on the principle only of producing revenue, and discrimination in rates is prohibited in said city; and the city is hereby given the same power and authority to collect water rents by distress, levy and sale as are conferred upon it from the collection of taxes.

To carry into effect these enumerated powers, and all other powers conferred upon said city expressly or by implication in this and other acts of the legislature, the board of commissioners of said city shall have the power in the same manner herein prescribed, to adopt and enforce all needful orders, rules and ordinances not contrary to the laws and constitution of this state; and to prescribe, impose and enforce reasonable fines and penalties including imprisonment; and, with the consent of the county court of Cabell county entered on record, shall have the right to use the
Sec. 7. The city of Huntington shall have an additional board to be known and styled "Citizens Board of the City of Huntington," and shall be comprised of three persons from each ward of the city, who shall be voted for and elected by the voters of each ward respectively in the manner hereinafter prescribed. The members of said board shall be allowed the sum of five dollars each for his attendance at each meeting of said board.

Sec. 8. The citizens board shall, at its first meeting after a majority of the newly elected members thereof shall have qualified, elect one of its members president of the body, whose term of office shall be for three years, and at the same time shall elect a vice president, who shall have the same term of office and who, in the absence of the president, shall set as such.

Sec. 9. The city clerk shall be ex-officio clerk of the citizens board, and shall perform such duties pertaining thereto as the board may require of him.

Sec. 10. Whenever a majority of the newly elected members of the citizens board shall have qualified, they shall enter upon the duties of their offices, as a body, and supersede all the former members of said board.

Sec. 11. If any person elected to the citizens board fail to qualify as herein provided within sixty days after his said election, or shall after having qualified, resign from the board, or move from the city, his office shall be vacated, and the citizens board shall, by a majority vote of the members voting thereon, fill such vacancy for the unexpired term with some person from the same ward and of the same political party as the person whose vacancy of office is being filled.

Sec. 12. The citizens board shall, likewise by a majority vote of the members voting thereon, fill any vacancy in the office of president of its body by electing another member of the board to the office of president for the unexpired term.

Sec. 13. No franchise, or extension of franchise, shall be valid unless it shall have been ratified and approved by a majority of all the members elected to the citizens board, and the vote of said board shall be taken by roll call of the members and entered of record in the minutes of the meeting of said board.

Sec. 14. The citizens board shall have the right to hear, consider and act on charges against any member of the board of com-
3 missioners, and, after having heard proof of such charges, may re-
4 move such commissioner and declare his office vacant by two-thirds
5 vote of all the members elected on said board, and the vote thereon
6 shall be by roll call of the members and entered of record in the
7 minutes of the meeting. But before such commissioner shall be
8 put on trial on said charges, he shall have at least ten days’ written
9 notice of the nature of said charges, and the time and place of a
10 hearing of said charges, shall remove said commissioner from office,
11 thereby declaring a vacancy in his said office of commissioner, it
12 shall, through its president or otherwise, cause its action there-
13 about to be at once certified to the board of commissioners.

Sec. 15. No commissioner shall be removed from his office
2 except for one of the causes mentioned in section six of article four
3 of the constitution of West Virginia.

Sec. 16. The citizens board shall make proper rules for its
2 government not contrary or inconsistent with any of the provisions
3 of this act or the authority vested in the board of commissioners;
4 and it shall cause a record of its meetings and proceedings to be
5 kept and recorded by its clerk in a well bound book, which shall re-
6 main in the custody and at the office of the city clerk, open to
7 public inspection. The minutes of the meeting and proceedings of
8 said board, after recordation and when signed by its president,
9 shall be admitted as evidence in any court of record in this state.

ARTICLE III.

Department of City Government.

Sec. 17. The government of the city of Huntington shall be
2 divided into five (5) departments, to-wit:
3 Department of fire, police and law.
4 Department of finance and taxation.
5 Department of streets and sewers.
6 Department of health and charity.
7 Department of public utilities, wharf, public buildings and
8 grounds.

Sec. 18. The mayor shall be at the head of the department of
2 fire, police and law, and shall, at the first regular meeting of the
3 board of commissioners following their election and qualification,
4 designate himself as such, and each of the other commissioners at
5 the head of one of the said departments of government, and the said
6 commissioner thus assigned shall be styled commissioner of that
7 department, and the commissioner of finance and taxation shall be
8 the treasurer of the city of Huntington, and as such shall perform
9 all the duties pertaining to said office, and shall execute the bond
10 as provided for in section thirty-nine of this act, and shall be al-
11 lowed an assistant treasurer to be selected by him and confirmed by
12 the board of commissioners.

13 And the commissioners assigned to the department of streets
14 and sewers shall also discharge all the duties of street commissioner
15 and all other duties pertaining to said department, and shall be
16 allowed an assistant commissioner of streets, to be appointed by
17 him and confirmed by the board of commissioners.

18 And the commissioner at the head of the department of health
19 and charity shall perform the duties pertaining to said depart-
20 ment and may be allowed such assistants to be selected by him and
21 confirmed by the board of commissioners as may be deemed neces-
22 sary, and said commissioner shall be and act as the police judge of
23 said city and shall perform and discharge all the duties pertaining
24 to the office of police judge.

Sec. 19. The commissioner of each department shall keep a
2 public office at which he may be found or communicated with dur-
3 ing stated hours to be fixed by him for the convenience of the pub-
4 lic, unless his official duties call him elsewhere.

Sec. 20. If two or more persons for the office of commissioner,
2 or member of the citizens board, or for the office of mayor, receive
3 an equal number of votes at any election for the said office, they
4 shall decide by casting lots as to which of them shall be elected.

Sec. 21. The mayor shall have and exercise all the rights,
2 powers and duties of mayor conferred by the constitution and laws
3 of this state, and those conferred by the terms of this act. He shall
4 be presiding officer of the board of commissioners, and a mem-
5 ber thereof, and as such shall have the right to vote on all ap-
6 pointments made by the board of commissioners and on all ques-
7 tions arising before the board. He shall be chief executive officer of
8 the city and shall see that the laws and ordinances of the city and
9 resolutions and orders of the board of commissioners are enforced,
10 and that peace and good order of the city are preserved, and that
11 the persons and property therein are protected. He shall per-
12 form such other duties of the office of mayor or commissioner as
13 the board of commissioners may from time to time prescribe, and
14 shall also as head of the department of police, fire and law, appoint
15 the chief of police and the chief of fire department, and by the
advice and consent of the board of commissioners shall appoint all
members of the police force, but such members of said police force
shall be chosen from the lists provided by the civil service board
under the provisions of this act.

ARTICLE IV.

Additional Officers.

Sec. 22. In addition to the municipal authorities mentioned
in section four of this act, said city shall have a city clerk, trea-
surer, auditor, police judge, city attorney, chief of police, chief of
fire department, city engineer, city building inspector and health
officer, and such other officers and agents as the board of commis-
sioners from time to time may create and employ, but that no new
office shall be made or created by the board of commissioners with-
out the approval of the citizens board. The election of all ap-
pointive officers named or provided for in this section shall be
vested in the board of commissioners, except as otherwise provided
by the provisions of this act.

ARTICLE V.

Qualification of Voters.

Sec. 23. Every person qualified by law to vote for members
of the legislature of the state, and who shall have been a resident of
the city for sixty days, preceding the day of election, and a bona
fide resident of the election precinct in which he offers to vote,
shall be entitled to vote at all elections held in said city by or
under the corporate authorities thereof.

Sec. 24. Candidates to be voted for at any municipal or gen-
eral election for mayor or members of the board of commissioners,
or members of the citizens board, shall be nominated by a primary
election held upon the fourth Monday in April preceding said
election, in the manner hereinafter prescribed; provided, however,
that where said candidates are to be nominated other than by
political party, in that case the nomination may be made by peti-
tion in accordance with the statute law of the state of West Vir-
ginia; and provided further that no political party shall nominate
more than one candidate for the office of board of commissioners
from the same ward, and if two or more candidates of the same
political party, and of the same ward, shall receive a greater num-
ber of votes than candidates of other wards for the same office, 
then the candidate receiving the highest number of votes of said 
ward shall be nominated, and the vote received by the other can-
didates of the same ward shall be disregarded. And should a va-
cancy occur upon any ticket for any office after the nominations 
have been made, the city clerk shall forthwith notify the chair-
man of the city committee of the political party to which such 
candidate belonged and the said committee shall fill the vacancy 
and certify the same to the city clerk. The nominations for officers 
shall be made by a primary election held under the direction of 
the city, which shall be known as a general primary election, and 
all the candidates for office, of whatsoever political party, shall be 
nominated therein. The expense of such primary shall be paid by 
the city out of the contingent fund, and such precincts shall be 
maintained and kept open on the election day as will give the peo-
ple of the city a fair opportunity to vote. The officers for both 
primary elections and general election held under this act after 
the election of May twenty-sixth, one thousand nine hundred and 
nineteen, shall be selected from the two political parties which cast 
the highest number of votes in the next preceding election, and the 
majority of such election officers shall be so selected from such 
political party as elected the mayor of said city at such preceding 
election. Provided, however, that any political party which may 
have a candidate upon the ballot shall be entitled to have in each 
precinct a challenger, who shall have the right to remain in said 
precinct until the ballots are counted and the returns certified. 
The election officers for all elections held under this act shall con-
sist of the same number of commissioners and clerks as are re-
quired by the state election laws, but no city official or employee 
shall be appointed or serve as an election officer. The returns from 
all primary elections shall be certified by the election officers hold-
ing same to the city clerk, and after the election of May twenty-
sixth, one thousand nine hundred and nineteen, same shall be can-
vassed by the citizens board, as a canvassing board, and the result 
ascertained and declared within three days after such primary 
election, and said board shall certify forthwith after such canvass 
the names of the successful candidates of all the political parties 
to the city clerk, whose duty it shall be, in conjunction with two 
ballot commissioners of opposite political parties, appointed by 
the citizens board, to make up and have printed, in accordance 
with the statute of the state, the ballot for the general city elec-
tion, and immediately upon receiving the certification of the result of said primary the clerk of the city shall forthwith publish the same in two newspapers of general circulation in said city of Huntington, said publication to be made each day for ten days at least preceding said election. All primary elections shall be opened and closed, and in every particular conducted in accordance with the law of the state applicable to primary and general elections, except as herein provided. And person desiring to become a candidate in any primary for the office of mayor, commissioner, or member of the citizens board, shall file with the clerk of the said city a written request that his name be placed upon the primary ballot for the office for which he is a candidate, which request shall give the full name of the party so desiring to become a candidate, and his address and the political party to which he belongs, and the office for which he is a candidate.

At least twenty-five (25) days prior to the time set for any primary election held after the twenty-sixth day of May, one thousand nine hundred and nineteen, the said citizens board, known as the election board, shall appoint two ballot commissioners of opposite political parties who, with the city clerk, who shall be chairman of the said primary election ballot commission, shall twenty days before said primary meet and make up the said ticket to be voted in the said primary, and who shall be governed in all particulars with respect to the said primary election as are ballot commissioners for general elections in this state, and when so made by the said primary ballot commission the ticket shall be published at least two weeks before said primary election in two newspapers with general circulation of opposite politics in said city of Huntington; and the said city clerk, as chairman of said ballot commission, shall have the necessary ballots prepared and necessary books in which returns from various precincts may be kept, made, and shall turn over same to the commissioner of said primary election in the same manner as required by the county clerk in general elections; and the number of ballots delivered at each polling place shall be equal to twice the number of votes cast in the precinct at the last general election in said city. Persons who are qualified to vote at the general city election shall be qualified to vote at the said primary election, and no person shall be permitted or allowed to vote in any primary or general election held under this charter unless he has been registered as hereinafter provided.

For the purpose of the primary election to be held under this
act on the twenty-eighth day of April, one thousand nine hundred
and nineteen, and the general election to be held hereunder on the
twenty-six day of May, one thousand nine hundred and nineteen,
all persons shall be taken as duly qualified voters in the registra-
tion lists of voters of the various voting precincts of the said city
of Huntington used as such registration lists in the general elec-
tion held under the laws of the state of West Virginia on Tuesday,
November fifth, one thousand nine hundred and eighteen, and
now of record in the office of the clerk of the county court of said
Cabell county.

It shall be the duty of the clerk of the said city of Hunting-
ton to procure from the clerk of the county court of said Cabell
county, two (2) duly certified copies of such registration lists of
voters as used in the general election held November fifth, one
thousand nine hundred and eighteen, for each voting precinct in
said city of Huntington, and he shall so procure same and furnish
one copy thereof to each of the respective registrars for such pre-
cincts to be used by them in making up the registration lists of
voters for the said city elections as hereinafter prescribed, the
costs of procuring which shall be paid by the said city.

The registrars appointed as provided for in this act shall, im-
mediately upon their appointment as such, appear before the clerk
of the said city of Huntington and qualify and take the oath in
the manner and form prescribed by the election laws of the state
of West Virginia before acting as such, and the said registrars
shall sit at the respective voting places in the two precincts for
which they were so appointed registrars on the sixteenth and
seventeenth days of April, one thousand nine hundred and nine-
teen, for the purpose of registering all qualified voters of such
precincts whose names do not appear in the registration lists used
in the general election of November fifth, one thousand nine hun-
dred and eighteen, and to add the names of such qualified voters
to such lists and to amend and correct the said registration lists
for use in the primary election to be held under this act on the
twenty-eighth day of April, one thousand nine hundred and nine-
teen, and the said registrars shall in like manner sit at such re-
spective voting place in said precincts for which they were so ap-
pointed on the fifteenth and sixteenth days of May, one thousand
nine hundred and nineteen, for the purpose of in like manner pre-
paring, adding thereto, amending and correcting the registration
lists of qualified voters for use in the election to be held under
The said registrars shall be vested with all the powers and shall perform all the duties required of registrars in elections held in said state of West Virginia by the general election laws thereof. The said registrars shall immediately after such sittings, as hereinafter prescribed, return such registration lists to the clerk of said city of Huntington, who shall preserve the same and shall furnish such respective lists to the officers holding said primary election of April twenty-eighth, one thousand nine hundred and nineteen and such general election of May twenty-sixth, one thousand nine hundred and nineteen, and as the legal registration lists for such elections, and all whose names appear upon such registration lists shall be taken to be legally qualified voters at such elections and entitled to vote thereat, and no one whose name is not on such lists shall be permitted to vote in such elections.

The said registrars shall receive for their services as such the sum of five dollars per day each and ten cents each for the name of every additional voter registered, to be paid by the city of Huntington.

For all elections, primary and general, held under this act, after the election of May twenty-sixth, one thousand nine hundred and nineteen, the said primary and general elections shall be held under the general election laws of the state of West Virginia, as far as applicable hereto, and the registration of voters for such elections shall be had and proceeded with as prescribed by the general election laws of the state of West Virginia for the registration of voters for such state elections.

The citizens board shall appoint the registrars to prepare the registration lists of legal voters prescribed by this act at least thirty (30) days prior to any election, primary or general, to be held hereunder.

The officers of all primary elections shall take the same oath
175 that is prescribed to be taken by the state law of the state of
176 West Virginia by officers of an election in a general election, and
177 in the same manner, and any commissioner or election clerk ap-
178 pointed as aforesaid by the said election board, who shall willfully
179 or negligently fail to perform the duties required of him under
180 this act, shall be guilty of a misdemeanor and on conviction there-
181 of shall be fined not less than twenty-five nor more than one hun-
182 dred dollars.

183 The names of the said candidates in all primary elections
184 shall be arranged alphabetically, or in the manner provided by the
185 state law, upon the said ballot under a heading which shall design-
186 nate the politics of the said candidates, and each ticket shall be
187 upon a separate ballot.

188 The method of voting in all elections, primary and general,
189 shall be the same as is prescribed by statute laws of the state of
190 West Virginia for such primary and general elections.

191 The election commissioners, when the polls have been closed,
192 shall certify the returns as are the returns in a general election
193 certified, and deliver the ballot boxes containing the election
194 records and ballots to the clerk of the said city upon the evening
195 of the day the said primary shall be held, and said clerk shall be
196 custodian thereof until such returns have been canvassed by the
197 citizens board, known as the election board.

198 All the provisions of the state law governing general elections
199 with regard to illegal voting or any corrupt practice in connection
200 with any primary election held under this act are made applicable
201 thereto, and the said commissioners of the said primaries are
202 given all the powers given to the commissioners of election by the
203 general laws of the state of West Virginia, and no policeman or
204 member of the fire department shall take part therein, or in any
205 general elections, except to vote, and if such policeman or member
206 of the fire department shall take part in any election held under
207 this act, either for or against any candidate, he shall forfeit his
208 office or position, and upon complaint to the mayor of said city of
209 any citizen that any such policeman or member of fire department
210 has taken any part in any such election, except to vote, he shall
211 suspend such policeman or member of fire department, without
212 pay, until a hearing shall be had on such complaint. All such
213 complaints shall be in writing setting forth the particulars in
214 which such person or persons has violated this provision, signed
215 and sworn to by the party making same and filed with the mayor,
and it shall be the duty of the mayor upon the filing of said com-
plaint with him to suspend, without pay, the person or persons
named in the complaint, and thereupon the board of commis-
ers shall hear and determine the charge made. The suspended em-
ployee or appointee shall have at least ten days' notice of the time
and place set for hearing of said complaint, and a copy of said
complaint shall be served upon the person accused at the time
notice is served, and if upon the hearing of such complaint said po-
liceman or member of the fire department is found guilty thereof,
he shall be immediately discharged by the said board and he shall
be ineligible to reappointment to said place, office or employment.

For the purpose of holding the first general primary elec-
tion and general election under this act a special election board
is hereby created, consisting of six persons, three republicans and
three democrats, viz: W. F. Kahler, Erskine McClain and T. C.
Preston, republicans, and William Arnett, James Murphy and
F. F. McCullough, democrats, and it shall be the duty of said
special election board, or a majority thereof, to meet at least
twenty-five days prior to the time set for the holding of said
primary election of April twenty-eighth, one thousand nine
hundred and nineteen, and appoint two registrars for each voting
precinct in the said city of Huntington, who shall be of opposite
politics and appoint two ballot commissioners of opposite
political parties who with the city clerk, shall constitute a ballot
commission as required by this act and the laws of the state for
the purpose of preparing ballots for a general election in this
state. And it shall be the duty of said special election board to
appoint the ballot commissioners and registrars and the election
officers to hold the first general primary and the first general
election under this act, and they shall be governed in making
said appointments by the provisions of this act and the general
laws of the state, and the election officers so appointed shall be
vested with all powers and perform all duties devolving upon
like election officers appointed under the general election laws
of the state of West Virginia for its elections, and the dominant
party shall have the majority of the election officers at each
precinct for the election to be held by the special election board
hereby created, and the dominant party shall be held to be the
party which elected the mayor at the last city election. And
the said special election board so created for the purpose of hold-
ing and conducting the said primary election of April twenty-
256 eighth, one thousand nine hundred and nineteen, and the gen-
257 eral election of May twenty-sixth, one thousand nine hundred
258 and nineteen, shall, in respect to said two elections, be vested
259 with all the powers vested in and devolving upon the county
260 court of said Cabell county with respect to elections held, both
261 primary and general, under the laws of the state of West Vir-
262 ginia, insofar as such duties and powers are not in conflict with
263 other provisions of this act.

264 In all elections, both primary and general, held for the city
265 of Huntington under the provisions of this act, after the elec-
266 tion of May twenty-sixth, one thousand nine hundred and nine-
267 teen, the citizens board of the said city of Huntington shall be
268 vested with all the powers and perform all the duties vested in
269 and devolving upon the county court of Cabell county under
270 the general election laws of the state of West Virginia with re-
271 spect to state elections, and in appointing the election officers for
272 any city election the dominant party shall be entitled to a
273 majority representation on the election boards at each precinct
274 in said city, and the dominant party shall be held to be
275 the party that elected its mayor of the city at the next preced-
276 ing election, and the clerk of the said city of Huntington in all
277 elections of said city held under the provisions of this act shall
278 be vested with all the powers and perform all the duties vested in
279 and devolving upon the clerk of the county court of the said
280 Cabell county under the said election laws of said state of West
281 Virginia.

ARTICLE VI.

Election of Officers.

Sec. 25. On the fourth Monday in May, one thousand nine
2 hundred and nineteen, there shall be elected by the qualified voters
3 of the city, a mayor and two commissioners, who shall hold their
4 offices from the time of their qualification on and from the second
5 Monday in June, then succeeding, for the term of three years
6 and until their successors are elected and a majority thereof shall
7 qualify, and the two commissioners, Mat Miser and L. D. New-
8 man, who are now holding the office of commissioner under the
9 present laws governing said city by election by the people shall re-
10 main in office until the expiration of the term for which they
were elected and until their successors shall be chosen in the manner herein provided. When the terms of office of the said two present commissioners shall expire or if the term of either or both of them shall be otherwise sooner terminated, their successors shall be chosen in the same manner as provided in the act for the filling of vacancies in the office of commissioner, and on the fourth Monday in May, one thousand nine hundred and twenty-two, and on the same day in every third year thereafter, there shall be elected by the qualified voters of the city, a mayor and four commissioners who shall hold their offices from the time of their qualification on and from the second Monday in June, then next succeeding, for the term of three years and until their successors are elected and a majority of them shall qualify. Provided, however, that if this act is not in effect a sufficient time to make the registration of voters and hold the primary election for the first election, herein provided, then the said primary election for the first election hereunder shall be held on the second Monday in August, one thousand nine hundred and nineteen, and the general election hereunder shall be held on the second Monday in September, one thousand nine hundred and nineteen, and all the provisions of this act relating to the registration of voters, appointment of ballot commissioners, appointment of election officers, the holding of said election, canvassing of returns of said election, for said first election shall apply to such primary and general election. And all persons elected to office at such first election shall hold their office until the next general election as in this act provided, and until their successors are elected and qualified. In the event that said first election shall be held on the second Monday in September, one thousand nine hundred and nineteen, the commissioners of Huntington as now constituted and the citizens' board shall hold their offices, respectively, until the election and the qualification of a majority of the commissioners and a majority of the citizens' board under said first election.

Sec. 26. At the election at which the mayor and commissioners shall be elected there shall also be elected by the qualified voters of each ward of the city of Huntington three members of the citizens' board from each ward, who shall at the time be residents of the ward from which they are elected, and who shall hold their offices from the time of their qualification on and from the second Monday of the next succeeding June for the term of three years and until their successors are elected and a majority thereof
9 shall have qualified, and the term of office of the present members
10 of the citizens' board shall cease and determine on the second
11 Monday in June, one thousand nine hundred and nineteen, and
12 they shall be superseded by the persons elected to said board at
13 said election. A majority of said citizens' board shall constitute
14 a quorum for the transaction of business. The city clerk shall
15 be ex-officio clerk of the citizens' board and shall perform all
16 duties pertaining thereto required of him and he shall keep in
17 a well-bound book, to be part of the city records, a full and com-
18 plete record of all acts and proceedings of said citizens' board
19 and of all orders made by it.

Sec. 26-a. No person shall be eligible to the office of mayor,
2 commissioner or members of the citizens' board except they be a
3 citizen entitled to vote at the election at which commissioners are
4 elected.

Sec. 27. All elections, of whatsoever kind, held under this
2 act shall be conducted, returned and the results thereof ascer-
3 tained and declared in the manner prescribed by the laws of the
4 state insofar as they are not in conflict or inconsistent with the
5 provisions of this act, and all penalties and fines of any sort
6 whatsoever prescribed by the laws of the state relating to elections
7 shall be applicable to all elections held hereunder. Election
8 officers for the general elections in the city of Huntington shall be
9 selected as follows: The citizens' board, as hereinafter provided,
10 shall be and be known as the election board, and the president of
11 the citizens' board shall be the chairman thereof; said board shall
12 have the sole power to appoint registrars, ballot commissioners
13 and all the election officers for all elections to be held under this
14 charter, except the primary election of April twenty-eight, one
15 thousand nine hundred and nineteen, and the general election of
16 May twenty-six, one thousand nine hundred and nineteen, other-
17 wise provided for herein. Such registrars, ballot commissioners
18 and election officers, commissioners and clerks shall be by the said
19 board appointed in accordance with the general laws in this state,
20 except that any political party which has candidates upon the
21 ballot shall be entitled to have a challenger within the precinct
22 present at the holding of the said election, and at the counting of
23 the ballots, until the same are sealed for delivery to the clerk
24 of the city by such election commissioners. The commissioners
25 and other election officers may be selected upon the recommenda-
tion of the committees from the various parties, but the said election board shall have the right in all respects to use their judgment with regard to the appointment of such election officers, and may refuse to appoint any person as election officer who, in the opinion of the board, should not be appointed.

The said election board shall canvass the returns of all primary elections and general elections and ascertain and declare the results thereof in the manner provided by the election laws of the state, and shall have and exercise all the powers and duties in relation to the appointment of election officers, registrars and ballot commissioners and canvassing returns of an election imposed on the county court of a county by the state election laws.

Contested Election.

Sec. 28. All contested elections shall be heard and decided by the board of commissioners for the time being, and the contest shall be made and conducted in the same manner as provided for in such contests for county and district offices; and the board of commissioners shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

Oaths of Officers.

Sec. 29. All officers elective, and appointive, shall make oath before some one authorized to administer oaths, that they will support the constitution of this state, and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not administer their respective offices with the aim to benefit any political party; and, in the case of commissioners, they shall add in their oath that they will not during their term of office become pecuniarily interested directly, in any contract with the city, or the purchase of any supplies therefor. When the officer shall have made such oath in writing and filed the same with the city clerk, and shall have given bond required of and accepted from him, he shall be considered as having qualified for the office to which he was elected or appointed; provided, that if any person elected to the office of commissioner shall not qualify for said office as herein prescribed within ten days after he shall have been officially do-
clared elected thereto, said office shall _ipso facto_ become vacant, and said vacancy shall be filled in the manner provided for in this act.

Sec. 30. Each member of the board of commissioners, and the city clerk, treasurer, auditor, city attorney, city physician, superintendent of water works, and collector of water rents, chief of police, chief of fire department, shall, before entering upon the discharge of their duties, give an official bond, conditioned for the faithful performance of their respective duties as prescribed in this act or any ordinance now or hereafter passed, in amounts as follows: Each commissioner, five thousand dollars; the treasurer, sixty thousand dollars; superintendent of water works, five thousand dollars; the collector of water rents, twenty thousand dollars; the auditor, two thousand dollars; the city clerk, chief of police and the chief of fire department, each one thousand dollars. The board of commissioners may require additional bond from any of said appointive officers, and may likewise require a bond in whatever sum they may fix, of any other appointive officer. All bonds of appointive officers shall before their acceptance, be approved by the board of commissioners; and the bond of the commissioners shall be approved by the retiring board of commissioners (common council in the first instance.) All other bonds of whatsoever kind shall not be accepted until first approved by the board of commissioners. The minutes of the meeting of the board shall show all matters touching the consideration or approval of all bonds, and when said bonds are approved and accepted they shall be recorded by the city clerk in a well-bound book kept by him at his office for that purpose, which book shall be open to public inspection; and the recordation of such bonds are as aforesaid, shall be _prima facie_ proof of their correctness, and they, as so recorded, shall be admitted as evidence in all the courts of this state. The city clerk shall be the custodian of all bonds, except those given by him, and as to them the city treasurer shall be custodian.

All bonds, obligations or other writing taken in pursuance of any provisions of this act shall be made payable to "The City of Huntington," and the respective persons, and their heirs, executors, administrators and assigns bound thereby, shall be subjected to the same proceedings on said bonds, obligations and other writings, or enforcing the conditions of the terms hereof, by motion or otherwise, before any court of record held in and for
the county of Cabell, that collectors of county levies and other
sureties are or shall be subject to on their bonds for enforcing the
payment of the county levies.

Sec. 31. The term of office of the mayor, the members of the
board of commissioners, and the members of the citizens' board,
shall be for three years commencing on the second Monday in
June next after the general election and ending on the Sunday
next preceding the second Monday of June in the third year
thereafter, or until their successors are elected and qualified.

Sec. 32. All appointive officers (except those under civil
service) shall hold for the term of three years (unless sooner re-
moved by and at the pleasure of the board of commissioners),
and until their successors are appointed and qualified.

Sec. 33. The salary of the mayor shall be $3,600 per annum,
and his salary may be increased by the citizens' board, if said
board should deem it advisable, to a sum not exceeding $4,200,
and the salary of the members of the board of commissioners shall
be $3,000 per annum, which may be increased by the citizens'
board to any sum not exceeding $3,600 each. All salaries to
officers and city employees shall be paid by city vouchers payable
to the order of such officer or employee. Provided, however, that
the board of commissioners shall make all appointments of ap-
pointive officers required of them to be made under this act on or
before the first day of July next following their election and
qualification, and if the said board shall fail to make such appoint-
ment in the time aforesaid their salaries shall cease until such
appointments are made; and the mayor, city clerk and treasurer
shall take official notice of such failure to fill said appointive
offices and shall not issue any order for nor otherwise pay to the
commissioners their salary for the period of their failure to
make said appointment.

Sec. 34. The board of commissioners shall fix the salary of
all assistants to the heads of departments, and all appointive
officers, except that of the city auditor; the city auditor shall be
appointed by the citizens' board and he shall hold office at the
pleasure of said board, and said board shall also fix his salary
which shall be paid by the city.

Sec. 35. Laborers by the day and those doing special work
may be paid by the board of commissioners without fixing the
price therefor by ordinance.
Duties of Appointive Officers.

Sec. 36. The duties in addition to those prescribed herein, of all appointive officers named or authorized in this act shall be prescribed by the board of commissioners.

ARTICLE VII.

Meetings of Board of Commissioners.

Sec. 37. The board of commissioners shall meet at some place provided for that purpose at least once each week, on a stated day and at an hour fixed by ordinance or rules governing the board.

Sec. 38. Special meetings of the board may be called by the mayor or any two members of the board by personal notice given to the other members thereof, and like notice to the public through and by at least one publication in two daily newspapers of the city of opposite politics, stating the time and object of the meeting; and no business, except that stated in said notice, shall be considered or acted upon at said meeting. All meetings of the board shall be open to the public.

How Vote Taken.

Sec. 39. The vote upon any question or motion before the board of commissioners may be viva voce when unanimous; but if the question or motion does not receive the unanimous vote of the members present, then the vote shall be taken by roll call of the members and made a part of the minutes of the meeting; and when the vote is unanimous the minutes shall so state.

Minutes of the Meetings.

Sec. 40. The city clerk shall be ex-officio clerk of the board of commissioners. Said board shall cause detailed minutes of its meetings and proceedings to be kept by the city in a well-bound book for that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection. The minutes of every regular or special meeting shall be read publicly at the next regular meeting of the board, and, after being corrected, shall be signed by the mayor and city clerk, and, if thus recorded
9 and signed, they shall be admitted as evidence in any court of record in this state.

Meetings of the Citizens' Board.

Sec. 41. The citizens' board shall meet on the first Monday of each month at an hour and at the place to be fixed by it by the rules governing its body.

Sec. 42. Special meetings of the citizens' board may be called by its president, or any ten members thereof, or by the board of commissioners, or by the mayor, by notice published in two daily newspapers of the city of opposite politics, for three successive days, stating the time and object of the meeting. The holding of a special meeting of the citizens' board shall be prima facie evidence that the said notice required therefor was given as prescribed in this section.

Attendance of Witnesses, Punishing Contempts, etc.

Sec. 43. The board of commissioners and the citizens' board in the exercise of their respective powers and the performance of their respective duties, as prescribed by this act and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties as notaries public, justices of the peace and other officers of the state authorized to administer oaths under state laws, and said board of commissioners and said citizens' board shall have such power to punish for contempt as is conferred on county courts by section thirteen of chapter thirty-one of the code. All process necessary to enforce the powers conferred by this act on the board of commissioners and citizens' board shall be signed by the mayor (or acting mayor) and the president of the citizens' board, respectively, and shall be executed by any member of the police force.

Quorum.

Sec. 44. A majority of the members of the board of commissioners and a majority of the members of the citizens' board shall be necessary for the transaction of business before said respective boards.
Sec. 45. If there shall occur at any time a vacancy in the office of mayor, or in the office of commissioner, the citizens' board shall have the right and power to fill such vacancy by appointment in the manner hereinafter provided, and for that purpose said citizens' board shall immediately convene and fill such vacancies for the unexpired term, but the person or persons so appointed to fill such vacancies shall be of the same political party as the mayor or commissioner whose office was vacated and is being filled. Provided, however, that the members of the same political party on the citizens' board that the mayor or commissioner was a member of at the time the vacancy occurred shall have the right to select the person to be appointed to such vacancy, and the citizens' board shall appoint the person so recommended and selected. The person so appointed shall take and subscribe to the oath of office required by this charter, and execute any bond that may be required by law.

Absence of Officers.

Sec. 46. When any member of the board of commissioners or any appointive officer of the city shall from sickness or other causes be unable, for a short space of time, to attend to the duties of his office, the board of commissioners, in case of the absence of a commissioner, may designate another commissioner to attend to the duties of such absent commissioner in addition to the duties already devolving upon him in the capacity of commissioner; and, in case of the absence of any appointive officer, the board may appoint some other officer of the city or other person to perform the duties of such officer, during his absence, either with or without the salary, in whole or in part, of such absent officer.

Cannot Hold Any Other Office.

Sec. 47. The members of the board of commissioners cannot hold any other city office, except as prescribed in this act, nor be an employee of the city in any other capacity with a compensation, nor hold any other office or position, with or without compensation, which may interfere with the faithful discharge of their duties as commissioner.
Sec. 48. No appointive officer of the city shall hold two official offices with the city at the same time, nor shall become the employee of the city in any other capacity, without first having the consent of the board of commissioners.

Purchasing Supplies.

Sec. 49. The board of commissioners shall purchase all the supplies for the departments of the city government at the lowest price possible considering the quality and grade of the supplies desired. And, when practicable, the board shall advertise by reasonable notice in at least two daily newspapers of opposite politics, for bids on supplies to be furnished, and shall award contract therein (unless all bids are rejected) to the lowest bidder taking from such bidder a written contract and bond therein, to be approved by the board, for the faithful performance of said contract. Provided, however, that no supplies shall be purchased until the auditor has made requisition for same, which shall also be approved by the mayor.

ARTICLE VIII.

Sec. 50. All persons elected or appointed to the offices named in this act shall be conservators of the peace within said city, and they, and any other officer provided for under this act, may be given authority of police officers by the board of commissioners.

The police judge shall be ex-officio a justice of the peace, with authority to issue warrants or other process for all offenses committed within the police jurisdiction of the city of Huntington of which a justice of the peace has jurisdiction under the state laws, and for all violations of any city ordinances; in order to preserve the peace and good order of the city, and protect the persons and property therein, riotous and disorderly persons in the city may be arrested and detained before issuing any warrant therefor. The police judge may without fees or other compensation commit persons charged with felony or misdemeanor to jail or take bond for their appearance before the grand jury of the circuit court or criminal court of Cabell county; and he shall have power to issue executions for all fines, penalties and costs imposed by him. And he may require the immediate payment thereof,
20 and, in default of such payment, may commit the person so in
21 default to jail until the fine and penalty and costs shall be paid
22 or satisfied, and to be employed during imprisonment as pro-
23 vided by this act. If any person is sentenced to imprisonment,
24 or any person or corporation is assessed with a fine of ten dollars
25 or more, such person or corporation shall be allowed an appeal
26 from said decision of the police judge to the criminal court of
27 Cabell county upon the execution of an appeal bond, with surety
28 deemed sufficient by the police judge, in a penalty double such
29 fines and costs, conditioned that the person proposing to appeal
30 will perform and satisfy any judgment which may be recorded
31 against him by the appellate court on such appeal, and in no case
32 shall a fine of less than ten dollars be given by the police judge
33 if the defendant, his agent or attorney demand that such fine be
34 made as much as ten dollars. If such appeal be taken the war-
35 rant of arrest, the transcript of the judgment, the appeal bonds
36 and other papers of the case shall be forthwith delivered by the
37 police judge to the clerks of the criminal court, and said crim-
38 inal court shall proceed to try the case as upon indictment or pre-
39 sentment and render such judgment, including that of cost, as the
40 law and evidence may demand.

ARTICLE IX.

Vote on Franchise, Ordinances, Officers, Etc.

Sec. 51. No franchise or ordinance shall be passed, and no
2 contract shall be awarded nor any money appropriated for any
3 one purpose in a greater sum than twenty-five dollars, and no
4 appointment of any officer shall be made, nor any vacancy in
5 office declared without the affirmative vote of at least four mem-
6 bers of the board of commissioners.

Sec. 52. If any ordinance passes the board of commissioners
2 it shall become and remain effective as therein prescribed unless
3 vetoed by the citizens' board at its next regular meeting time, or
4 special meeting time called to act on said ordinance.

Sec. 53. When the citizens' board shall express its vote on
2 any ordinance passed by the board of commissioners (except a
3 franchise), it shall, not later than the second day thereafter,
4 cause such ordinance, with its vote thereof, and its written rea-
5 sons therefor, addressed to the board of commissioners, to be
transmitted to the city clerk, and the city clerk shall submit the
same to the board of commissioners at its regular meeting or
special meeting called for that purpose, which shall be noted in
the minutes of said meeting, but a failure to transmit such ordi-
nance within said time shall not render such veto void. If the
said ordinance shall be changed and again passed by the board of
commissioners, it shall be treated as a new or original ordinance
and subject to the veto power of the citizens' board.

Sec. 54. If there shall be a tie vote on the passage of any
franchise before the board of commissioners, the mayor shall at
once transmit such franchise, with a written statement of that
vote on the passage of the same before the board of commis-
ers was a tie, to the president of the citizens' board, who shall lay
the same before said citizens' board at its next regular meeting
time thereafter, or prior special meeting time called for that pur-
pose. If upon consideration of said franchise by the citizens' board
a majority of all the members elected to said citizens' board shall
vote for the passage of said franchise as transmitted from the
board of commissioners, it shall be considered passed and adopted,
and shall become effective, as prescribed by the terms thereof.
The citizens' board, through its president or otherwise, shall
at once transmit the same, with the action of the citizens' board,
addressed to the board of commissioners, to the city clerk, who
shall call the same to the attention of the board of commissioners,
at their next regular meeting, or special meeting called for the
purpose, at which shall be noted in the minutes the action of the
citizens' board on said franchise.

Sec. 55. Publication of notice to present franchise, and
other preliminaries prescribed by the laws of the state relating
thereto, shall be had in the manner prescribed by state laws, before
the board of commissioners shall act on any such franchise; but
the passage of any franchise shall be prima facie proof that such
notice was given as prescribed by law.
The word "franchise," whenever used in this act, shall in-
clude every special privilege in, under and over the streets, high-
ways and public grounds of the city which does not belong to
the citizens generally by common right.

Sec. 56. The style of any ordinance enacted by the board of
commissioners shall be, "Be it ordained by the Board of Commis-
sioners of the City of Huntington."
ARTICLE X.

Licenses.

Sec. 57. Concerning anything for which a state license is required to be done within the said county, the board of commissioners may require a city license therefor, and may impose a tax thereon for the use of the city; and the board of commissioners shall have the power to grant, refuse or revoke any such license of owners or keepers of hotels, carts, wagons, drays and every other description of wheeled carriages kept or used for hire in said city, and to levy and collect tax thereon and to subject the same to such regulations as the interest and convenience of the inhabitants of said city, in the opinion of the board of commissioners, may require. The board of commissioners shall require from the person so licensed a bond, with approved security, payable to said city in such penalty, and with such conditions as it may think proper, and may revoke such license at any time if the condition of the bond is broken; and the board of commissioners shall have authority to subject any person or persons, who without having paid the tax imposed by the board of commissioners for the privilege shall do any act or follow any employment of business in the said city upon which the said board is or shall be authorized to impose a tax to any fine or imprisonment which it is or may be authorized to impose or inflict for the enforcement of its ordinances.

Nuisances.

Sec. 58. The board of commissioners of said city shall have authority to abate and remove all nuisances in said city. It may compel the owners, agents, assignees, occupants or tenants of any lot, premises, property, building or structure, upon or in which any nuisance may be, to abate and remove the same by orders therefor, and by ordinance provide a penalty for the violation of such orders. Said board of commissioners may also by its own officers, appointees and employees abate and remove nuisances. It may by ordinance regulate the location, construction, repair, use, emptying and cleaning of all water closets, privies, cess-pools, sinks, plumbing, drains, yards, pens, stables, and other places, where
offensive or dangerous substances or liquids are, or may accumulate, and provide suitable penalties for the violation of such regulations, which may be enforced against the owner, agents, assignee, occupant or tenant, of any premises or structure where such violation may occur.

If the owner, agent, tenant, assignee or occupant of any such premises, lot, property, building or structure as is mentioned herein, shall fail or refuse to abate or remove any such nuisance as mentioned herein, or to comply with the provisions of any such ordinance, and the regulations herein contained, the said board of commissioners may have said nuisance abated or the provisions of said ordinance or ordinances carried out, after reasonable notice to said owner, occupant, tenant, agent or assignee of its intentions so to do, and collect the expense thereof, with one per centum per month interest added from the date of said notice, from the said owner, occupant, tenant, agent or assignee, by distress or sale, in the same manner in which taxes levied upon real estate for the benefit of said city are herein authorized to be collected, and the expense shall remain a lien upon said lot, or part of lot, the same as taxes levied upon real estate in said city; which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. In case of non-resident owners of real estate such notice may be served upon a tenant, occupant, assignee, or rental agent, or by publication thereof for not less than two consecutive weeks in two newspapers of opposite politics, published in said city.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property, or amount due said owner from said agent, and such tenant, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

Any expense incurred by the board of commissioners as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act. The abatement or removal of any such nuisance by the board of commissioners at
Sec. 58. The expense of said city, as herein provided, shall be _prima facie_ proof that the said notice to the owner, occupant, tenant, agent or assignee, was given as herein prescribed.

Sec. 59. The board of commissioners may require all owners, tenants and occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewerage, which the said city may construct, own or control, to connect with such sewer or system of sewerage, all privies, water closets, cess-pools, drains, or sinks located upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewerage.

**Sidewalks and Shade Trees.**

Sec. 60. The board of commissioners are authorized and empowered to cause to be put down a suitable curb of brick, stone or other materials along and for the footways and sidewalks of the avenues, streets, roads or alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine; and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine; and to require the owners or occupiers of the land or lots or parts of lots facing upon said avenues, streets, roads, or alleys to keep such sidewalks clean and in good repair, and to grade the plot of ground on either side of the sidewalk between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of the land or lots abutting upon such avenues, streets, roads or alleys shall not lay any sidewalks, curb or gutter, or plant any such shade trees, unless specially required to do so by resolution adopted by said board, and then only in the manner prescribed by said board; but said city may lay such sidewalk, curb or gutter, and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct shall be charged upon and against the land or lots abutting upon such avenue, street, road, or alley, which assessments shall be and remain a lien upon said
land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The amounts so assessed against any land or lot shall also be a debt against the owner of such land or lot, which may be collected as other debts are collected, in any court having jurisdiction, and shall be due and payable in ninety days from the completion and acceptance of such work as certified to by the board of commissioners, with six per cent interest thereon from the date of such record acceptance. And in ascertaining the amount to be assessed against any corner lot for the cost of laying any such sidewalk and planting trees in front or alongside thereof, the board may assess the total cost of laying such sidewalks, and planting trees, in front or alongside said lot and extended to the curb or gutter of the intersections of the avenues, streets, roads or alleys at that point.

When such work is done by the city, and not let to contract the board shall certify such assessments to the treasurer of the city for collection, who shall account for the same as directed by the board or by ordinance; and the treasurer shall accept payment, when tendered, of the amount of said assessment with interest to the date of payment, and unless said assessment shall have been paid within ninety days from the date of such assessment, that a copy of such report shall be certified by the city clerk to the clerk of the county court of Cabell county, who is hereby required to record and index the same in the proper trust book in the name of each person against whose property assessments appear therein. If any such assessment shall not be paid when due, the board of commissioners shall cause to be enforced the payment of said assessment and interest in all respects as herein provided for the collection of taxes due the city; and said assessments shall be a lien upon the property liable therefor, the same as for taxes, which lien may be enforced in the same manner as provided for the sale of property for the non-payment of taxes and tax liens; and the liens herein provided for shall have priority over all other liens except those for taxes due the state and the county, and shall be on a parity with taxes and assessments due the city. When such assessments shall have been paid in full, and a lien therefor shall be of record in the county clerk's office, the treasurer shall execute and deliver to the owner of said property a release of said lien, which may be recorded in
the office of the county clerk as other releases of liens are recorded.

The board may, if it so elect, let said work to contract, and certificates may be issued for the amount of said assessments which may be sold to the contractor doing the work, or other person, in full of the total cost, in the same manner as provided or paving certificates, in this act; provided, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of commissioners as expressed by resolution of record before such sale. Said certificates, to be signed by the mayor and clerk or other person or persons designated of record by the board, shall bear date as of the time when such work is accepted and certified by the board of commissioners, and shall be due and payable in ninety days from date thereof, with six per cent interest. When the board shall have received said work, it shall at the same time make said assessments upon written report; and at the end of ninety days from date thereof, upon the demand in writing filed with the city clerk, of the holder or holders of the unpaid certificates issued to cover said assessments, said clerk shall certify a copy of said report, only insofar as it relates to the owners against whom said exhibited certificates remain unpaid, to the clerk of the county court of Cabell county, who shall record and index the same as other liens of the like kind are recorded and indexed, and the same shall be and remain a lien upon the real estate against which said assessments are made, as set out in said certified report, and said lien may be enforced, in the name of the holder of such certificate in the same manner as set out in this act.

Before letting such work to contract, the board shall advertise the same once a week for two successive weeks in two newspapers of opposite politics published in the city of Huntington, or in one paper in case publication cannot be had in two such papers, setting out the time and place for receiving proposals for such work and referring to the plans and specifications made thereof; and the city reserves the right whether stated in such notice or not, to refuse any and all bids for the work. On refusal of said papers to publish said notice at reasonable rates, the board may, by resolution, direct how such notice may be given. The fact that such contract shall be awarded for said work shall be prima facie proof that said notice was given as required herein.
Such lien, as represented by certificates, may be released of record in the office of the county clerk in the same manner as paving liens, represented by certificate, are released of record as provided for in this act; and in no event shall such assessment be and remain a lien of record for a longer period than one year from the date set out in said certified report so recorded in the office of the county clerk unless at the end of said one year period a suit shall be pending for the enforcement of said lien, or the amount thereof shall, in some way, be involved in a suit pending at the end of said one year period.

All such work, whether done by the city direct, or through contractors, shall be under the supervision of the street department of the city or some person designated for that purpose by the board of commissioners.

If the owner or occupier of any such lot or land shall be required by the board to lay, or relay, clean or repair any such sidewalk between the street curb and the property line, and keep the same sodded and free from weeds or obstruction, and otherwise in good condition and repair, written or published notice shall be given to such owner or occupier in the manner provided by ordinance or resolution adopted by the board, and the neglect or refusal of such owner or occupier to do the work, in the manner and within the time required by the board, as set out or referred to in said notice, shall be an offense and may be punished as provided by ordinance; and after the expiration of the time set out in said notice for the doing of said work, and the same remains undone, the board may do, or cause to be done, said work and assess and collect the cost thereof in the manner, upon either plan, and to full extent set out in this section.

ARTICLE XI.

Taxes, Levies, Assessments, Etc.

Sec. 61. The board of commissioners shall annually, before the levying of taxes provided for and authorized by this act, ascertain the total expense of said city to be provided for by levy for the fiscal year in which said levy is made, and it shall ascertain the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, and what amounts it shall expend for the support of its various departments, and for the
8 improvements of its streets, alleys, avenues, and public grounds, 9 or for its contingent expense; and before making such levy it shall 10 apportion the rate thereof among the several funds so ascertained 11 and provided for, which apportionment shall be spread upon the 12 records of said board and a copy of a statement thereof shall be 13 annually published by direction of said board as soon as the same 14 is recorded, in at least two newspapers of said city of opposite 15 politics, and for the purpose of paying the interest on the present 16 bonded indebtedness, and creating a sinking fund to pay off such 17 indebtedness when due, that is now owed by the city of Hunting- 18 ton and the city of Central City before the enacting of this act, 19 the territory now comprising the city of Huntington and the city 20 of Central City shall each constitute a separate special levy dis- 21 trict in which district a separate levy shall be annually laid by 22 said board of commissioners to pay the interest and create a sink- 23 ing fund in said respective districts to pay off and discharge the 24 said bonded indebtedness of each of said cities respectively, and as 25 soon as such indebtedness has been paid by such special levy in 26 either of said districts, then that district shall thereby be abolished, 27 and the remaining levy district retained and such special levy 28 aforesaid annually laid until said indebtedness of that district be 29 fully discharged, in consequence of which that district shall also 30 be abolished, so that the bonded indebtedness of each of the munic- 31 ipal corporations, namely, Huntington and Central City, the 32 territory of each being embraced and included in this act, with 33 the accrued and accruing interest against each, shall be provided 34 for and paid out of levies on property and taxable subjects of 35 each, within the boundaries of said corporations respectively, as 36 they were respectively just prior to the passage of this act; and 37 said boundaries shall be observed and recognized in making levies 38 and assessments for the payment of said bonds and interest as 39 separate taxable districts for said purposes only; and that the 40 territory embraced in this act, not within the boundaries of either 41 of said former municipalities, shall not become liable or taxed to 42 pay any part of the said indebtedness or interest thereon of said 43 corporations.

Sec. 62. The board of commissioners shall have authority 2 to levy and collect an annual tax on real estate and personal 3 property in said city, and to impose a license and assess a tax 4 thereon on wheeled vehicles for public hire, and upon all dogs 5 kept within said city, and to impose a tax upon all other subjects
6 of taxation, under the several laws of the state, which taxes shall
7 be uniform with respect to persons and property within the juris-
8 diction of said city, and shall only be levied on such property,
9 real, personal and mixed, and on capital, on which the state im-
10 poses a tax; provided, that no greater levy shall be laid by said
11 board of commissioners except the ten cents levy authorized by
12 this act, on the taxable property of said city than is now per-
13 mitted to be laid under the state law relating to municipalities,
14 except, however, that the said board of commissioners may, by
15 the unanimous vote of its members, by ordinance, lay an addi-
16 tional levy not to exceed twenty cents on the one hundred dollars
17 of all the taxable property within said city; but said ordinance
18 laying said additional levy shall not become effective or operative if
19 two-fifths of all the members elected to the citizens' board shall
20 express a veto to said ordinance, in the manner prescribed by this
21 act.

Sec. 63. All taxes assessed upon the real estate within the
2 said city, shall remain a lien thereon from the time the same are
3 so assessed, which shall have priority over all other liens, except
4 for taxes due the state, county or district, and all taxes whether
5 assessed upon realty or personalty or otherwise may be enforced
6 and collected in the same manner and by the same remedies as
7 is now or may hereafter be provided by law for the enforcement
8 of liens and levies for state and county taxes, or in such manner
9 as the board of commissioners may by ordinance prescribe. And
10 in levying taxes and collection thereof, and the return of prop-
11 erty delinquent for non-payment of taxes, the duties of the city
12 clerk shall be similar to the duties of the county clerk of Cabell
13 county in that behalf; the duties of the treasurer in the collection
14 of taxes, licenses and money due the city and accounting for the
15 same and the return of property delinquent for the non-payment
16 of taxes, shall be similar to the duties of the sheriff of Cabell
17 county; except the board of commissioners may make such regu-
18 lations and ordinances prescribing the duties of the city clerk and
19 city treasurer and their manner of performance as the board may
20 deem necessary. And the board shall, through itself and such
21 officers and employees as it may appoint or employ under such
22 regulations and ordinances as it may enact (not contrary to the
23 laws of this state), have such authority and power as may be
24 necessary for the levying and collection of taxes, tithables, fines,
25 licenses, sewer and paving assessments owing the city with power
26 and authority to enforce the collection of such fines by imprison-
27 ment in the city or county jail.

Sec. 64. No taxes or levies shall be assessed upon or col-
2 lected from the taxable persons or property within the corporate
3 limits of said city, for the construction, improvement or keep-
4 ing in repair of roads or the building, leasing, repairing of school
5 houses, or the purchase of lands for the same, or for the support
6 of the schools, or for the support of the poor of Cabell county,
7 outside of said corporate limits, for any year in which it shall
8 appear that said city shall at its own expense provide for its own
9 poor and keep its own roads, streets, and bridges in good order.
10 And neither the county court of Cabell county, nor the authori-
11 ties of the district in which said city is situated, shall have or
12 exercise jurisdiction within the corporate limits with relation to
13 the roads, streets, alleys, bridges, wharves, docks, ferries, schools
14 or school houses, but the same shall be and remain under the
15 exclusive jurisdiction and control of the municipal authorities of
16 said city, except that the board of education in the independent
17 school district of the city of Huntington shall have jurisdiction,
18 supervision and control of the schools and school houses in said
19 district; and said city shall be liable only for the construction,
20 improvement, repair and good order of the roads, streets, alleys,
21 wharves and bridges in its corporate limits.

Sec. 65. There shall be a tax of two dollars annually as-
2 sessed on each and every male inhabitant of said city, over twenty-
3 one and under fifty years of age, by the board of commissioners,
4 and the same shall be set out and included in the personal prop-
5 erty book against every such inhabitant, and shall be collected
6 by the city treasurer or other officer of the city acting in lieu
7 thereof and under the authority of the board of commissioners, at
8 the time of collecting other levies and taxes. All money collected
9 under this section shall go into the street and wharf fund, or like
10 fund, to be expended upon the roads, streets, and alleys, side-
11 walks, crosswalks, drains, gutters, wharf and bridges of said city.

Sec. 66. It shall be the duty of the city treasurer to keep
2 all funds of the city in some bank or banks within said city which
3 shall pay two per cent or more per annum interest on such de-
4 posits, payable quarterly, based on the average daily balance of
5 such funds in all accounts. If no bank within said city is will-
6 ing at any time to receive deposits of the treasurer and to pay
7 such interest thereon the treasurer shall report this fact to the
8 board of commissioners who shall thereupon designate a bank or 9 banks in which he shall deposit said funds for the time being and 10 until some bank in said city will receive such deposits on such 11 terms. Before receiving any such deposits said bank or banks 12 shall give bond in the penalty prescribed by the board of com- 13 missioners, and with sureties to be approved by said board, con- 14 ditioned for the prompt payment, whenever lawfully required, of 15 all the city moneys, or parts thereof which may be deposited with 16 them, which bonds shall be renewed at such times as the board of 17 commissioners may require.

Street Paving.

Sec. 67-(a). The board of commissioners of the city of 2 Huntington may order and cause any avenue, street, road or 3 alley therein to be graded, or curbed or recurbed with stone, 4 concrete or other suitable material, or paved or repaved, between 5 curbs, with brick, wooden blocks, asphalt or other suitable ma- 6 terials, or to be graded and curbed or recurbed and paved or 7 repaved as aforesaid, or to be macadamized or to be otherwise 8 permanently improved or repaired, under such supervision as 9 may be directed by ordinance or resolution, upon the best bid 10 to be obtained by advertising for proposals therefor, except the 11 city may do the work without letting it to contract as herein- 12 after provided in (d) of this section; and may purchase or con- 13 demn land for opening or widening avenues, streets, roads and 14 alleys. The entire cost, or any part thereof designated by the 15 board of commissioners, of such grading, curbing and paving or 16 macadamizing, or other permanent improvements, of any of the 17 avenues, streets, roads and alleys as aforesaid, from and in- 18 cluding the curb of either side thereof to the middle thereof and 19 the cost, or any part thereof, of purchasing or condemning land 20 as aforesaid for street purposes, may be assessed to and required 21 to be paid by the owners of the land, lots or fraction parts of 22 the lots fronting or bounding on such avenue, street, road or 23 alley so improved, except as otherwise provided in (g) of this 24 section.

(b) Payment is to be made by all land owners on either 26 side of such portion of any avenue, street, road or alley so paved, 26a opened, widened, or improved in such proportion to the total 27 cost (less the portion, if any, chargeable to the street or other
sections (as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portions thereof opened, widened, paved or improved as aforesaid; but the cost of such paving or improvement on said avenue, street, road or alley (not including opening or widening) shall not include any portion or amount paid or the paving or improvement of intersections of avenues, streets, roads or alleys, unless the work to be done, and the payment made therefor, as especially provided herein, as follows, to wit:

(c) Upon petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street, road or alley in said city, asking the city to grade, curb, pave or macadamize, or otherwise to permanently improve, such avenue, street, road or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvement abutting upon their property, as herein otherwise provided, but also offering to have their said property proportionately assessed with the total costs of the paving, grading and curbing, or macadamizing, or other permanent improvements, of the intersections of the avenue, street, road or alley so paved or otherwise permanently improved, as petitioned for, the board of commissioners may order such work to be done, as heretofore provided in this section, and the total cost thereof, including cost of intersection, to be charged to and paid by the owners of the property abutting on such avenue, street, road or alley, and that the paving assessment or certificate made or issued to cover the cost of paving, grading and curbing or otherwise permanently improving such intersection shall be made a separate and one of the last assessments or certificates due against them and their property so assessed; and the city may assume the payment of such assessments or certificates covering the cost of such intersection, or may reimburse the property owners paying the same, out of its general levy for streets, but there shall be no legal obligation on the city to do so.

(d) The city itself may do such work and charge and collect the cost thereof in the manner set out in this act. The decision of the city to do such work may be without notice or after the publication of the notice mentioned in this section, or after the rejection of all bids for the doing of this work.
(e) The cost of grading, curbing and paving, or otherwise improving, the intersections, or parts of intersections, of avenues, streets, roads or alleys, on the plans adopted by the board of commissioners for such work, shall be paid by the city, except as otherwise provided in (c) of this section.

(f) And if any such avenue, street, road or alley be occupied by street car track or tracks of other railroads, the cost of said improvements of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

(g) Provided, the board of commissioners, if they so elect, may order and cause any avenue, street, road or alley, public park or public place to be widened, graded or changed in grade and curbed or recurbed, and paved or repaved, with brick, concrete, asphalt or any other suitable materials, or macadamized, or otherwise permanently improved, including the construction of retaining walls, sewers, drains, water pipes, water dams and water courses, in connection therewith, and may purchase land, or condemn land as provided in this act, for any public avenue, street, road or alley, or part thereof or park or other public purpose; and the board may assess all or any part of the entire cost of such improvements (or taking of land, or both) upon the abutting, adjacent, contiguous and other lots or land especially benefitted by such improvement; provided, however, that the owner of any real estate whose property is to be charged for the paving of any street or alley of said city, or for the laying of any sewer therein, may object to the paving thereof, or the laying of such sewer, which objection shall be filed with the said board of commissioners, and when such objections are so filed, and the said board of commissioners shall order the said paving to be done, or said sewer to be laid, the said party so objecting shall have the right of appeal from such order to the citizens' board of said city, and no further proceedings under such order shall be had until such citizens' board shall have passed on such appeal, and the citizens' board in passing on such appeal shall have the power to ratify or reject and shall ratify or reject the said order of the board of commissioners as to such paving or sewer, and if such order of the board of commissioners is set aside by said
citizens' board, the same shall be invalid, and upon such appeal and a vote taken to ratify said order of the board of commissioners a majority of all members elected to said citizens' board must vote to ratify said order of the board of commissioners, or the said appeal shall be held sustained and the said order rejected and thereby rendered invalid and annulled.

The board of commissioners, when they decide to order the improvements under this plan shall, by ordinance or resolution, before doing the same, fix the total amount of the special benefits to be derived from such improvements to the abutting adjacent, contiguous and other specially benefitted land or lots so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed improvements; and the board may, in fixing such assessments, take into consideration the assessed value of the lots or land as fixed, for the last assessment year, for state and county purposes.

(h) When the board of commissioners shall deem it expedient and proper to cause any avenue, street, road or alley, or any portion thereof, in such city, to be graded, or graded and paved, curbed or macadamized, or otherwise permanent improved, or land to be acquired or taken for street purposes, as provided in (a) of this section, or shall deem it expedient and proper to cause the construction of any public sewer in or under such avenue, street, road, or alley, or land or easement therein to be acquired or taken therefor, or elsewhere, as provided in this act, they shall by ordinance or resolution, order the work done, stating the method of payment thereof, and, if it be let to contract, notice shall be in the following manner, to-wit:

(i) The notice for the bids or proposals for doing such improvements, either for street improvements or the construction of sewers, shall be published for at least fifteen days in two newspapers of opposite politics, or in one newspaper if two such newspapers be not published in the city. If the publication of the notice cannot be procured in any newspaper in said city at reasonable rates, then said notice may be given in the manner directed by the board. Said notice shall state when, where and how the bids or proposals shall be made; and, whether so stated in the notice or not, the city may reject any and all bids for such proposed work. Before advertising for bids on the work, the city shall approve and adopt plans and specifications therefor,
and the advertisement for bids, and the contract awarded thereon, shall refer to such plans and specifications. The fact that such contract shall be let for said work shall be *prima facie* proof that the notice mentioned above was given a required herein.

(j) The cost of said paving, macadamizing or otherwise permanent improvement may be paid in either one of the two ways provided for in this act (to be specified by ordinance by the board of commissioners).

(k) If the abutting land on any such avenue, street, road or alley sought to be improved as aforesaid, or in which a sewer is ordered laid, is not laid off into lots by a map of record, the board of commissioners may, for the purpose of making the assessments provided for in this section and other sections herein, lay off said land into lots of such sizes as the board deems advisable for the purpose of laying the proper assessment against such land.

Sec. 69 (n), said city of Huntington is hereby authorized to issue its bonds for the purpose of providing for the costs of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of said city, in anticipation of special assessments to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and said city is authorized to sell said bonds, but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds, payable in two, four, six, eight and ten years, respectively, from the date of their issue, and shall bear interest not to exceed six per cent per annum, payable annually; and in the issuance and sale of said bonds the said city shall be governed by the restriction and limitations of the constitution of this state, and the restriction and limitations of the state laws of this state relating to the issuance and sales of bonds, so far as such state laws are not in conflict with the provision of this act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interest and costs, it shall be
25 turned into the city treasury to the credit of the interest and
26 sinking fund of the city.
27 But said city shall not become indebted in any manner or
28 for any purpose to an amount, including existing indebtedness,
29 in the aggregate exceeding two and one-half per centum on the
30 value of all the taxable property therein, as provided in chapter
31 fifty-one of the acts of the legislature of one thousand nine hun-
32 dred and five, except for the purpose of grading, curbing, paving,
33 macadamizing, or otherwise permanently improving the avenues,
34 streets, roads and alleys therein, or constructing sewers therein
35 or elsewhere, or acquiring or taking land or easements therein
36 for street and sewer purposes, as provided for in this act, and for
37 that purpose in estimating “existing indebtedness,” special assess-
38 ment bonds representing the cost of paving or other improve-
39 ments of streets, roads, or alleys, or the construction of sewers,
40 or acquiring or taking land for such purposes, and cost of which
41 is assessed against the abutting property on such avenues, streets,
42 roads or alleys, or specially benefited property adjacent thereto,
43 or on such owner, shall not be included; and likewise the amount
44 in any sinking fund, or the amount invested therefor as pro-
45 vided by law, for the payment of outstanding bonds, shall not
46 be included in the estimate of existing indebtedness, provided,
47 that the aggregate of its debt of every kind whatsoever, including
48 such special street permanent improvement bonds, or sewer bonds,
49 shall not exceed five per centum of the value of all taxable prop-
50 erty therein.
51 (b). And it shall be the duty of the board of commissioners
52 to immediately certify such assessments to the treasurer for col-
53 lection, as herein provided; and for the purpose of facilitating
54 the collection of such assessments against the properties herein,
55 the board of commissioners may issue assessment certificates,
56 with the interest coupons attached thereto, to be delivered to and
57 charged against the city treasurer who shall collect the same,
58 and as such certificates and coupons are paid he shall deliver the
59 cancelled certificates to the party paying the same. A copy of
60 the said order shall be certified by the city clerk to the clerk of
61 the county court of Cabell county, who is hereby required to
62 record and index the same in the proper trust deed book in the
63 name of each person against whose property assessments appear
64 therein.
65 (c). The amounts so assessed against said abutting lots and
owners thereof, respectively, shall be paid in ten payments, as follows; that is to say, one-tenth of said amount together with interest on the whole assessment for one year shall be paid into the treasury of the city before the first day of the following January; and a like one-tenth part, together with interest for one year upon the whole amount remaining unpaid before the first day of January in each succeeding year thereafter, until all shall have been paid. Each of said installments of one-tenth shall bear interest at six per centum per annum payable annually from the date of assessment. Provided, however, that the owner of any land, so assessed for the cost of the paving of said avenue, street, road or alley, shall have the right at any time to anticipate and pay the whole of such unpaid assessment and interest thereon until the first day of the following January, and have the lien against the property so assessed released as hereinafter provided.

(d). If any assessment shall not be paid when due, the board of commissioners shall cause to be enforced the payment of said assessment and interest in all respects as herein provided for the collection of taxes due the city; and said assessments shall be a lien upon the property liable therefor the same as for taxes, which lien may be enforced in the same manner as provided for the sale of property for the payment of taxes and tax liens; and the liens herein provided for shall have priority over all other liens except those for taxes due the state and the county, and shall be on a parity with taxes and assessments due the city.

(e). When all of said assessments for grading, paving and curbing or macadamizing or other permanent improvements shall be paid in full to the treasurer, he shall deliver to the owner of said property a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens are recorded.

Under this plan for the payment of the cost of such permanent improvements of avenues, streets, roads and alleys, and the constructions of sewers, the contractor (if the work is let to contract) shall look only to the city for the payment of the work, and in no sense to the abutting land owners.

Sec. 70. The board of commissioners may contract for such paving (including grading and curbing), or other said improvements, to be done as aforesaid, and may acquire or take land for street purposes, as aforesaid, and may if the board so elect stipulate that the costs thereof, in whole or in part, shall be paid in in-
6 installments by the abutting property owners, as provided in (a) of
7 section sixty-seven, or specially benefited property owners, as
8 provided in (g) of said section, in five equal installments, to be
9 evidenced by five paving certificates issued therefor, payable in
10 thirty days, and one, two, three and four years, respectively, after
11 the date of their issue, and shall bear interest not to exceed six
12 per centum, per annum, which certificates, to be signed by the
13 mayor and clerk, or other person or persons designated of record
14 by the board, may be sold, either to the contractor doing the pav-
15 ing or other said improvements, or to any other person, and which
16 shall cover the entire cost of such work, or the cost of acquiring or
17 taking land for street purposes, including the cost of surveys,
18 notices and other things pertaining thereto; provided, the city in
19 negotiating and selling such certificates, shall not be held as guar-
20 antor or in any way liable for payment thereof, except upon the
21 direct action of the board of commissioners as expressed by reso-
22 lution of record before such sale. And the certificates covering
23 the amount of the assessment shall be paid by the owner of the
24 land, lot or fractional part thereof, so assessed for the cost of said
25 improvement on such avenue, street, road or alley so paved or im-
26 proved, of land acquired or taken, as aforesaid. The amount
27 specified in said assessment certificates shall be a lien aforesaid in
28 the hands of the holder thereof upon the lands, lot or part so as-
29 sessed, and shall also be a debt against the owner of such real
30 estate, and said amount shall draw interest from the date of said
31 certificates, payable annually, and the payment of the debt may be
32 enforced as provided by law for the collection of other debts, or
33 such lien may be enforced as provided in this act in the name of the
34 holder of such certificates.
35 After a contract has been made by the board to pave or other-
36 wise permanently improve any public road, avenue, street or alley
37 in said city under this act, and the paving or other permanent
38 improvements, or stipulated part thereon, has been completed, or
39 the cost of acquiring or taking land, as aforesaid, has been ascer-
40 tained, the board shall assess the amount each lot shall bear and
41 shall make a written report, stating the number of lots and the
42 blocks or tracts of land when not laid off into lots, the amount
43 the owners of such lots or land when known, and the amount as-
44essed thereon; and when the said board approves said report, or
45 modifies it and then approves it, a copy of said report, so adopted
46 by the board when certified to by the city clerk of said city, may
be recorded in the clerk's office of the county court of Cabell
county in a trust deed book and shall be a continuing tax lien
upon the lot or ground against which the assessment is made until
the certificates as aforesaid are paid, except as otherwise provided
in this act, and the clerk shall index the same in the name of each
lot or land owner mentioned therein. Provided that any property
owner shall have the right to pay any assessment against his
property as soon as the same shall have been ascertained and
anticipate all payments.

Sec. 71. The board of commissioners of said city are author-
ized and empowered to order and cause to be constructed, in said
city, or part within and part outside of the limits of said city, a
public sewer, either main or lateral, or both, by contract or direct
by the city, for the benefit of said city or any part thereof, and
to purchase land or easement therein or to condemn land or case-
ment therein in the manner provided in this act, for such sewer;
and when the board shall order the construction of any such sewer
or any part thereof in said city, the owners of the property abut-
ing thereon or abutting upon an avenue, street, road or alley in
which such sewer shall be constructed, or abutting on any land or
easement therein specially procured for the purpose of the con-
struction of a sewer therein, may be charged with all or any part
of the cost thereof, including the cost of such sewer at and across
intersections at avenues, streets, roads and alleys adjacent there-
to. If said work is let to contract, the provision of (i) of section
sixty-seven shall apply.

When said sewer is completed in any one block, or between
two designated points, the board of commissioners shall cause a
report to be made in writing setting out the total cost of such
sewer and a description of the lots or land as to location, frontage
and ownership liable therefor, including the cost of acquiring or
taking land or easement therein for such purpose and cost of sur-
veys, notices, etc. therefor, together with the amount chargeable
against each lot or piece of land and the owner thereof. If any lot
fronts on two streets, or on a street and road, or on a street (or
road) and alley in which a sewer is constructed, it may be assessed
on both said streets, or street and road, or street and alley. Said
board shall enter an order upon its records setting forth the loca-
tion and owner of each lot or piece of land, and the amount of
said sewer assessments there against, calculated in the same way
as provided for street paving in (g) of section sixty-seven herein.
The entry of such order shall constitute and be an assessment for such proportionate amounts so fixed therein against respective lots and land and the owners thereof; and said board shall thereupon certify the same to the treasurer for collection; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of commissioners may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall collect the same and as such certificate and coupons are paid he shall deliver the canceled certificates to the party paying the same and the city clerk shall file a certified copy of said order with the clerk of the county court of Cabell county, who shall record the same in the proper trust deed book, and index the same in the name of each owner, of any lot or land thus charged with said assessment, and the assessments so made shall constitute and be a lien upon said lots or land, respectively, which shall have priority over all other liens except those for taxes due the state and county, and shall be on a parity with other taxes and assessments due the city.

The amounts so assessed against said abutting lots or land and which shall be a lien thereagainst, shall be collected in the manner provided in this act for the collection of paving liens. Said assessments shall be divided into three installments, each for one-third of the amount thereof, and the first due and payable in thirty days, the second in one year, and the third in two years from the time of certifying the same to the treasurer, except as hereinafter provided in this section, all bearing interest at six per centum per annum from such date, payable annually; and the board of commissioners may issue sewer certificates thereon, as of said date, as further evidence of said indebtedness and lien therefor, and said certificates may be sold or negotiated, at not less than par and without any kind of discount to the contractors doing such work, or other person if the board deem it expedient; provided, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of commissioners as expressed by resolution of record before such sale. But the owner of the land or lot so assessed may at any time anticipate and pay such assessment or certificate with accrued interest thereon. If such assessment shall not exceed fifteen dollars, it shall be in one amount due and payable in thirty days from date; if more than fifteen dollars and less than thirty dollars, then in two install-
ments of equal amounts, due and payable in thirty days and one
year, respectively, from date; and if more than thirty dollars,
then in three equal installments due and payable as first afore-
said.

Provided, the board of commissioners may, if they so elect,
order and cause the construction of any such sewer, and may
acquire or take land or easement therein, either in or outside
said city, or both for said sewer purposes, and assess all or any
part of the cost thereof upon and against the abutting, adjacent,
contiguous and other lots or land especially benefited by the
construction of such sewer, and said assessments shall be a lien
upon such lots or lands, and a debt against the owners thereof
for the amount so charged against them respectively, which debt
may be collected as provided by law for the collection of other
debs of like kind, and which lien may be enforced in the same
manner as provided for the enforcement of paving liens in this act.

The board of commissioners, when they decide to order the
construction of a sewer under this plan, shall, before doing the
same, fix, by ordinance or resolution, the total amount of the
special benefits to be derived from such improvements to the abut-
ting, adjacent, contiguous, and other specially benefited land or
lots so assessed, setting out the names of the owners, the amount
of the special benefits, and the approximate amount of the total
costs of the proposed sewer, and the board may, in fixing such as-
essment, take into consideration the assessed value of the lots or
land as fixed, for the last assessment year, for state and county
purposes.

Release of Liens.

Sec. 72. In addition to the provisions for the release of said
2 assessment liens, either for street paving or other permanent
3 street improvements, or construction of sewers, as elsewhere set
4 out in this act, on the presentation by the land or lot owner of
5 any of the certificates issued as aforesaid against him or his pre-
6 decessor in title to such lot, the clerk of the county court shall
7 mark upon the margin of the trust deed book at which said cer-
8 tified report is recorded, that the lien is released to the land or
9 lot mentioned in such certificate to the extent of the amount of
10 the certificates thus exhibited; and the county clerk shall there-
11 upon write across the face of each of said certificates the date of
12 their production to him for the release of lien, and shall sign
13 his name thereto in his official capacity, for which he shall re-
14 ceive in advance a fee of twenty-five cents for each certificate so
15 marked, from the person demanding the release of the lien afore-
16 said; but if more than one of the serial certificates against the
17 land or lot or lots shall be produced at the same time, the fee of
18 the county clerk shall not exceed twenty-five cents for the release
19 of the liens as to all of the certificates thus produced and relating
20 to the same real estate.

21 Provided, that the owner of any lot or land against which
22 any paving or sewer certificate is an unreleased lien of record
23 shall make and produce to the county clerk, or some person for
24 such owner shall make and produce such affidavit, setting out
25 therein that such certificate (or certificates) has been paid in
26 full, and after diligent search, cannot be found, said county clerk
27 shall upon the payment of a fee of twenty-five cents, file and pre-
28 serve said affidavit as a public document and shall forthwith note
29 the release of said lien to the extent of said lost certificate (or
30 certificates) and the lots or land against which it is a lien upon
31 the margin of the trust deed book, as aforesaid, and noting there-
32 with the filing of said affidavit, which shall operate as a release
33 of such lien to the extent of such marginal notation. If the affi-
34 davit so filed be false, the person making oath and subscribing
35 thereto shall be guilty of a felony, and upon conviction thereof
36 shall be fined not to exceed five hundred dollars, or sentenced to
37 be confined in the penitentiary for a term of not more than one
38 year, or both, in the discretion of the court passing sentence.

39 Provided, further, that any paving or sewer lien, which may
40 be created in consequence of the provisions of this act, or a lien
41 which may have heretofore been created in consequence of an act
42 of which this is an amendment for an assessment, the last pay-
43 ment of which is not yet due, shall not, under any circumstances,
44 be a lien against the lot or land or fractional part of the lot or
45 land, against which it may have been assessed and made a lien,
46 for a longer period than one year after the last assessment or
47 certificate of the same date and group, representing such lien,
48 shall have become due and payable, unless some suit or action, at
49 the termination of said one year period, shall be pending for the
50 enforcement of such lien, or unless the amount of the lien or some
51 part thereof is in some way involved in a suit or action pending
52 at the end of said one year period; and further, that no such
paving or sewer lien heretofore placed to record in said county
court clerk's office for an assessment the last payment of which is
past due, shall remain or be a lien against the real estate therein
described for a longer period than one year from the time this act
takes effect, unless a suit shall be pending at the end of each one
year period for the enforcement of said lien, or the amount thereof
shall in some way be involved in some action then pending.

All of the assessment certificates, which may be issued under
the provisions of this act, shall be made payable at the office of
the treasurer, who shall receive payments thereon when due, if
tendered to him, and interest thereon, from the date of such
payments shall cease. The treasurer shall keep a separate and
special account of all said sum of money received by him, and he
shall hold said money in trust for the person who thereafter de-
livers to the treasurer for cancellation any and all certificates on
which said treasurer has received full payment as aforesaid; but
the owner of said certificates shall not be entitled to interest on
said sum after the date of payment thereof to the treasurer.

When the whole amount of any such assessment lien shall have
been paid to the treasurer as aforesaid, or the treasurer shall be
convinced that all of the paving or sewer certificates against any
land, lot or fractional part of lot, shall have been paid in full, he
shall, when demanded, execute a release of said lien in the manner
hereinbefore provided for the release of paving liens. If the city
shall have no person for treasurer, the clerk, unless some other
person is designated by ordinance, which the board of commis-
sioners is hereby authorized to enact, shall perform the duties
here required to be performed by the treasurer.

Sec. 7:3. It shall be lawful for said city of Huntington to
issue and sell its bonds, as provided in this act for the sale of
other paving and sewer bonds, to pay the city's part of the cost
of construction of said sewers and the paving or other permanent
improvements of streets and alleys, as required by this act; and
said city may levy taxes, in addition to all other taxes, authorized
by law, to pay such bonds and interest thereon; provided, that the
total indebtedness of the city for all purposes shall not exceed
five per centum of the total value of all taxable property therein.

It is expressly provided that no bonds shall be issued under
the provisions of this act, unless and until the question of issuing
said bonds shall have first been submitted to a vote of the people
of said city and shall have received three-fifths of all votes cast
at said election for and against the same. The board of commissioners of said city may provide by ordinance for submitting to the people at any regular election, or special election called for that purpose, the question whether or not said city shall be authorized to issue bonds for the purpose specified in this act; but the ordinance relating to the issuance of said bonds, and the submission of the same to the vote of the people, need not specify in detail the location of the improvements contemplated to be paid for out of, and works to be constructed with, the proceeds of sale of said aggregate issue authorized thereby; and if at such election the people by their vote thereon shall authorize the issuance of said bonds, said board of commissioners may order the sale of same, as needed for said improvements and works, dealing with all the requirements set forth in this act; and notwithstanding the provisions of sections two, three and six of chapter forty-seven of the code, it shall be sufficient description of the purpose for which said election is held for the ordinance calling the same, or submitting said question to a vote at any general election, if it shall recite that it authorizes the board of commissioners to issue bonds for the purpose of grading, paving, curbing, sewer- ing, or otherwise permanently improving the streets, roads, and alleyes of said city, or the leasing, purchasing, erecting, maintaining and operating the water works system authorized by this act, at such time as the board of commissioners shall deem fit or expedient.

The provisions of chapter forty-seven-a of the code, concerning bond election shall, so far as they are not in conflict with the provisions of this chapter, apply to the bond election and special election herein provided for.

Sec. 74. For the purpose of leasing, purchasing or erecting, owning, maintaining, and operating a system of water works for the city and the inhabitants and industries thereof, and the inhabitants and industries of any territory adjacent to the territory of the city of Huntington which the board of commissioners may from time to time agree to supply from the city water works, as provided for in this or any other act of the legislature, said city of Huntington is hereby authorized to issue and sell its bonds, which shall bear interest not to exceed six per cent per annum, interest payable annually, by which to procure funds for such purpose; and for said purpose the city may issue and sell its bonds to an amount equal to two and one-half per centum on the tax-
able property therein in addition to the aggregate of its debts for all other purposes and of every kind whatsoever, and especially in addition to the bonds, and other debt provided for and referred to in section seventy-nine of said chapter three of the acts of one thousand nine hundred and nine. Provided, that the total indebtedness of said city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

But said city shall not make such issue and sale of bonds without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and the principal thereof within and not exceeding thirty years, and for the purpose of aiding in the payment of any bonds issued under the provisions of this act, to enable the city to lease, purchase, own, operate and maintain a water works and system, the commissioners of the city are hereby authorized to lay a levy of not exceeding ten cents on the one hundred dollars valuation on all taxable property in the city, which said levy may be in addition to the aggregate of all other levies, authorized by law; and any revenue derived from said water works over and above the expenses of operating and maintaining the same, shall be applied to the payment of the bonds issued therefor.

Sec. 75. The cost of any improvement contemplated in this act and for which assessments may be made, shall only include the cost of printing and publishing all notices required to be published, and cost of construction.

Sec. 76. In setting forth the lots and lands abutting upon the improvement it shall be sufficient to describe them as the lots and lands abounding and abutting upon said improvements, between and including the termini of said improvement, or by the description by which they are described on the land books of the county in which said lots are situate; and this rule of description shall apply in all proceedings in which lots or lands are to be charged with special assessment.

Sec. 77. When work shall have been completed on any avenue, street, road or alley or part thereof, as provided in section sixty or section sixty-seven, or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley, or part thereof, or elsewhere, as provided in section seventy-one, and said assessments there against shall have been calculated as provided in this act, the board of commissioners shall give notice, by publication at least once a week for two successive
9 weeks in two newspapers of opposite politics, published in said
10 city, or in one newspaper if two such papers be not published in
11 said city, that an assessment under this act is about to be made
12 against the property so assessed and the owners thereof, mention­
13 ing the kind of work and the location thereof; and the owners of
14 said property shall have a right to appear before said board,
15 either in person or by attorney or agent, at any regular or special
16 meeting called for that purpose within two weeks of the first
17 publication thereof, and move the board to correct any apportion­
18 ment of the assessment excessive or improperly made; and the
19 board shall have the power to make any such corrections before it
20 enters the same, as corrected, upon the records. If the publica­
21 tion in the newspapers aforesaid cannot be had at reasonable rates,
22 the notice may be given in some other manner designated of record
23 by the board. The fact that said assessments shall have been
24 entered of record, as provided by this act, shall be prima facie
25 proof that the notice mentioned herein was given as prescribed in
26 this section.

Sec. 78. For the purpose of making examinations of per­
2 sons for officers or positions in the police and fire departments
3 (excluding the chiefs thereof) and prescribing rules for their
4 conduct, seven members of the citizens board, appointed by the
5 president thereof, one from each ward of the city, which shall be
6 chosen from opposite political parties when possible, shall act
7 and be known as the "Civil Service Board". The president of the
8 citizens board shall be the presiding officer of said board, a major­
9 ity of which shall constitute a quorum for business, but shall
10 have no part in the deliberation of the said board, except in case
11 of tie, and the city clerk shall be ex-officio clerk of the said
12 board. The civil service board shall adopt rules for its own
13 government, and cause the minutes of its meetings to be recorded
14 in a book provided for that purpose, which shall be kept by the
15 city clerk at his office, and open to public inspection. The civil
16 service board shall meet at least once a year, and oftener if it
17 deems it necessary, or if called by the presiding officer, after
18 ten days notice to the public published in two daily newspapers
19 of opposite politics giving the time and place of meetings, hold
20 examinations for the purpose of determining the fitness and quali­
21 fications of applicants for positions in the police department and
22 the fire department, which examination shall fairly test the fit­
23 ness of the persons examined to discharge the duties of the posi­
tion to which they seek appointment, and such examinations and declarations of the result thereof shall be made with the aim to secure and maintain an honest and efficient police and fire department. Said board shall at once after each of such examinations place to record in the journal of the civil service board the result of such examination, giving the names of applicants and positions sought by them and their respective percentages based on one hundred. In making such examinations the size, health, physical appearance, habits and moral surroundings shall be taken into consideration and the result of such examination shall be by the board certified to the commissioners and the said commissioners in their appointments shall elect their appointees from the list so certified. Civil service examinations and appointments shall apply to all policemen and firemen, except the chiefs of each department.

Sec. 79. All appointive officers shall hold their positions at the pleasure of the board of commissioners, except those appointed under the civil service rules, and they may be removed for cause by the board of commissioners, and the members of the police and fire department under civil service rules shall take no part in elections except to vote, and any violation of this provision by members of either department shall be deemed misconduct and shall render such person or persons subject to dismissal by the board of commissioners after trial and conviction of such person or persons therefor, as heretofore provided for in this act.

Sec. 80. In making appointments to the police department and the fire department, whether original, or to fill vacancies therein from time to time, the board of commissioners or mayor shall elect from the applicants for said respective positions those who, under said civil service examinations, received an average grade of sixty or more, giving preference to the applicant receiving the highest grade and whose said grade certificate is the oldest.

When the list of names of applicants, who are eligible as prescribed in this section, shall have been exhausted, then the board of commissioners may make said appointments from the list of persons who may apply therefor, disregarding, if they choose, those applicants who stood civil service examination and received thereon a grade below sixty.
Sec. 81. All persons appointed to a position in the police department and fire department under this act (except the chief of police and the chief of fire department) shall hold their offices or positions during good behavior. The board of commissioners shall hear and determine all charges against any officer or employee of said city after ten days' notice to the accused of the charges preferred against him, and the time and place of hearing on such charges, and an opportunity to the accused to be heard at such meeting in his defense. After thus hearing such charges the board of commissioners, by a majority vote of the members elected, may sustain the same and dismiss said accused from the service of the city. The mayor, pending the trial on any such charges, may suspend the accused officer or employee without pay, and if he shall finally be dismissed from the service he shall receive no pay, but if the charges against such officer or employee are not sustained, he shall be paid the salary during such period of suspension.

Sec. 82. The board of commissioners may adopt, by ordinance, a code of laws and ordinances, which when adopted shall be printed in book form, or it may be adopted as a whole after it is printed, and said code shall be the law and ordinances of said city, and shall be received as such in all the courts of this state, and the laws, ordinances, franchises, and rules when printed therein shall be prima facie proof of their correctness.

Serving Notice.

Sec. 83. Whenever any notice is required to be given, or any summons, warrant or other process is required to be served or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department of said city in the same way or manner in which the laws of the state prescribe for executing summons and subpoenas by the state officers, unless otherwise provided by this act.

Sec. 84. The mayor and members of the board of commissioners and members of the citizens board as now constituted, and all the officers of the city of Huntington, shall continue in their respective offices until their successors have been elected and qualified as provided in this act, and shall exercise their rights, powers and duties in the city of Huntington in the same manner.
7 and to the same effect as if this act had not been passed, and shall
8 continue in their said office and perform such duties as are re-
9 quired of them under this charter until their successors have been
10 elected and qualified, or appointed and qualified, under the pro-
11 visions of this act, and all the ordinances, laws and resolutions
12 now in force shall remain in force except such as are in conflict
13 with this act.
14 That on or before the first day of August, one thousand nine
15 hundred and nineteen, there shall be a re-organization of the police
16 force of the city of Huntington as now constituted, and the power
17 is hereby vested in the mayor and the board of commissioners of
18 the said city of Huntington to consider the present appointment
19 of the chief of police and any member of the said police force of
20 said city at an end on or before the said date aforesaid, and their
21 respective offices or positions vacant, and to be filled in accord-
22 ance with the provisions of this act.

Sec. 85. The city clerk, except as may be otherwise pre-
2 scribed by the board of commissioners, shall be the custodian of
3 all the records and papers pertaining to the city of Huntington,
4 and the citizens board, and said records and papers shall be kept
5 by him at his office open to public inspection.

Sec. 86. Each political party shall at the general elections
2 held under this charter elect a political committee consisting of
3 one member from each ward; said committee shall elect a chair-
4 man and secretary at large, and the chairman and secretary of
5 said committee shall be members of the committee and entitled
6 to vote, and shall continue in office until their successors are
7 elected. The said committee shall perform all the duties re-
8 quired by the provisions of this act and the general laws of the
9 state of West Virginia relating to elections.

Sec. 87. All other acts and parts of acts coming within the
2 purview of this act, and inconsistent herewith, and not included
3 in the provisions of this act, are hereby repealed.

[Sec. 88. This act shall be in effect from date of passage.]

CHAPTER 3.

(House Bill No. 94—Mr. Blizzard.)

AN ACT to create the municipal corporation of the "City of Mont-
gomery," in the county of Fayette, to grant a charter thereto,
and to annul the charter of the "Town of Montgomery."
Be it enacted by the Legislature of West Virginia:

ARTICLE I.

The City of Montgomery.

Section 1. That the inhabitants of so much of Fayette county as are within the boundaries prescribed by article two of this act, and their successors, shall constitute, be and remain a municipal corporation by the name of “the city of Montgomery.”

ARTICLE II.

Corporate Limits.

Sec. 2. The corporate limits of the city of Montgomery shall be as follows: Beginning at a stake at low water mark of the Great Kanawha river at the mouth of Ellwood branch, and down said river north forty-five degrees fifteen minutes west two hundred and twenty-five feet; north fifty-seven degrees forty-five minutes west four hundred and fifteen feet; north sixty-eight degrees five minutes west four hundred and fifteen feet; north sixty-eight...
8 degrees thirty minutes west six hundred and fifty feet; north forty-
9 six degrees fifteen minutes west one thousand and thirty-five feet; 
10 north fifty-one degrees west three hundred and eighty-seven feet; 
11 north eighty-three degrees thirty minutes west three hundred and 
12 eighty-five feet; south eighty-seven degrees thirty minutes west 
13 two hundred and forty-four feet; south seventy-nine degrees five 
14 minutes west two hundred and ninety-two feet; due west four 
15 hundred feet; south eighty-three degrees west three hundred and 
16 sixty feet; south sixty-nine degrees thirty minutes west nine hun-
17 dred feet to a stake, said stake south twenty-nine degrees west 
18 twenty-eight feet from a large sycamore, south five degrees forty-
19 five minutes east one thousand four hundred and twenty-five feet 
20 to a stake; north eighty-one degrees east three thousand one 
21 hundred and thirty-five feet, south sixty-one degrees fifteen min-
22 utes east one thousand seven hundred and eighty feet; north forty-
23 five degrees east five hundred and ninety-five feet to a stake at the 
24 edge of the Kanawha river and down same north twenty-five de-
25 grees thirty minutes west four hundred and twenty-five feet to the 
26 beginning, containing one hundred and sixty-one acres.

ARTICLE III.

Municipal Authorities.

Sec. 3. The municipal authorities of the city of Mont-
2 gomery shall be the mayor, recorder and five councilmen, who shall 
3 constitute the council.

ARTICLE IV.

Officers.

Sec. 4. In addition to the municipal authorities mentioned 
2 in article three of this act, the said city of Montgomery shall 
3 have a treasurer who may be sergeant, and auditor who may be 
4 recorder, chief of police, building inspector, who may be one of the 
5 council, a police judge, who shall be the mayor, and council may 
6 appoint a health commissioner, city attorney and such other officers 
7 and agents as the council may from time to time create or em- 
8 ploy.

ARTICLE V.

Corporate Powers.

Sec. 5. All of the corporate powers of said city shall be exer-
Sec. 6. The mayor and councilmen, when elected and qualified as hereinafter provided, shall have possession and exercise corporate powers as a body politic by the name of “the city of Montgomery,” and shall have perpetual succession and a common seal, and by the name may sue and be sued, plead and be impleaded, and may purchase and hold or sell real estate and personal property necessary to enable them to discharge its corporate duties needful or convenient for the good order, government and welfare of said corporation.

Sec. 7. The municipal authorities of said city, acting under the powers and in the manner herein specified, shall have and are hereby granted the power to have said city re-surveyed; to open, vacate, broaden, widen and repair streets and alleys, to curb and pave streets, sidewalks and gutters for public use, and to alter, improve and light the same; to construct and maintain public sewers and laterals, and shall in all cases have power to assess upon and collect from the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets and avenues, roads and alleys for public use in said city, and to have the same kept in good order, free from obstruction on or over them; to have the right to control all bridges within said city and traffic passing over them; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks and footways for public use in said city, to be done and kept in good order by the owners of adjacent property; to control the construction and repairing of all houses, bridges, culverts and sewers, and to prescribe and enforce all regulations affecting the erecting, repairing or removal of all buildings and structures, and to require permits to be obtained for such buildings, plans and specifications thereof to be first submitted to the building inspector, and to prescribe and enforce regulations controlling the erection of such buildings, and to secure the safety and health of the public; to control the opening and construction of ditches, drains, sewers, cesspools and gutters, to deepen, widen and clear the same of stagnant water and filth, and to determine at whose expense the same shall be done; to build and maintain station houses, police stations and police courts,
and to regulate the management thereof; to purchase, lay off, appropriate and control public roads, square and parks, either within or without the city limits as hereinafter defined, and when the council determines that any real estate is necessary to be acquired by the said city for any such purpose, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner and to the same extent and under the same conditions as such power is conferred upon public service corporations by chapter forty-eight of the code of West Virginia of the edition of one thousand nine hundred and six; to provide, contract for and take care of all public buildings and structures being proper for the use of said city; to provide for and regulate the building of all houses or other structures, and to determine the distance they shall be built from the street or alley; to cause the removal of unsafe walls or buildings; to compel owners of property to fence in or wall their property for the protection of the public safety; to prevent the injury and annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to abate or cause to be abated all nuisances; to regulate the keeping of gun powder and all other combustibles; to provide and maintain proper places for the burial of the dead; to regulate interment therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees and the protection or removal of same; to provide for the draining of lots by proper drains and ditches; to make proper regulation regarding danger and damage from fire; to provide for the poor of the city; to organize and maintain fire companies and provide the necessary apparatus; to levy taxes on persons, property and licenses; to provide revenue for the city and appropriate the same to its expenses; to provide for the valuation of property as often as it may be deemed proper and for the assessment of taxable persons and property; to adopt rules for the transaction of business and for the government and welfare of this corporate body; to promote the general welfare of the city and protect the person and property of citizens therein; to adopt rules for the transaction of business and for the government and regulation of its corporate body; to appoint such officers as they may deem proper and require and take from them bond with such security and in such penalty as may be determined, conditions for the faithful discharge of their duty; to
69-a regulate and provide for the weighing of produce and other ar-
ticles sold in said city; to regulate the transportation thereof through the streets; to establish and regulate markets, to prescribe the time for holding the same and what shall be sold only in such market, and to acquire and hold property for market purposes if deemed proper; to regulate the placing of signs, bill boards, post-
ers and advertising and other obstructions in, or over the streets, alleys and sidewalks of said city, to preserve and protect the peace, order and health of the city and its inhabitants; to appoint and fix places for holding city elections; to erect, own, lease, regulate, authorize or prohibit the erection of gas works, electric light works in or near the city, and to operate the same and sell the products thereof and do all things necessary and incidental to the conduct of such business; to provide for and preserve the purity of the water and health of the city; to prescribe and enforce ordinances for the purpose of protecting the health, decency, morality and order of the city and its inhabitants, and to punish violations of such ordinances, even if the offenses under and against such or-
dinances shall also constitute offenses under the laws of the state of West Virginia or the common laws; to have and exercise all the rights, privileges and powers provided by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hun-
dred and six, and amendments thereof not inconsistent with this act, and shall retain, keep and succeed to all rights, privileges, property, interest, claims and demands heretofore acquired by, vested in or transferred to the city of Montgomery, or heretofore to the corporation of Montgomery.

Sec. 8. To carry into effect these enumerated powers and all other powers conferred upon said city, expressly or by implication in this and other acts of the legislature, the municipal authori-
ties of said city shall have power in the manner heretofore pre-
scribed to adopt and enforce all needful orders, by-laws and ordinances not contrary to the laws and constitution of this state, and to prescribe, impose and enforce reasonable fines and penalties, including imprisonment.

ARTICLE VI.

Qualification of Voters.

Sec. 9. Every person who may have resided within the terri-
tory of said city for six months next preceding an election held therein, and who is a qualified voter under the laws and constitu-
4 tion of this state, and none others, shall be entitled to vote at
5 any election held in said city. But no person shall be deemed a
6 resident of said city by reason of being a student of any school
7 or college therein for any temporary purpose.

ARTICLE VII.

Elections.

Sec. 10. The council shall by ordinance provide such regu-
2 lations for the registration of votes as the state laws may require.

Sec. 11. The first election under this act shall be held on
2 the first Thursday in January in the year one thousand nine hun-
3 dred and twenty; and the second election on the first Thursday
4 in January in the year one thousand nine hundred and twenty-two,
5 and on the same day every two years thereafter. Such first elec-
6 tion and all subsequent elections shall be held in such manner as
7 is, or shall be prescribed by law for the holding of state elections
8 and the council shall, for the first election held under this act,
9 and at least ten days before said first election under this act,
10 designate the voting places and the names of the commissioners,
11 clerks and challengers to hold the said first election. Special
12 elections for any purpose must be authorized by the council and
13 called by the mayor. Notices of all special elections must be
14 given by publication in at least one newspaper of general circula-
15 tion published in the city of Montgomery, at least thirty days be-
16 fore the date fixed for all such special elections, and by posting
17 notices in such manner as the council may deem necessary. The
18 council shall sit on the seventh day, Sundays excepted, after every
19 election as a board of canvassers, each member of the council hav-
20 ing one vote; and as such board of canvassers they shall canvass,
21 ascertain, publish and declare the result of any election held; and
22 the circuit court of Fayette county shall have power to control
23 proceedings of said board of canvassers by mandamus and prohibi-
24 tion. The said board shall keep in a separate book, marked for
25 that purpose, a record of the proceedings, and shall take down and
26 record any evidence, motion, or paper filed, or offered by any candi-
27 date, which book and record shall be open to the public and shall
28 be kept in the custody of the recorder.
ARTICLE VIII.

Election of Officers.

Sec. 12. On the first Thursday in January, one thousand nine hundred and twenty, and on the same day every two years thereafter, there shall be elected by the qualified voters of the city, a mayor, who shall hold office from the first day of February succeeding in the year in which he is elected for a term of two years and until his successor is elected and qualified.

Sec. 13. No person shall be eligible to the office of mayor except he be assessed with and own at least five hundred dollars worth of real or personal property, and is a citizen entitled to vote at the election at which he is elected, and no person shall be elected to such office or retain or hold the same, who shall be or become an officer or employee of any person, firm or corporation holding any franchise or contract under or with said city.

Sec. 14. On the first Thursday in January, one thousand nine hundred and twenty there shall be elected by the qualified voters of the city five councilmen, to hold office from the first day of February, one thousand nine hundred and twenty until the first day of February, one thousand nine hundred and twenty-two, or until their successors are elected and qualified. Beginning with the first election held under this act, which shall be on the first Thursday in January, one thousand nine hundred and twenty and every two years thereafter there shall be elected a recorder by the qualified voters of the city, to hold office for the term of two years, and so on every two years thereafter. The officers of the city elected under the old charter and at the election held in the year one thousand nine hundred and nineteen shall hold over until their successors are elected and qualified.

Sec. 15. No person shall be eligible to the office of councilman or recorder except he be assessed with and own at least five hundred dollars worth of real or personal property, and be a citizen entitled to vote at the election at which he is elected.

ARTICLE IX.

Oath of Mayor and Other Officers.

Sec. 16. The mayor, before taking his seat or performing any of the duties of said office, shall take and subscribe an oath or affirmation that he possesses the qualifications prescribed by this
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act to hold such office, and is not subject to any of the disqualifi-
cations prescribed therein, and that he will support the constituti-
on of the United States and the constitution of this state, and
honestly discharge the duties of his office to the best of his skill
and judgment which oath shall be written out and signed and
filed and preserved among the records and books of the city.

Sec. 17. The recorder, councilmen and all other officers
elected or appointed under this act shall take and subscribe an
oath or affirmation in the time, manner, form and effect, pre-
scribed for the mayor.

ARTICLE X.

Vacancies Occurring.

Sec. 18. If the vacancy should occur in the office of mayor,
the council shall, as soon as practicable, fill the vacancy by the
appointment of some qualified person. If any vacancy occurs in
any other office, whether elective or appointive, the council shall
fill the same by the appointment of some qualified person subject
to any regulations as required for the original appointment or
election.

Sec. 19. All persons appointed to fill vacancies in the elective
offices shall hold office until the next city election, and all vacan-
cies in appointive offices shall be filled for the unexpired term.

Sec. 20. The council shall have and is hereby granted the
power and authority to remove from office any officer, whether
elective or appointive, for cause or upon written charges preferred
by any responsible citizen to the council; but to remove from office
under this provision, four-fifths of the members of the council
must be present and four-fifths must concur in such removal, and
the officer against whom the charges are preferred shall be served
with a reasonable notice of the same, together with the time of
hearing upon such charges, together with a copy of such charges,
and shall have the right to be represented before the council in
person and by attorney, and the right to require all witnesses to
be sworn and testify under oath before the council and to have the
testimony taken down.

ARTICLE XI.

Officers May Perform Other Duties.

Sec. 21. Any member of the council, the mayor, recorder,
treasurer, or any other elective or appointive office shall, during
the time for which he was elected or appointed, be eligible for ap-
pointment to any office under the city, provided, such employment
is authorized by the council, by resolution for such appointment;
but in no case shall the time of service be for a longer period than
said council is selected to serve under this act.

ARTICLE XII.

To Keep a Journal of Proceedings.

Sec. 22. The council shall keep a journal of all its proceed-
ings, which shall, at all times, be open to the inspection of the tax-
payers of the city, and be a public record, and the ayes and noes of
the members shall be taken on any question, at the request of any
member, and shall be taken down and entered on the journal.

ARTICLE XIII.

Meeting of Council.

Sec. 23. The council shall hold regular meetings on the first
Tuesday of each month of the year, and such special meetings as
the business to be transacted may require, at such time, place or
places in the city as the council shall, from time to time, ordain
or appoint; and the council shall have the power by proper ordi-
nance or resolution, entered of record, to vest in any officer of the
city or any member or number of members of their body, author-
ity to call such special meetings and in like manner to prescribe
the mode in and by which said meetings shall be called. All ques-
tions put, except as to such matters, as herein otherwise provided,
shall be decided by a majority of all the members elected. No
business shall be transacted at any special meeting of the council
unless specifically mentioned in the call for such meeting.

ARTICLE XIV.

Quorum.

Sec. 24. A majority of the whole number of members elected
or appointed to the council shall constitute a quorum to transact
business, but a smaller number may adjourn from time to time and
may compel attendance of absent members in such manner and un-
der such penalties as either body may by rules provide.
ARTICLE XV.

Salaries.

Sec. 25. The mayor, recorder, regular and other officers, employees and appointees, shall receive for their official services such salaries as the council shall, from time to time, by ordinance fix and establish; but the salaries of such officers shall not be increased or diminished during the term for which such officers were elected or appointed; provided, that the salaries of all officers elected or appointed for any term shall be fixed not later than thirty days preceding any election.

ARTICLE XVI.

Appointive Officers.

Sec. 26. The council shall by a majority vote of its members fill all appointive offices under the city administration.

ARTICLE XVII.

Duties of the Mayor.

Sec. 27. The mayor shall be chief executive officer of the city and shall preside at all meetings of the council and shall have a vote in case of tie; he shall have charge and control of the police except as herein otherwise provided; he shall see that the laws and ordinances of the city are enforced; that the peace and good order of the city are preserved and that persons and property therein are protected, and to this end he may cause the arrest and detention of riotous and disorderly persons, and shall perform such other duties and services as the council may ordain in addition to the duties prescribed in this act and not inconsistent herewith. The recorder, except as herein otherwise provided, shall perform the duties of the mayor whenever and so long as the mayor is from any cause not able to perform his official duties, and he shall, in the absence of the mayor, perform any and all the duties of the mayor except he shall not preside over the council. In the absence of the mayor at a meeting of the council, the council shall select one of its own members to preside over its meetings, who shall have a vote as a councilman. If the mayor and recorder are both absent from the city, or otherwise disabled from performing the duties of the mayor, the council may elect a mayor pro tempore. The mayor shall have the power at any time to appoint
22 special policemen, who shall be sworn in without confirmation of
23 the council.

ARTICLE XVIII.

Duties of the Recorder.

Sec. 28. It shall be the duty of the recorder to keep a prop-
2 erly indexed journal of the proceedings of the council and board
3 of health, and have charge of and preserve the records of the city;
4 he shall, whenever required by the mayor, attend the police court
5 and attend to all the duties as clerk of the police court of the city.
6 In the absence of the mayor or police judge, he shall exercise the
7 functions of police judge; he shall perform all other duties requir-
8 ed of him by order or by ordinance of the council; as recorder he
9 shall receive compensation for his service to be fixed by the coun-
10 cil, which shall not be increased or diminished during his term of
11 office.

Duties of the Auditor.

Sec. 29. The auditor shall be the city accountant and audit-
2 ing officer of the city and it shall be his duty to see that the ac-
3 counts of said city are kept in a detailed and systematic manner,
4 under the proper classification so as to show the bonded and other
5 indebtedness of said city, and the amounts and claims due the
6 same, as well from taxes, levies and assessments as from other
7 sources.

Sec. 30. In addition to the other duties of the auditor, it
2 shall be his duty, on or before, the first day of August in each year
3 to make a copy from the real and personal property books of prop-
4 erty shown to be liable to taxation within the limits of the city of
5 Montgomery, and to certify such copies under his hand as a true
6 and correct copy thereof, and to deliver the same to the council and
7 to assist the council in preparing the annual estimate of expenses
8 to be certified to the council as a basis for the annual levy. After
9 such levy is made in each year, it shall be the duty of the auditor to
10 extend said levy upon said real estate and personal property books
11 for said city and to prepare proper tax tickets therefrom against
12 all owners of real estate and personal property subject to tax-
13 ation in said city. He shall turn the said tax bills over to the treas-
14 urer or sergeant, who shall collect said taxes when due and pay-
15 able, and the treasurer shall certify to the payment of same as
ARTICLE XX.

Duties of City Attorney.

Sec. 31. The council may appoint a city attorney, by a majority vote of its members, who shall be the legal adviser of the city and all its officers in all matters arising and in which legal proceedings may be taken; he shall prosecute all the suits, actions and proceedings instituted on behalf of said city and shall defend all suits and actions against said city, and when requested to do so in writing, shall give his written opinion to the mayor, council or any committee thereof upon such questions as may be referred to him affecting the city's interest; he shall perform such other duties as may be required. It shall be his duty to attend all sessions of the police court whenever requested by the mayor or police judge prosecute all trials therein and all appeals that are taken from such courts, and for his services shall receive such compensation as may be agreed on between him and the city council.

ARTICLE XXI.

Duties of Police Judge.

Sec. 32. The mayor or police judge shall be ex-officio a justice and conservator of the peace within the city and he shall, within the same, have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil causes of action arising out of the corporate limits of the city. He shall have the same power to issue attachments in civil actions as a justice of his county has, though the cause of action arose out of the city limits, but in such case he shall have no power to try the same but must have such attachment returnable and heard before some justice of the county. Any warrant or other process issued by him may be executed within the same territorial limits as that of a justice of the county. He shall have power to issue executions for all fines, costs and penalties imposed by him, or he may require the immediate payment thereof, and in default of such payment he may commit the party in default to the jail of the city, until the fine, penalty or costs shall be paid, but the term of imprisonment in such cases shall not exceed sixty
18 days. But such mayor or police judge shall not receive any money
19 belonging to the state, or any individual, unless he shall give bond
20 and security as required of a justice of the peace under the laws
21 of the state of West Virginia; and all provisions under the laws of
22 the state of West Virginia relating to moneys received by justices
23 shall apply as to like moneys received by the mayor or police judge.

ARTICLE XXII.

Ordinance—General Provisions.

Sec. 33. The style of ordinances of the city shall be “Be it
2 enacted and ordained by the council of the city of Montgomery,”
3 but the ordinances now in force shall remain in effect until amend-
4 ed or repealed, except where they are in conflict or inconsistent
5 with this act.

Sec. 34. All ordinances shall be presented in writing and
2 no ordinance shall be so amended in its passage as to change the
3 general purpose. No ordinance shall be considered for final
4 passage at the meeting at which it is introduced unless the same
5 shall have been reported on by a committee, but reference to a
6 committee may be dispensed with by an affirmative vote of three-
7 fifths of the council as elected. No ordinance shall contain more
8 than one subject, which shall be clearly expressed in its title; nor
9 shall any ordinance be passed by the council unless a majority of all
10 the members elected to the council shall concur therein by ayes and
11 nays when the question is put upon its passage.

Sec. 35. All ordinances passed by the council shall be spread
2 upon the minutes and at the next regular meeting such ordinances
3 shall be read in open council and the mayor shall sign said min-
4 utes when found correct or corrected, in the presence of the coun-
5 cil. The council shall provide a well-bound book, in which shall
6 be copied all the ordinances in the order in which they are passed,
7 which ordinances so copied shall be compared with the originals by
8 the mayor and shall be signed by him when found correct. Such
9 book shall be indexed so as to show in brief form the substance
10 of the ordinances. All copies thereof certified as hereinafter pro-
11 vided, shall be received by all the courts and justices in this state
12 as evidence; but the council may adopt by ordinance, properly desig-
13 ning and describing it, a code of laws and ordinances, which when
14 adopted, shall be published in a newspaper of general circulation in
15 said city, or posted, and printed in book form, or it may be adopted
as a whole after it is printed, and the said code shall be and become
the laws and ordinances of the said city, and shall be received as
such by all the courts in this state, and the printed volumes pub-
lished under order of the council shall be so received as evidence of
what is printed therein till errors or omissions be affirmatively
shown therein.

ARTICLE XXIII.

Franchises.

Sec. 36. All franchises granting the right of occupancy
of any portion of the streets of the city for work of public utility
and service shall be granted by the council, but no such fran-
chise shall hereafter be granted except under the following re-
strictions and conditions:

No franchise shall be granted, except at the time of granting
it bond be made to the city providing that the grantee shall in-
demnify the city against all damages caused by construction,
maintenance or operation of such works. All reasonable addi-
tional provisions and conditions may be made for the protection
of the public, necessary damage or inconvenience by reason of
the construction, maintenance or operation thereof.

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

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

If the city or the owner of the plant cannot agree upon its
value, then its value shall be ascertained by an impartial arbi-
tration, one arbitrator to be selected by the city, one by such
owner of the plant, these two to select a third, and the decision
of any two to be binding upon both parties.
ARTICLE XXIV.

Estimate of Expenses and Levy.

Sec. 37. A finance committee shall be appointed from the council members, by the mayor, and said finance committee shall, on or before the first day of August in each year, prepare and submit to the council an estimate of the amount of money necessary and advisable to be expended by the city for the current year next ensuing and to be provided for by the tax levy as herein provided for such current year, in which estimate the finance committee shall ascertain and present a detailed and itemized account or estimate of the money necessary to pay interest on the bonded indebtedness of the city, the amount required for the several sinking funds, for the reduction of the principals thereof, the amount to be expended severally for the streets, alleys, curbing, water works, police department, fire department, street paving, sewers, salaries, parks, real and personal property, contingent expenses and other expenses, together with an itemized statement of the estimated receipts, other than that to be derived from the annual levy, and after receiving such estimates, and before making the levy the council shall apportion the rate thereof, (including estimated receipts for licenses and all other sources), among the several funds to ascertain and provide for, which said apportionment when adopted, shall be spread upon the records of the council. Upon the estimate of such expense, the council shall thereupon, by ordinance; lay a levy for the ensuing tax year of a sum not to exceed sixty cents, exclusive of any levy or levies for bond purposes, on each one hundred dollars assessed valuation of all taxable property, real and personal, subject to taxation in said city, as well as a capitation tax not to exceed two dollars upon every male inhabitant of said city over the age of twenty-one years who is subject to a capitation tax under the laws of the state of West Virginia, and said council is authorized to levy to such maximum of sixty cent on each one hundred dollars of valuation, notwithstanding any general laws now in force, or which may be enacted, restricting the powers of municipal corporations to levy taxes.

Sec. 38. Whenever anything, for which a state license is required, is to be done within said city, the municipal authorities, as herein provided, may require a city license to be had for doing the same, and may, in any case, require from any person licensed a
bond, with sureties, and in such penalty and with such conditions
at it may deem proper, and the council may on notice revoke such
license at any time, if the conditions of said bond be broken, or
for good cause.

The municipal authorities may impose a license tax for the
use of said city upon any business, trade, occupation or profession
for which the state now requires or hereafter may require a license,
but the tax upon such city license shall in no case exceed the license
tax imposed by the state upon such business, trade, occupation or
profession. The municipal authorities may prescribe, impose and
enforce reasonable fines and imprisonment, under the order of the
police judge of said city, or the person lawfully exercising his
function, upon any person carrying or attempting to carry on any
business for which the said license is required, without first ob-
taining a city license therefore, and paying the city license tax
assessed thereon. All licenses provided for in this section shall
be paid to the sergeant or treasurer. For the purposes of enforcing
the provisions of this section the city shall have police jurisdiction
for two miles beyond the corporate limits thereof.

Sec. 39. The council shall have the power to pass and make
all regulations and pass all ordinances necessary and proper con-
cerning the granting and revoking of all licenses. The city shall
have the power to prohibit by ordinance and to punish persons
abusing animals; to restrain and punish vagrants, mendicants,
beggars, tramps, prostitutes and drunken and disorderly persons
within the corporate limits; to provide for their arrest and manner
of punishment; to prohibit and punish railroads bringing in paup-
ers or persons or animals afflicted with dangerous diseases; to con-
trol and suppress bawdy houses, houses of assignation and gamb-
ing houses and to punish gaming; to prohibit slaughter houses with-
in the prescribed limits and soap or glue factories of any kind;
to restrain and prohibit the use of fire crackers, fireworks or other
explosives, and all dangers or unseemly noises which tend to an-
noy persons or frighten horses or other animals; to make regula-
tions guarding against fire; to regulate the use of streets and al-
leys for street cars, railroads, railroad engines, traction engines,
avtomobiles, and cars of all sorts, and regulate the running and
operation of the same within the city limits; to regulate and pre-
vent injury, inconvenience or annoyance to the public; to prohibit
cock fighting and dog and prize fighting; to regulate and con-
trol the kind and manner of plumbing and electric wiring, etc.,
for the safety and health of the public, to regulate, restrain and prohibit all animals and fowls running at large; to establish and regulate markets; to regulate signs and billboards, posters and advertisements on or over streets; to regulate the sale and use of cocaine, morphine, opium and poisonous drugs; to provide for purity of water, milk, meat, etc., sold in the city limits; to provide for inspection of dairies, slaughter houses and other places of like nature; to protect places of divine worship; to have abated and removed all nuisances; to regulate the construction of all water closets, privies, cess pools, pens, sinks, yards, stables and other places where offensive substances may accumulate; to regulate and prescribe punishment for all violations against the public peace and welfare.

ARTICLE XXV.

Taxes—How Collected.

Sec. 40. The city taxes annually levied by said council shall be collected as follows: Immediately after the annual levy for city taxes is laid, the auditor shall extend the same on the property books made out by him, including thereon, the proper capitation taxes. He shall make out proper tax tickets in the following manner, that is to say: there shall be a single ticket for the whole amount charged to any person, firm or corporation, and after the tickets have been examined and compared and found to be correct by the council, they shall be turned over to the sergeant or treasurer by the first day of October following the levy. The sergeant or treasurer shall receipt for the gross amount, said receipt to be returned and entered upon the records and the sergeant charged therewith. The sergeant shall then give notice by publication in a newspaper of general circulation in the city, and posting for at least ten days, stating that the tax tickets are in his hands for collection, the penalty for the non-payment thereof, and the time and place where the same may be paid; provided, however, that a taxpayer shall have the right to anticipate the payment of the whole or any part of the taxes as assessed. Immediately upon the payment of said taxes or any part thereof, the said amount shall be deposited by the sergeant or treasurer in one of the city depositories to the credit of the "City of Montgomery," and the sum so deposited shall be reported to the council at its first meeting after deposit is made. All taxes shall be due and payable within thirty days after the
expiration of the notice posted and published by the sergeant hereinbefore set forth, and in case the same are not paid within said time, he may distress and sell therefor, in like manner as the officer collecting the state taxes may distress therefor, and he shall have in all other respects the same power to enforce the payment and collection thereof. On all tickets remaining uncollected in the hands of the sergeant fifty days after the date of the expiration of the notice posted and published by him, a penalty of five per cent. shall be added and collectable, together with six per cent. interest until paid.

The council may by ordinance allow a discount for prompt payment of taxes. The sergeant shall have the power to collect said taxes so placed in his hands together with the penalty and interest thereon, heretofore provided to be added thereto. The sergeant shall be charged with the gross amount of said tax tickets so delivered to him for collection, and no deductions therefrom shall be allowed unless on or before the first day of July of each year he makes out and returns to the council a delinquent list of taxes uncollected for year previous with his oath attached thereto, stating that such delinquent list is correct and just, that he has received no part of the taxes mentioned thereon and that he has used due diligence to find property to distress for said taxes and has found none, and that the same are uncollectable. Penalties and interest provided for in this section, to be added to such taxes, shall not be deemed or considered any part of the limitation in this act hereinbefore prescribed, restricting the annual city levy to sixty cents on each one hundred dollars valuation. The sergeant shall not take or collect anything but money and the legally issued and authorized drafts or vouchers of the city, for the payment of taxes. The sergeant shall perform such other duties as the council may require, and receive such compensation as shall be fixed by the council.

Sec. 41. All goods and chattels belonging to a person, firm, or corporation or estate, assessed with any city taxes, whether the same be a capitation tax, tax upon real or personal property or an assessment for paving or other improvements, shall be liable for said taxes and may be distrained therefor in whosoever possession they may be found, and the sergeant shall have the same power to collect said taxes or assessments from any persons owing debts to or having in his possession any estate belonging to a person assessed
with any tax or assessment of any kind, that the sheriff has to collect state taxes or enforce the collection thereof.

Sec. 42. There shall be a lien upon all real estate within said city for the city taxes assessed thereon including such penalties and interest added thereto for non-payment thereof as are prescribed by this act, from the first day of January in which said taxes are assessed. Said liens may be enforced in any court of record in Fayette county by appropriate suit; provided, such suit be entered within five years from the time said liens attached as herein provided, and such suit may either be by and in the name of the city of Montgomery as plaintiff, or said city may intervene by petition in any suit pending to sell or enforce liens against real estate which is subject to such liens for said taxes. The liens herein created shall have priority over all other liens except those for taxes due the state and county.

Sec. 43. Said liens for city taxes and attendant penalties, as well as for improvement assessments, may also be enforced by the certifying of the same to the clerk of the county court of Fayette county for certification to the state auditor, and the same may be certified down by the state auditor and sold for taxes, interest and penalties and commissions thereon, in the same manner, at the same time, and by the same officer as real estate sold for taxes, interest, damages, costs and commissions due the state thereon, which officer shall account therefor on settlement with the council and pay the same over to the treasurer.

ARTICLE XXVI.

Money—How Appropriated.

Sec. 44. No money shall be appropriated and no debts shall be contracted and no contracts authorized by the city, except by an ordinance passed by the council as specified herein, and no such ordinances shall be passed except where the funds to meet the same shall have first been provided by levy duly made in accordance with this act and its provisions. No contract shall be entered into involving or anticipating further levies, unless all the questions connected with the same shall have been first submitted to the people and shall have received three-fifths of all the votes cast at such election.
ARTICLE XXVII.

Sewers, Paving and Curbing.

Sec. 45. The council shall have the power to establish the width of any sidewalk along any street, alley or public square or portion thereof, and any owner of ground fronting on such street, alley or public square shall, in such manner as the council shall reasonably prescribe, pave and curb the sidewalk adjacent to such property. In case of a failure or refusal of the owner to pave or curb the same, the council may cause the same to be properly curbed and paved by the city, and levy and collect from such owner the whole cost of such curbing and paving adjacent to such property, with a penalty of five per centum added thereto, together with six per centum interest until paid; and in like manner to require the owner of any property adjacent to any paved sidewalk heretofore or hereafter constructed, to keep the same in repair, and in default of doing so to cause the same to be repaired, and levy and collect the cost from said owner or owners with a penalty of five per centum added thereto together with six per centum interest per annum until paid. In all cases of such assessment, whether for the original or for the repairing of sidewalk, payment thereof, including penalties and interest, shall be made to the sergeant within sixty days after the completion of the work, who shall have the power to collect the same from the owner or owners of any such property by distress and sale, in the same manner in which taxes levied for the benefit of the city are authorized to be collected and, in addition, there shall be a lien upon such real estate, which lien shall be enforced by appropriate suit in any court of record of Fayette county.

Sec. 46. Whenever the council may deem it expedient to cause any street or alley in said city, or portion thereof, to be paved in a permanent manner, it shall order the work done in the following manner and upon the following terms: the contract for such paving shall, after due advertising, in which the council shall reserve the right to reject any and all bids, be let, if let, to the lowest responsible bidder. The contractor shall look only to the city for the payment for the work and in no sense to the abutting land owner. The total cost of grading and paving any such street or alley (except when the streets are occupied by street car tracks, for the distance between the rails and for two additional feet outside of each rail, which portion shall be borne and paid by the
company owning and operating such railway and track) shall be borne by the owners of the land abutting upon said street, alley or portion thereof, subject to the following plans, that is to say: payment is to be made by all the land owners on either side of such portion of a street or block so paved, in such portion of the total cost, less the portion, if any, chargeable to such street railway company, as the frontage in feet of his land bears to the total frontage of all lands so abutting on such street, alley or portion thereof so paved as aforesaid. The cost of such paving chargeable to the abutting property is not to include any portion of the amount paid for paving of any squares at intersections of streets, which shall in all cases be borne and paid by the city. When the paving of any street or alley or portion thereof shall have been let to contract and the work done as hereinbefore provided, it shall be the duty of the city engineer to cause the several frontages abutting thereon to be measured, to calculate the assessment upon each and every land owner so abutting, and to certify the same to the council showing the proper amount to be determined as provided in the foregoing plan. It shall be the duty of the council to examine and compare such assessments, amounts and names so certified to it. Thereupon the council shall give notice by publication for two successive weeks in some newspaper published in said city that an assessment, under this act, is about to be laid against abutting property for paving done on said streets or alleys, describing the location of such paving. Any owner or owners of abutting property shall have the right to appear before the said council within three weeks from the first publication thereof, and move such council to correct any apportionment or assessment improperly made; which corrections the said council shall have the power to make. If found to be correct, or when rectified, the council shall cause the same to be entered, together with the description as to the location, frontage, depth and ownership of the land, so far as the same may be ascertained, upon its records, and to enter in its record that such owners and lots be assessed and chargeable with the amount so ascertained to be borne by them respectively. When so approved, certified and entered of record, the same shall be and constitute an assessment against said owners and lots for such respective amounts. It shall be the duty of the council to immediately certify such assessment to the sergeant for collection as hereinbefore provided. A copy of such order shall be certified
by order to the clerk of the county court of Fayette county, who
shall be required to record and index the same in the proper deed
book in the name of each person against whose property assess-
ments appear therein. The amount so assessed against any land
owner, as aforesaid, shall be paid in seven payments, as follows,
that is to say: one-fourth of said amount shall be paid to the
sergeant when said work is completed, certified and entered of
record as aforesaid, and the other three-fourths shall be paid in
equal semi-annual payments with six per cent interest thereon
until paid, the first of which shall be due and payable six months
from date first payment is due, and so on, every six months until
the full amount of assessment, with penalties and interest is paid,
the purpose being to require the payment regularly until the entire
amount is paid. Provided, however, that the abutting land owner
so liable for any costs of such paving shall have the right at any
time after the same is certified as aforesaid to the sergeant for
correction, to anticipate the payment of either installment. To
each of said installments of assessments remaining unpaid in the
sergeants hands at the time specified for such payment, a penalty
of four per cent shall be added and the payment thereof enforced
in all respects as hereinbefore provided for the collection of any
other taxes due the city, and such shall be a lien upon the prop-
erty liable therefor, the same as for other taxes, and the lien may
be enforced in the same manner as provided for other taxes. The
liens hereinbefore provided for shall have priority over all other
liens except those due the state and county for taxes, and shall be
on a parity with other taxes and assessments due the city. Upon
the payment of any assessment to the sergeant he shall deliver
to the party paying the same a release of the lien therefor, which
may be recorded in the office of the clerk of the county court as
other releases for liens. Should such assessment not be in the
hands of the sergeant, if the same shall have been shown to the
satisfaction of the council to have been paid in full to any officer
entitled to receive the same as designated by it, the council may
direct the sergeant to execute a release of such liens, which release
may in like manner be recorded.

ARTICLE XXVIII.

Sec. 47. Whenever the council shall order the construction
of any public sewer in said city the owners of the property abut-
ting upon any street, in which said sewer shall be constructed, shall be charged with and liable for sewerage assessments as follows: when said sewer is completed the city engineer shall report to the council in writing the total cost of such sewerage, with a description of the lot and land, as to the location, frontage, depth and ownership, liable for such sewerage assessment, so far as the same may be ascertained, together with the amounts chargeable against each lot and owner, estimated on the basis of cost, frontage measures on said sewer being considered, and thereupon said council shall give notice by publication in a newspaper of general circulation, published in said city, as is required in the case of street paving assessment, and the same right shall exist as to the persons and property affected, and the same duty as to correction by the council as are prescribed with reference to paving, which report shall, in like manner, be examined by the council, and if found to be correct, or corrected as aforesaid, and such estimated assessments to be a fair and equitable apportionment of the costs of said sewer, it shall enter an order upon its records setting forth such location, depth, ownership, and said amount of said sewer assessment against each property respectively, calculated as aforesaid, and the entry of such order shall constitute and be an assessment for such proportion and amount so fixed therein, against such respective owners and lots. If after such advertisement, notice and hearing said council shall find that such apportionment at such rate is unjust or inequitable, it shall ascertain, fix and assess the cost thereof among and upon the abutting owners respectively, fairly and equitably and in like manner assess and enter the amount so fixed, respectively, upon its records, and the council shall in either event thereupon certify the same to the sergeant for correction, and certify a copy of such order to the clerk of the county court of Fayette county, who shall record the same in the proper deed book, and index the same in the name of the owner of any such lot so charged with such assessment. Such assessment so made shall constitute and be a lien upon said lots respectively, which shall have priority over all other liens except those for taxes due the state and county, and shall be on a parity with other taxes and assessments due the city. Said amounts so assessed against said several land owners shall be paid by the parties liable therefor to the said sergeant at the time, in the manner and with the attendant penalties and interest, for failure to pay promptly at the time prescribed in all respects as hereinbe-
fore provided in the case of assessment for paving of streets and
alleys in a permanent manner; and the parties liable therefor in
the same manner and to the same extent shall have the right and
be entitled to anticipate any or all such installments. The owner
or owners of any lot abutting upon any street or alley in said city,
on which a public sewer is or may hereafter be laid and con-
structed upon which any business or residence building is or may
hereafter be erected, not otherwise connected to the public sewer,
may be required and compelled by council to connect any such
property with such sewer. Notice to so connect may be given by
the council to the owner, lessee or occupant of such property.
Each day’s failure to comply with such notice and to connect with
such sewer by such owner or owners, after ten days have elapsed
after such notice has been given, shall be a misdemeanor and a
separate offense and new offense under this section, and each
offense shall be punishable by a fine of not less than five nor more
than twenty-five dollars. Jurisdiction to hear, try and determine
sentence for violation of this section is vested in the police
court of said city. If said owner or owners fail to comply with
the notice to make such sewer connection, then the council may by
ordinance order the work to be done at the expense of the city and
the costs thereof to be certified to the clerk of the county court,
and the same shall constitute a lien upon said property, with the
same force and effect as taxes.

Sec. 48. The liens herein and hereinbefore provided for
street paving and sewerage assessments shall constitute liens upon
real estate upon which they are assessed, as against creditors of
the owners thereof or purchasers for value from, and without
actual notice of such lien, only from and after the time that the
statement thereof, certified as aforesaid shall be filed for record in
the office of the clerk of the county court of Fayette county.

Sec. 49. When the whole or any portion of the improvement
authorized by this act pass through or by a market space, park,
cemetery, structure for the fire department, water works, school
building, infirmary, market house, work house, hospital, house of
refuge, bridge, gas works, public prison, court house, church, or
any other public structure, or public ground within said city, and
belonging to said city, or to the county, state, or any church,
association or eleemosynary institution, the council may authorize
the assessment to be certified to the clerk of the county court of
Fayette county and the same shall thereupon be recorded by said
clerk in the proper deed book and shall thereupon become a lien against said property and collectable as other assessments are collected against individuals under this act. It shall be the duty of those persons having charge of the fiscal affairs of any such property or institution to make the proper arrangements for meeting such assessments, when due and payable.

Sec. 50. The city of Montgomery, by ordinance of the council, may borrow money in an amount equal to the amount of said liens herein acquired, for the purpose of paying any contract for paving or sewerage under this act, and may assign said liens as security for such loan or loans; but in no event shall the money so borrowed be expended for any other purpose than in the payment of the indebtedness owing by the city for such work; that is, liens for the street paving can only be used by the city in borrowing money to pay for street paving, and liens for sewerage can only be used by the city in borrowing money to pay for sewerage.

ARTICLE XXIX.

Bonded Indebtedness.

Sec. 51. The council of said city shall have the right to bond the said city for the purpose of paving the streets and alleys of said city and for constructing water works or repairing the same, and for constructing a sewerage system, or repairing the same, and for the purpose of providing hose and other appliances for extinguishing fires, and for any and all public improvements whenever the council thereof shall deem such improvement necessary, and to refund outstanding bonds at a lower rate of interest, and to issue new bonds for the purpose of increasing the length of time on any such indebtedness; but the aggregate indebtedness of said city shall for all purposes not exceed five per centum on the assessed valuation of the taxable property therein, based on the valuation of the last assessment next preceding the date of the incurring of such indebtedness; and the said council shall lay a levy sufficiently high on the taxable property of said city to provide a fund for the payment of the interest on and a sinking fund for the discharge of the principal of any and all indebtedness incurred in the manner aforesaid within the period of thirty-four years. Such bonds shall not be sold for less than par nor issued to refund outstanding bonds of said city except dollar for dollar.
A record of all the proceedings had hereunder shall be kept by the council.

**ARTICLE XXX.**

**Buildings for City Use, Etc.**

Sec. 52. The council shall have the authority to erect, buy, sell and lease all buildings necessary to the use of the city government, or any of its departments, and to provide for and regulate the same; to establish and maintain public hospitals and receive donations, gifts or bequest for the same, in trust or otherwise.

**ARTICLE XXXI.**

**Health.**

Sec. 53. The council shall have the authority to ordain and enforce such regulations within said city as shall be necessary or proper to preserve the health of the inhabitants of said city and to secure them from disease; to require and compel the abatement of and removal of all nuisances within said city at the expense of the person or persons causing the same, or of the owner or owners of the ground whereon the same shall be; to prevent or regulate slaughter houses within the said city; or the exercise of any unhealthy or offensive business, trade or employment therein; to prevent the keeping of any stale meats, fish, vegetables, or other matter, or depositing the same, or dirt, rubbish or offal, upon any lot, street, alley or square within said city or upon the banks of any streams within the limits thereof.

Sec. 54. The council shall have the power by ordinance to regulate the sale of cocaine, morphine, opium and poisonous drugs within said city, and to prescribe punishment including fine and imprisonment, for the violation of any such ordinance, and to provide that one or more convictions for violations of same shall operate as a revocation of the license of any druggist or pharmacist holding a license under said city.

Sec. 55. The council shall, in the month of February, one thousand nine hundred and twenty, and in said month of every year thereafter, appoint a suitable person, who shall be a practicing physician, as health commissioner, whose term of office shall be for one year and until his successor is appointed and qualified. The members of the council, mayor and health com-
7 missioner shall comprise the board of health of said city. The
8 board of health shall have the power to abate all nuisances within
9 said city, and it shall do and perform all such other duties and
10 exercise such other powers as may be required of or conferred
11 upon them by legal ordinances of said city. The council of said
12 city shall provide by ordinances the way and method of trying
13 and abating such nuisances, and shall prescribe all penalties that
14 may be proper and necessary for such purpose. The board of
15 health shall have the power to summon witnesses, hear testimony
16 and to do any and all other things necessary and proper in the
17 performance of such duties under this act and under the general
18 laws of the state, in such cases made and provided.

ARTICLE XXXII.

Police Department.

Sec. 56. The mayor shall nominate a chief of police and
2 such number of policemen as may be authorized by ordinance,
3 from time to time, said nominations to be subject to confirmation
4 by the council. Council shall prescribe by ordinance such mental
5 and physical examinations for applicants for appointment to the
6 police force as it shall deem proper. Policemen, when nominated
7 and confirmed by the council shall hold office during the will of
8 the council. The term of chief of police shall be for one year.
9 No person shall serve or exercise any of the duties of a police officer
10 until he shall have been confirmed as such by the affirmative vote
11 of a majority of all the members elected to the council, unless he
12 has been appointed a special officer as hereinbefore provided for.
13 Policemen may be removed and discharged at any time by the
14 mayor for good cause, in which event he shall report such suspen-
15 sion, together with the reason therefor, to the council at its next
16 meeting. The council shall consider such suspension and may
17 veto such suspension and may reinstate such policemen or confirm
18 the suspension for such period as they may fix. Provided, that the
19 council shall have the power to suspend without pay the chief of
20 police or any policeman against whom charges are preferred.

ARTICLE XXXIII.

Fire Department.

Sec. 57. The fire department shall be under the supervision
2 and subject to the rules and regulations prescribed by the council.
ARTICLE XXXIV.

Sec. 58. All officers of the city of Montgomery heretofore elected by vote of the people shall remain in and hold their offices and discharge the duties thereof until the first day of February, one thousand nine hundred and twenty, and thereafter until their successors have been elected and qualified.

All valid ordinances and regulations passed and adopted by the council on or before the fifteenth day of January, one thousand nine hundred and nineteen, and not consistent with this act, shall be and remain in full force, unless and until repealed, and the council now in office shall continue to exercise its powers as such until their successors are elected and qualified.

Sec. 59. All acts in conflict or inconsistent with this act are to the extent of any such conflict hereby repealed.

CHAPTER 4.

(From House Bill No. 172—Mr. Anderson.)

AN ACT to create and to incorporate the municipal corporation of the city of Welch in the county of McDowell and state of West Virginia, and to grant a charter thereto, and defining the powers of said city and the officers thereof and fixing the corporate limits of said city.

[Passed February 21, 1919. In effect from passage. Became a law without the Governor’s approval.]

SEC. 1. The city of Welch.

2. Corporate limits described.


4. Municipal authorities.

5. Corporate powers exercised by council.

6. Appointive officers; term of office; salaries.

7. Eligibility to elective office.

8. When and how held; registration; ballot; tie vote; contested election; vacancies.

10. Appointive officers; duties; salary, etc.


13. Oath of office.

14. Term of office.

15. Vacancies; how filled.

16. Mayor; duties and privileges; salary; how paid.

17. Recorder; duties; salary.

18. Quorum; how constituted.
Be it enacted by the Legislature of West Virginia:

ARTICLE I.

The City of Welch.

Section 1. That the inhabitants of so much of the county of McDowell, in the state of West Virginia, included in the boundaries described in section two of this act, be and they are hereby created and are to remain and continue a municipal corporation by the name of the city of Welch, by which name they shall have perpetual succession and a common seal, and by which name they may sue and be sued, plead and be impleaded, contract and be contracted with, purchase and otherwise acquire and hold real estate and personal property needed in the discharge of the functions of government conferred by this charter.

ARTICLE II.

Corporate Limits.

Sec. 2. The corporate limits of the city of Welch shall be as follows, that is to say: Beginning at a stake near the mouth of Fish Trap branch of Elkhorn fork of Tug river; thence south fifty degrees forty minutes west nine thousand six hundred and twenty-seven feet crossing Elkhorn and Big branch of same to a stake in the lower edge of the county road, about nine hundred feet above the mouth of Little Indian creek and in a line of the Adkin district; thence south thirty degrees north eight hundred feet crossing Tug river to a stake on a spur; thence north fifty-four degrees thirty minutes west two thousand four hundred and fifty feet to a stake near Little Indian creek; thence north forty degrees to a stake in a line of the present corporation limits; thence with same south seventy-seven degrees west eight hundred feet to a poplar, spruce pine and double beech on the bank of Cub branch; thence north sixty-four degrees thirty minutes west six hundred feet to the top of a spur where a white oak is called for; thence north twenty-two degrees east seven hundred feet to a stake on the north bank of Tug river; thence north eighty-four degrees thirty minutes east two thousand five hundred and fifty feet to a stake near the mouth of Fish Trap branch, and in a line of the Adkin district.
20 four degrees east six hundred and fifty feet to a stake in a line
21 of said corporate limits; thence leaving said line and running up
22 a spur north twenty-eight degrees five minutes east four hundred
23 feet; north seventy-three degrees six minutes east one hundred
24 seventy-eight and six-tenths feet, north seventy-eight degrees east
25 three hundred thirty-three and seven-tenths feet; north forty-seven
26 degrees thirty minutes east ninety-two feet; north forty-nine de-
27 grees east ninety-seven feet; north sixty-two degrees thirty minutes
28 east four hundred and ninety-seven feet; north thirty-six degrees
29 east two hundred twenty-four and six-tenths feet; north thirty-
30 seven degrees east sixty-five and six-tenths feet, north seventy-
31 eight degrees east one hundred and seventy-six feet, south eighty-
32 eight degrees east two hundred and seventy-eight feet, south thirty-
33 degrees east three hundred eighty-three and one-tenth feet; south
34 sixty-two degrees east forty-nine and two-tenths feet; north
35 seventy degrees east eighty-one and two-tenths feet; north
36 eighty degrees east ninety-six and two-tenths feet, north
37 ninety degrees east two hundred and sixty-three feet; north
38 eighty-nine degrees east two hundred and ninety-eight feet to a stake on top of the ridge between Tug river and
39 Browns creek; thence leaving the top of said spur and ridge, south
40 forty-eight degrees east two thousand five hundred thirty-three and six-tenths feet to a stake near the mouth of
41 Graveyard hollow of Browns creek and about twenty feet north of
42 the county road; thence south fifty-three degrees forty-three
43 minutes east five thousand six hundred and forty-nine feet, crossing
44 Browns creek and ridge between Browns creek and Elkhorn
45 to the beginning, containing one thousand five hundred and ten
46 acres.

ARTICLE III.

Boundaries of Wards.

Sec. 3. The said city of Welch shall be divided into three
2 wards, which shall be bounded as follows:

First Ward.

3 All the following described boundary shall constitute the
4 first ward of the said city, that is to say: Beginning at a point
5 in the center of Tug river and in the corporate lines of said city
6 just above the mouth of Little Indian creek; thence with the
7 corporate lines of said city and in an easterly direction to a point
8 in said corporate line and the center of Elkhorn creek where same
9 crosses said line; thence down said Elkhorn creek to a junction
10 of the Tug river; hence up the center of Tug river to the point
11 of beginning.

Second Ward.

12 All the following described boundary shall constitute the
13 second ward of said city, that is to say: Beginning at a point in
14 the center line of the main track of the Norfolk & Western rail-
15 way at mile post three hundred and ninety-nine; thence westerly
16 with said railway line to a point in the center of the Tug river
17 where the said railway line crosses the same; thence down the
18 center of said Tug river to the mouth of Browns creek; thence up
19 the center line of the said Browns creek to a point where the same
20 crosses the corporate line of the said city of Welch, thence in a
21 southerly direction with the said corporate line to the center of
22 Elkhorn creek at a point in the line of the first ward; thence down
23 the center of said Elkhorn creek to a point opposite mile post
24 three hundred and ninety-nine of the Norfolk & Western railway;
25 thence in a straight line to the beginning.

Third Ward.

26 All the following described boundary shall constitute the
27 third ward of the said city, that is to say: Beginning at a point
28 in the center of Tug river in the corporate line of said city above
29 the mouth of Little Indian creek, a corner of the line of first
30 ward; thence in a northwesterly direction and with the corporate
31 line of said city to a point where the same crosses the Browns
32 creek, a corner in the lines of the second ward; thence down the
33 center of Browns creek and up the Tug river with the lines of
34 the second ward to the point in the center of the Norfolk &
35 Western railway bridge and corner in the line of the said second
36 ward; thence with the railway to mile post three hundred and
37 ninety-nine; thence southwardly with a line of the second ward
38 to the center of Elkhorn creek; thence down said Elkhorn creek
39 and up the Tug river with the lines of the first ward to the be-
40 ginning.

ARTICLE IV.

Municipal Authorities.

Sec. 4. The municipal authorities of the said city of Welch
2 shall consist of a mayor, recorder and five councilmen, who shall
constitute the council of said city and shall be elected by the voters of said city as hereinafter prescribed. One councilman shall be elected by the voters of each of the respective wards, and two councilmen shall be elected by the voters at large.

Sec. 5. All the corporate powers and functions pertaining to said city shall be exercised by its council, or under its authority, in the corporate name of said city, unless otherwise provided by state law or municipal ordinance.

Sec. 6. The city council shall appoint a street commissioner, a health commissioner, city engineer, chief of police, and any additional police officers that they may deem necessary, city attorney, chief of fire department, building inspector, and all other officers whose offices may be established by ordinance of the city council or by this act, and such officers shall hold the respective offices to which they are appointed during the pleasure of the council and until their successors are appointed and qualified. The several offices, or any two or more may be held by the same person, pro-vided, a councilman the mayor and the recorder shall not be eligible to any of the appointive offices, and such officers shall receive such compensation as the council may prescribe, by ordinance or order, unless said compensation be fixed by this act, and the same shall not be increased or diminished during the term for which the appointment was made.

Sec. 7. No person shall be eligible to the office of mayor, recorder or councilman, unless at the time of his election he is legally entitled to vote in the city election for member of the common council; and he was for the preceding year assessed with taxes upon real or personal property within the said city, of the assessed aggregate value of at least three hundred dollars, and shall actually have paid the taxes so assessed.

ARTICLE V.

Elections.

Sec. 8. On the first Tuesday in June, one thousand nine hundred and twenty, and every two years thereafter, on the first Tuesday in June, there shall be elected by the qualified voters of said city, a mayor, a recorder and two councilmen and by the qualified voters of each of the three wards one councilman. The term of office of said mayor, recorder and councilmen shall be for the period of two years, commencing on the first day of July,
Sec. 9. Every male person residing in said city shall be entitled to vote for all officers elected under this act; but no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, or bribery in an election, or who has not been a resident of this state for one year and of said city for six months next preceding the election at which he desires to vote, shall be permitted to vote therein.

Sec. 10. All qualified voters within the city of Welch entitled to vote in the municipal election held therein shall be registered in like manner as are the qualified voters in state and county elections, and the state laws of the state of West Virginia in effect at the time of such registration shall in all things apply thereto; except the fee for such registration shall be five cents for each qualified voter so registered, and the powers conferred upon the county court by the laws in reference to the registration of voters are hereby conferred upon the council of said city of Welch.

Sec. 11. In all elections by the people the mode of voting shall be by ballot, but the voters shall be left free to vote an open, sealed or secret ballot, as they may elect. The election in said city shall be held and conducted and the result thereof certified, returned and finally determined under the laws in force in this state relating to general elections, except that the persons conducting said elections shall, on the day after the election is held deliver the ballots, tally sheets and poll books to the recorder, and thereafter the council of said city shall meet within five days (Sundays excepted) after said election and canvass the returns of said election, and declare the result thereof, and in all respects comply with the requirements of the statute of the state relating to elections. The corporate authorities of said city shall perform all duties in relation to such elections required by general law of the county court and officers in effect on the day of said election and each succeeding election under this charter. And the provisions of the code in effect on the date of said election, concerning elections by the people, shall govern such elections and be applicable thereto, and the penalties therein prescribed for offenses relating to elections shall be enforced against the offenders of such corporate elections; and the said act shall have the same force and effect as if it were specially applicable
23 in such corporate elections and was by this act re-enacted in extenso; except as above modified as to the time in which the returns of the election and canvase thereto shall be made.

Sec. 12. Whenever two or more persons receive an equal number of votes for mayor, recorder or councilman, such tie shall be decided by the council in existence at the time the election is held; provided, that the council in office at the time of the institution of such contest proceeding shall hold over and remain in office for the purpose of passing upon and deciding such contest, and for such purposes only; and nothing herein provided shall be construed to interfere with the duties, power and authority of the new or incoming council.

Sec. 13. All contested elections shall be heard and determined by the council in existence at the time the election is held, and the contest shall be made and conducted in the manner as provided for in contests for county and district officers, and the council by their proceedings in such cases shall, as nearly as practicable, conform with like proceedings of the county court in such cases.

Sec. 14. Whenever a vacancy from any cause shall occur in any office, the council shall by a majority vote of those present fill such vacancy; and, in case of a vacancy in the office of councilman or mayor, or recorder, the remaining members of the council shall fill said vacancy.

ARTICLE VI.

Appointive Officers—Duties of Officers.

Sec. 15. The council shall also have authority to provide by ordinance for the appointment of such other officers as shall be necessary and proper, to carry into full force and authority the power, capacity, jurisdiction and duties of said city, which are or shall be vested therein or in the council, or in the mayor, or any other officer or body of officers, thereof, and to grant to the officers so appointed the power necessary or proper for the purpose above mentioned. The council, by ordinance, shall define the duties of all officers so appointed, and may provide them a reasonable salary, which shall be payable out of the city treasury which salary shall not be increased or diminished during their term of office, and shall require and take from all of them whose
13 duty it shall be to receive its funds, assets or property, or have
14 charge of the same, such bonds, obligations, or other writing as
15 they shall deem necessary or proper to insure the faithful per-
16 formance of their several duties. All officers elected may be re-
17 moved by the council from office for intemperance, gross im-
18 morality, gambling, malfeasance or misfeasance in office, or in-
19 ability or neglect to perform the duties of their respective offices.
20 Any appointed officer who holds his office at the pleasure of the
21 council, may be removed from his office for cause, after due no-
22 tice. The chief of police and any other police officer appointed
23 by said council, shall have all power, rights and privileges within
24 the corporate limits of said city in regard to the arrest of per-
25 sons, the collections of claims and the execution and return of
26 process that can be legally exercised by a constable of a district
27 within this state; and may without having any warrant or other
28 process therefor, arrest any person who commits any offense
29 against the laws of this state or infraction of the ordinances of
30 said city, in his presence. The chief of police shall be ex officio
31 the keeper of the city jail, and have charge of the city prisoners
32 confined therein, and may confine any person arrested by him in
33 the city jail until such time as the charge against such person
34 can be inquired into by the mayor. Any person confined by the
35 mayor, for infraction of any of the ordinances of the city, may
36 pay such fine to either the mayor, the recorder or the chief of
37 police; and the said chief of police and his sureties shall be liable
38 for all fines, penalties and forfeitures that a constable of a dis-
39 trict is liable for in the same court that the said fine, penalties
40 and forfeitures are now recovered against a district constable.
41 The chief of police shall also be ex officio tax collector of the said
42 city. For his services as chief of police and tax collector, the
43 said chief of police shall receive such sum per month as the
44 council may fix, payable out of the city treasury. The chief of
45 police shall be appointed to his office by the council. It shall
46 be his duty as tax collector to collect the city taxes, licenses,
47 levies, assessments, and other such city claims as are placed in
48 his hands for collection by the council, and he may distrain and
49 sell therefor in like manner as a sheriff may distrain and sell for
50 state taxes; and he shall, in all other respects, have the same
51 powers, as a sheriff to enforce the payment and collection thereof.
ARTICLE VII.

Official Bonds.

Sec. 16. All bonds, obligations or other writings taken in pursuance of any provision of this act or under the provisions of and order of said city, shall be made payable to "The City of Welch," and the obligors therein and their heirs, executors, administrators and assigns bound thereby shall be subject to the same proceedings on such bonds, obligations or writings for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of record or justice of the peace having jurisdiction thereof, held or acting in or for said McDowell county, or any district thereof or elsewhere, that the sheriff or collector of said county and his sureties are or shall be subject to on his bond taken for the enforcement of the duties in the payment of the county levy.

ARTICLE VIII.

Oath of Office.

Sec. 17. The mayor, recorder and councilmen, and all other officers provided for in this act, shall each, before entering upon the duties of their offices, and within fifteen days after receiving their certificates of election or appointment, take the oath or affirmation prescribed by law for all officers in this state, and make oath or affirmation that they will truly, faithfully and impartially to the best of their ability, discharge the duties of their respective offices so long as they continue therein. Said oath or affirmation may be taken before any person authorized to administer oaths under the laws in force at the time the same is taken, or before the mayor or recorder of said city; but in any event a copy of said oath of said officer shall be filed with the recorder.

ARTICLE IX.

Term of Office.

Sec. 18. The mayor, recorder and councilmen, shall enter upon the duties of their offices upon the first day of July next after their election and continue for the period of two years and all appointed officers shall enter upon the duties of their offices as soon as they have qualified; and all officers, both elected and appointed, shall remain in office until their successors are elected.
Sec. 19. If any person elected to any office shall not be eligible thereto under the provisions of this act, or shall fail to qualify as herein required, the council shall declare his said office vacant and proceed to fill the vacancy as required by this act.

ARTICLE X.

The Mayor.

Sec. 20. The mayor of the said city shall be chairman of its council, shall preside at the meeting of the council, and shall also be a conservator of the peace within the said city. He shall especially see that the orders, by-laws, ordinances, acts and resolutions of the council are faithfully executed. He shall be ex officio justice of the peace within the said city and shall, within the same, have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except he shall have no jurisdiction in civil causes of action arising out of the corporate limits of the city, unless the defendant resides or is found therein and process therein served upon him. He shall have the same power to issue attachments in civil suits as a justice of the peace of his county has; but, in such case, he shall have no power to try the same, but such attachments shall be made returnable and heard before a justice of the peace of his county. Any warrant issued by him, or other process, may be executed at any place in said county. He shall have control of the police of said city and may appoint special police officers, whenever he may deem it necessary, and may suspend any police officer of the city until the next regular meeting of the council. And it shall be his duty especially to see that the peace and good order of the city are preserved, and that persons and property therein are protected, and to this end he may arrest or cause the arrest and detention of all violators of the laws of this state and ordinances of the city, before issuing his warrant therefor, if the offense is committed in his presence. He shall have power to issue his warrant for the arrest and apprehension of all persons violating the ordinances of the city, and shall have power to try the same and impose upon such violators of the ordinances of said city such fines and penalties as are prescribed by the ordinances thereof. He shall have the power to issue executions for all fines, penalties and costs imposed by him, or he may require the
immediate payment thereof, and in default of such payment, he may commit the party in default to the jail of said county, or other place of imprisonment used by such corporation, if there be one, until the fine or penalty and the costs be paid. And in all case where a person is sentenced to imprisonment or to the payment of a fine of ten dollars or more (and in no case shall a judgment for a fine be for less than ten dollars if the defendant, his agent or attorney object to a less fine being imposed) such person shall be allowed an appeal from such decision to the criminal court of the county of McDowell, upon the execution of an appeal bond with security deemed sufficient by said mayor to cover the fine and costs, and the cost in the criminal court in case said judgment be affirmed, with condition that the person proposing to appeal, shall make his personal appearance before the criminal court of McDowell county and will perform and satisfy any judgment which may be rendered against him by the criminal court on such appeal. If such appeal be taken, the warrant or arrest, if any, a transcript of the judgment, the appeal bond and other papers in the case shall be forthwith delivered by the said mayor to the clerk of said court, and the said court shall proceed to try the case as upon an indictment or presentment and render such judgment, including costs, as the law and evidence may require. The expense of maintaining any person committed to jail as hereinbefore set forth by the mayor, except it be to answer an indictment, shall be paid by the said city and taxed as costs against the defendant. He shall from time to time recommend to the council such measures as he may deem useful and needful for the welfare of the city. For his services as mayor, he shall receive the sum of one hundred and twenty dollars per year, to be paid out of the city treasury in monthly installments and such fees as may be collected in the trial of cases by him as such mayor and ex officio justice of the peace.

ARTICLE XI.

The Recorder.

Sec. 21. The recorder shall keep an accurate record of all the proceedings of the council, and shall have charge of and preserve the records of the city. In case of the absence of the mayor from the city, or his inability from any cause to act, or during any vacancy in the office of mayor, the recorder shall perform such duties of the mayor as pertain to the office of mayor, and to that
end, in addition to the other powers herein conferred upon him,
the recorder is hereby vested with all the powers necessary for
the performance of the duties of the mayor, while acting as such,
including the authority of the mayor, pertaining to civil suits.
The recorder shall be ex officio assessor of said city, and shall
perform such duties as are imposed by law. He shall be
paid a salary of four hundred and twenty dollars per year, pay-
able in equal monthly installments, for his services as such re-
corder and assessor, to be paid out of the city treasury.

ARTICLE XII.

Quorum.

Sec. 22. The presence of the mayor, or ex officio mayor and
three members of said council shall be necessary to constitute a
quorum for the transaction of business at all meetings of the
council of said city.

ARTICLE XIII.

Record Books.

Sec. 23. The council shall cause to be kept by the recorder
in a well bound book to be called the “minute book,” an accurate
record of all its proceedings, ordinances, acts, orders and reso-
lutions, and in another to be called “ordinance book,” accurate
copies of all general ordinances adopted by the council; both of
which shall be accurately indexed and open to the inspection of
anyone required to pay taxes in the city, or who may be other-
wise interested therein.

All oaths and bonds of officers in the city, and all papers of
the council shall be endorsed, filed and securely kept by the re-
corder. The bonds of officers shall be recorded in a well bound
book to be called “record of bonds.” The recorder shall perform
such other duties as by ordinance of the council may be pre-
scribed. The transcript of ordinances, acts, orders and resolu-
tions certified by the recorder under the seal of the city shall be
admissible in evidence in any court, or before any justice.

Sec. 24. At each meeting of the council the proceedings of
the last meeting shall be read and corrected, if erroneous, and
signed by the presiding officer for the time being. Upon the call
of any member the ayes and noes on any question shall be taken
and recorded by the recorder in the "minute book." The call
of the members for such vote shall be made alphabetically.

ARTICLE XIV.

Tie Vote.

Sec. 25. The mayor and recorder shall have votes as mem-
ers of the council, and in case of a tie, the presiding officer for
the time being shall have the casting vote, but in no case shall
the presiding officer vote twice on the same proposition.

ARTICLE XV.

Meetings of Council.

Sec. 26. The regular meetings of the council shall be pub-
licly held at such times and at such places in the city as they
shall from time to time ordain and appoint; and it shall be law-
ful for the council by ordinance to vest in any officer of the city,
or in any member, or number of members, of its own body, the
authority to call special meetings and prescribe the mode in which
notice of such special meetings shall be given; if a majority
of the members of the council do not attend any regular or
special meeting, those in attendance shall have authority to com-
pel the attendance of absent members under such reasonable pen-
alties as they may think proper to impose by ordinance. All
questions put to vote, except such matters as hereinafter provided
for, shall be decided by a majority of the members present.

ARTICLE XVI.

Payment of City Funds.

Sec. 27. All moneys belonging to the city shall be paid over
to the city treasurer; and no money shall be paid out by him
except as the same shall have been appropriated by the council,
and upon an order signed by the mayor and recorder, and not
otherwise, except at the expiration of his term of office upon the
order of the council, signed by the mayor and recorder, he shall
pay over to his successor all the money remaining in his hands.

ARTICLE XVII.

Corporate Powers.

Sec. 28. The common council of said city shall have, and is
hereby granted, power to have said city surveyed; to lay out.
3 open, vacate, straighten, broaden, change grade of, grade, re-
grade, curb, widen, narrow, repair, pave, and repave streets,
alleys, roads, squares, steps, sidewalks, and gutters for public
use, and to alter, improve, embellish, and ornament and light
the same, and to construct and maintain public sewers and
laterals, and shall in all cases have power and authority to assess
upon, and collect from, the property benefited thereby such part
of the expense thereof as shall be fixed by ordinance, except as
hereinafter provided; to have control of all streets, avenues roads,
alleys, and grounds for public use in said city, and to regulate
the use thereof and driving thereon, and to have the same kept
in good order and free from obstruction, pollution or litter on
or over them; to have the right to control all bridges within said
city and the traffic there-over; to change the name of any street,
avenue, or road within said city, and regulate and cause the num-
bering and renumbering of houses on any street, avenue, or road
therein; to provide for and regulate the naming of streets, ave-
 nues, and public places; to regulate and determine the width of
streets, sidewalks, roads, and alleys; to order and direct the
curbing, recuring, paving, repaving and repairing of side-
walks and footways for public use in said city, to be done and
kept clean and in good order by the owners of adjacent prop-
erty; to prohibit and punish the abuse of animals; to restrain
and punish vagrants, mendicants, beggars, tramps, prostitutes,
and drunken or disorderly persons within the city, and to provide
for their arrest and manner of punishment; to prohibit by ordi-
ance the bringing into the city any person or animal afflicted with
contagious or infectious diseases and to punish any violater of said
ordinance who knows or has reason to believe such person or ani-
mal to be so afflicted; to control and suppress disorderly houses,
houses of prostitution or ill-fame, houses of assignation, and
gaming houses, or any part thereof, and to punish those engaged
in gaming; to prohibit within said city, or within two miles there-
of, slaughter houses, soap or glue factories, and houses and places
of like kind, and any other thing or business dangerous, unwhole-
some, unhealthy, offensive, indecent, or dangerous to life, health,
peace or property; to provide for the entry into, and the examina-
tion of, all dwellings, lots, yards, enclosures, buildings, and struc-
tures, cars, vehicles of every description, and to ascertain their
condition for health, cleanliness, or safety; to regulate the building
and maintenance of party walls, partition fences or lines, fire walls,
44 fire places, boilers, smokestacks, and stove pipes; to provide for
45 and regulate the safe construction, inspection, and repairs of all
46 public and private buildings, bridges, basements, culverts, sewers,
47 or other buildings or structures of any description; to take down
48 and remove, or make safe and secure, any and all buildings,
49 walls, structures or superstructures at the expense of the own-
50 ers thereof, that are, or may become, dangerous, or to require
51 the owners, or their agents, to take down and remove them, or
52 put them in a safe condition, at their own expense; to regulate,
53 restrain, or prohibit the erection of wooden or other buildings
54 within the city; to regulate the height, construction, and in-
55 spection of all new buildings hereafter erected, and the alter-
56 ation and repair of any buildings already erected, or hereafter
57 erected in said city, and to require permits to be obtained for
58 such buildings and structures, and plans and specifications
59 thereof to be first submitted to the building inspector; to regu-
60 late the limit within which it shall be lawful to erect any steps,
61 porticos, bay windows, bow windows, show windows, awnings,
62 signs, columns, piers, or other projection or structural ornaments
63 of any kind for the houses or buildings fronting on any street
64 of said city; to establish fire limits and to provide the kind of
65 buildings and structures that may be erected therein, and to
66 enforce all needful rules and regulations to guard against fire
67 and danger therefrom; to require, regulate, and control the
68 construction of fire escapes, for any buildings or other structures
69 in said city; to control the opening and construction of ditches,
70 drains, sewers, cess-pools, and gutters, and to deepen, widen, and
71 clear the same of stagnant water or filth, and to prevent obstruc-
72 tion therein, and to fill, close or abolish the same, and to de-
73 termine at whose expense the same shall be done; and to build
74 and maintain fire station houses, crematories, jails, lock-ups, and
75 other buildings, police stations and police courts, and to regu-
76 late the management thereof; to acquire, establish, lay-off, ap-
77 propriate, regulate, maintain, and control public grounds, squares
78 and parks, hospitals, market houses, city buildings, libraries, and
79 other educational or charitable institutions, either within or
80 without the city limits; and when the council determines that
81 any real estate in or out of the city is necessary to be acquired
82 by said city for any such purpose, or for any public purpose, or
83 is necessary in the exercise of its powers herein granted, the
84 power of eminent domain is hereby conferred upon said city,
and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the same extent and upon the same conditions, as such power is conferred upon public corporations by chapter forty-two of the code of West Virginia, of the edition of one thousand nine hundred and six, and as now, or may be hereafter, amended; to purchase, sell, lease, or contract for, and take care of, all public buildings and structures and real estate deemed proper for the use of said city; and for the protection of the public, to cause the removal of unsafe walls, structures, or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive, or unwholesome; to abate, or cause to be abated, all nuisances, and to that end and thereabout to summon witnesses to bear testimony; to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles; to regulate, restrain, or prohibit the use of firecrackers or other explosives or fireworks, and all noises or performances which may be dangerous or annoying to persons, or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, in or out of the city, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees, shrubbery, grass, flowers, and other ornamentation, and the protection of the same; to provide for the poor of the city, and to that end may contract with the proper authorities of McDowell county to keep and maintain the poor, or any number thereof, upon terms to be agreed upon; provided, however, that the said city of Welch shall not keep or maintain the paupers of said city until such time as the county court of McDowell county shall relieve the said city of Welch from the payment of all taxes for the support of the paupers residing outside of the corporate limits of said city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks, and alleys by street cars, foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, and to regulate the running and operation of the same so as to prevent obstruction thereon, encroachments thereto, or injury, inconvenience, or annoyance to the public; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate, or prohibit theaters, moving pictures, circuses, the exhibition of showmen, and shows of any kind, and
the exhibition of natural or artificial curiosities, caravans, menageries, and musical exhibitions and performances, and other things or business on which the state does, or may, exact a license tax; to organize and maintain paid fire companies and departments, and to provide necessary apparatus, engines and implements for the same, and to regulate all matters pertaining to the prevention and extinguishment of fires; and to make proper regulations for guarding against danger and damage from fires, water, or other element, to regulate and control the kind and manner of plumbing and electric wiring, airships, balloons, wireless stations, and other appliances, for the protection of the health and safety of said city; to levy taxes on persons, property, and licenses; to license and tax dogs and other animals, and regulate, restrain, and prohibit them, and all other animals and fowls running at large and as one means of prevention to provide for impounding thereof, and upon the failure of the owner to reclaim, to make or confining such fowls and animals at the expense of the owner sale thereof; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business for its own regulation and government; to promote the general welfare of the city, and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city, and to regulate the transportation thereof, and other things through the streets, alleys, and public places; to have the sole and exclusive right to grant, refuse, or revoke any and all licenses for the carrying on of any business within said city on which the state exacts, or may exact, a license tax; to establish and regulate markets and to prescribe the time for holding the same, and what shall be sold in such market, and to let stalls or apartments and regulate the same, and to acquire and hold property for market purposes; to regulate the placing of signs, billboards, posters and advertisements in, or over the streets, alleys, sidewalks, and public grounds of said city; to preserve and protect the peace, order, and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, mor- phine, opium, and poisonous or dangerous drugs, to prohibit the carrying of concealed or dangerous weapons within the corpo-
rate limits of said city; to punish drunkenness; to prevent gam-
ing; to prohibit anything against good morals and common decency, and to fix punishment therefor; to prevent the dese-
162-e creation of the Sabbath day; to prohibit profane swearing;
162-f to prohibit the illegal sale of intoxicating drinks, mixtures or
163 preparations; to appoint and to fix the places of holding city
164 elections; to erect, own, lease, and authorize or prohibit the
165 erection of gas works, electric light works, or water works,
166 in or near the city, and to operate or to regulate the opera-
167 tion of the same, and sell the products or services thereof, and
168 to do any and all things necessary and incidental to the conduct
169 of such business; to require any company or person furnishing
169-a gas, electricity or water to said city for use of the inhabitants
169-b thereof, to put in standard meters for the measurement thereof,
169-a gas, electricity or water to said city for use of the inhabitants
169-c and may appoint an inspector of meters with power to remove
169-d the same if not standard and in good working order; to pre-
169-e used or intended to be used by the public or any individual;
169-f and to require the extension of gas, electric and water lines
169-g by such respective companies to any and all parts of the city
169-h when the said council shall deem the same necessary;
169-i to provide for the purity of water, milk, meats, and pro-
170 visions offered for sale in said city, and to that end pro-
171 vide for a system of inspecting the same and making and en-
172 forcing rules for the regulation of their sale, and to prohibit
173 the sale of any unwholesome or tainted milk, meats, fish, fruits,
174 vegetables, or the sale of milk containing water or other things
175 not constituting a part of pure milk; to provide for inspecting
176 dairies and slaughter houses, whether in or outside of the city,
177 where the milk and meat therefrom are offered for sale with
178 said city, and to prohibit the sale of any article deemed unwhole-
179 some, and to condemn the same or destroy or abate it as a nuis-
180 ance; to provide for the regulation of public processions so as to
181 prevent interference with public traffic, and to promote the good
182 order of the city; to prescribe and enforce ordinances and rules
183 for the purpose of protecting the health, property, lives, decency,
184 morality, cleanliness, and good order of the city and its in-
185 habitants, and to protect places of divine worship in and about
186 the premises where held, and to punish violations of all ordi-
187 nances even if the offenses under and against the same shall also
188 constitute offense under the law of the state of West Virginia or
189 the common law; to provide for the employment and safe keep-
190 ing of persons who may be committed in default of the payment
of fines, penalties, or costs under this act, who are otherwise
unable, or fail, to discharge the same, by putting them to work
for the benefit of the city upon the streets or other places in or
out of the city provided by said city, and to use such means to
prevent their escape while at work as the council may deem ex-
pedient; and the council may fix a reasonable rate per day as
wages to be allowed such person until the fine and costs against
him are thereby discharged; to compel the attendance at public
meetings of the members of the council; to have and exercise such
additional rights, privileges, and powers as are granted to mu-
nicipalities by chapter forty-seven of the code of West Virginia,
as amended. For all such purposes, except that of taxation, and
for purposes otherwise limited by this act, the council shall have
jurisdiction, when necessary, for one mile beyond the corporate
limits of said city; to grant and regulate all franchises in,
upon, over and under the streets, alleys and public ways of
said city, under such restrictions as are contained herein or
shall be provided by ordinance, but no exclusive franchise
shall be granted by said council to any individual or corpora-
tion, nor shall any franchise be granted for a longer period
than fifty years; to regulate licenses and restrict the use of
motor-busses, automobiles, carriages, drays, and wagons, upon
the streets, alleys and public grounds of said city when same
are being used for hire and reward.

And the council shall have the right to establish, construct,
and maintain public markets on the grounds which does, or shall,
belong to said city, or which it shall acquire, by purchase, or
otherwise, and to sell, lease, repair, alter, or remove any public
markets, or buildings which have been, or shall be, so constructed,
and to preserve and protect the peace and good order at the
same, and regulate the manner in which they shall be used.

To carry into effect these enumerated powers and all other
powers conferred upon said city expressly or by implication in
this and other acts of the legislature, the council of said city
shall have the power, in the manner herein prescribed, to adopt
and enforce all needful orders, rules, and ordinances not con-
trary to the laws and constitution of this state; and to prescribe,
impose, and enforce reasonable fines and penalties, including im-
prisonment in the city lock-up, jail, or station-house, and to
work prisoners found guilty as the council may prescribe, and
market the products of such labor, and with the consent of the
county court of McDowell county entered of record shall have the 
right to use the jail of said county for any purpose necessary to 
the administration of its affairs.

The council shall have authority to pass all ordinances not 
repugnant to the constitution and laws of the United States 
and of this state, which shall be necessary and proper to carry 
into full effect the power, authority, capacity and jurisdiction 
which is or shall be granted to or vested in the said city, or in 
the council or in any officer or body of officers of said city, and 
to enforce any and all of the ordinances by reasonable fines and 
penalties, and upon the failure to pay any fine or penalty im-
posed, may compel the offender to labor without compensation 
at and upon any of the public works or improvements under-
taken, or to be undertaken, by said city, or to labor at any work 
which the said council may lawfully employ labor upon, at such 
reasonable rates per diem as the council may fix, until any fine, 
or fines and costs upon any offender by said city have been fully 
paid and discharged after deducting reasonable charges of sup-
port while in the custody of the officers of the city; provided, 
that upon the violation of any ordinance providing the same 
penalties inflicted by the state statutes for similar offenses, 
then upon conviction and imposition of penalty under such 
ordinance, no further prosecution shall be had in any of the 
courts of the state for the same offense. And in all cases where 
a fine is imposed for an amount exceeding ten dollars and costs, 
or a person be imprisoned, or be compelled to labor as afore-
said for a greater term than ten days, an appeal may be taken 
from such decision upon the terms and conditions as appeals 
are taken from the judgment of a justice of this state. Such 
fines and penalties shall be imposed and recovered, and such 
imprisonment inflicted and enforced by and under the judg-
ment of the mayor of said city; or in case of his absence or 
ability to act, then by any member of the council, to be ap-
pointed by the council for that purpose; and for his services 
in trying cases, whether civil, criminal or infractions against 
ordinances, the mayor shall be entitled to charge and collect 
such fees as are paid to justices of the peace for similar services. 
And in all such cases the chief of police, or other officer per-
forming the service shall be entitled to receive such fees as 
are paid to constables for similar services; provided, further,
that the fee for making any arrest shall be one dollar, whether such officer be the chief of police or other officer. In addition to the powers above enumerated, the said city council shall have power to build, construct, maintain and operate a sufficient sewerage system and water works, as may be necessary for the proper supply of water to the inhabitants of the said city, for both public and private use, and said city shall have the power to purchase or condemn any water works now in the said city or hereafter placed therein by any party other than said city, whenever the council of said city shall deem proper, and such order shall have been ratified by a vote of the qualified voters of said city, at an election called for that purpose, with due notice, and at least two-thirds of the votes cast at said election shall vote for the ratification of said council to purchase or condemn said water works; and the said city shall have the power to enlarge the said water works, if so purchased or condemned, by putting additional reservoirs either within or out of said city; and the said city shall have the right, if its council shall deem proper, and the order of said council be ratified by a vote as aforesaid, to build, construct, maintain, and operate such water works in the said city as may be deemed proper without the purchase or acquisition of any water works then in said city and said city shall have the right to lay pipes and mains for the proper distribution of said water, either in or out of said city, as shall be necessary for the proper distribution of same, and for that purpose may acquire by lease, purchase or condemnation all such lands as shall be necessary, either within or without the said city, or they may contract for such work to be done, in either event to supply an adequate supply of pure, healthful water for said city, and do all things necessary to supply of said city and the inhabitants thereof with water as aforesaid; and the said city may acquire by purchase or condemnation any electric light plant now in said city or hereafter placed therein by any party other than said city, and shall have the right to build, construct, maintain, and operate such plant for furnishing electricity for said city, and for the inhabitants thereof, but no electric light plant shall be purchased, condemned, or built or operated unless voted on by the qualified voters, of said city at an election called and held
as aforesaid, and the same be ratified by a two-thirds vote of all votes cast at said election.

**ARTICLE XVIII.**

**Police Docket.**

Sec. 29. A well bound book, indexed, to be denominated the "police docket," shall be kept in the office of the mayor, in which shall be noted each case brought before or tried by him, together with the proceedings therein, including a statement of the complaint, the warrant or summons, the return, the fact of appearance, or non-appearance, the defense, the hearing the judgment, the costs, and in case the judgment be one of conviction the action taken to enforce the same. The record of each case shall be signed by the mayor, and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

**ARTICLE XIX.**

**Taxation.**

Sec. 30. The council shall be governed in all respects in laying the annual levy or any additional or special levy by chapter nine of the acts of the extraordinary session of the legislature of West Virginia of one thousand nine hundred and eight and by chapter eighty-five of the acts of the session of the legislature of one thousand nine hundred and fifteen as the same is amendatory of certain sections of the said chapter nine of the said acts of one thousand nine hundred and eight, except that they may include a poll tax of not exceeding one dollar each year upon each able bodied man therein, who is above the age of twenty-one years and not over fifty years of age, which poll tax shall be used exclusively for opening, improving and maintaining roads, streets and alleys of the city, and shall designate the same as the "street taxes;" and the said council may also impose such license tax upon dogs and other animals as they may deem proper, and collect the same from the owners of such animals, as other taxes are collected, and prescribe such rules, regulations and penalties governing the payment of such tax on animals as they may deem reasonable. And the general annual levy upon the taxable property within the corporate limits of said city shall not exceed the sum of thirty-five cents upon each one hundred dollars valuation. But in addition to said levies above mentioned, and in addition to any
23 levies provided by the general law, with which these are not
24 meant to conflict, the council of said city, beginning with the
25 year one thousand nine hundred and nineteen, are empowered to
26 and shall lay a special annual levy not to exceed ten cents on each
27 one hundred dollars valuation of the property in said city for
28 the purpose of creating a sinking fund with which to pay off the
29 principal of the present outstanding bonded indebtedness of said
30 city when the same becomes due and for the purpose of paying
31 annually, when due, the interest coupons of the said present out-
32 standing bonded indebtedness of the said city, which said special
33 levy shall be continued annually by the council for as many years
34 as may be necessary to pay off said present outstanding bonded
35 indebtedness and the interest coupons that may become due there-
36 on, but no longer. Also, in addition to the above, the said council,
37 beginning with the year one thousand nine hundred and nineteen,
38 are empowered to and shall lay a special annual levy not to ex-
39 ceed five cents on each one hundred dollars valuation of the
40 property in the said city for the purpose of paying off any out-
41 standing orders issued against the treasury of said city prior to
42 July the first, one thousand nine hundred and eighteen, and for
43 the purpose of paying off any debts contracted prior to said date
44 or any judgment taken against the said city prior to said date.
45 And both of the aforesaid special levies, when collected, shall be
46 used for no other purposes than for the aforesaid purposes for
47 which they shall be laid as aforesaid.

ARTICLE XX.

Assessment and Collection of Taxes.

Sec. 31. It shall be the duty of the assessor to make an assess-
2 ment of the property within the city subject to taxation substan-
3 tially in the manner and form in which assessments are made
4 by the assessor of the county, and return the same to the council
5 on or before the first day of June of each year, and for this pur-
6 pose he shall have all the powers conferred by law upon county
7 assessors. He shall list the number of dogs and other animals sub-
8 ject to license tax in the city, and the names of the persons owning
9 the same, which list shall be returned. In order to aid the asses-
10 sor in ascertaining the property subject to taxation by said city,
11 he shall have access to all books and public records of said Mc-
12 Dowell county, without expense to him or said city, and he shall
have the same power and be subject to the same penalties in ascertaining and assessing the property and subjects of taxation of said city as are granted and imposed on the county assessors throughout the state by general law; and the council shall have authority to prescribe by general ordinance, such other rules and regulations as may be necessary to enable and require such assessor to ascertain and properly assess all property liable to be taxed by said city, so that such assessment and taxation shall be uniform and equal, and the council may enforce such rules and regulations by reasonable fines to be imposed on any one failing to comply therewith. When he shall complete his assessment book he shall deliver the same when sworn to, to the city council.

Sec. 32. There shall be a lien on all real estate within the said city taxes assessed thereon, and for all fines and penalties assessed against or imposed upon the owners thereof, by the authorities of said city, including expenses for making, maintaining and repairing, paving and macadamizing sidewalks, drains, gutters and streets from the time the same are so assessed or imposed, which shall have priority over all the other liens except taxes due the United States and the lien for taxes due the state, county and district, and such lien may be enforced by the council in the manner provided by law for the enforcement of the lien for county taxes. And the laws of the state of West Virginia in relation to delinquent taxes, and the sale of property therefor, are hereby and in all respects adopted as to all proceedings in relation to taxes for city purposes delinquent in said city. And the powers and duties conferred by the laws of said state upon county courts and their clerks and sheriffs in regard to delinquent taxes and their collection, are hereby in all things conferred upon said city council, its recorder and other city officials whose duties are of a similar nature as those of said county officials, in so far as the same may be directly or by implication applicable in the collection of delinquent taxes due said city.

Sec. 33. It shall be the duty of the city tax collector when the extended copies of the assessor’s books are completed, to receive a copy thereof, receipting to the council for the same, and it shall be his duty to collect from the parties the entire amount of the taxes with which they are severally charged therein, and may proceed to collect the same at any time after the first day of August, and may enforce the payment thereof by levy upon the personal
property, and sale thereof, of the person charged with taxes at any time after the first of October, next, after said taxes are assessed. He may also allow a discount of two and one-half per cent on all taxes paid on or before the thirtieth day of November. Said taxes shall be a lien upon the property upon which they are assessed, from and after the time the assessor's books are completed, verified and returned to the city council, and he shall write the word "paid" opposite the name of each person who pays the taxes against him, and shall also give to the person paying such taxes a receipt therefor; provided, however, that said treasurer may distrain at any time for any taxes assessed against a person who is about to remove, or who has removed from said city, after such taxes are assessed, and the books returned as aforesaid. He shall also receive such other moneys of the city as he is authorized by this act to receive, and also all moneys ordered by the council to be paid to him, giving receipt therefor to the parties paying the same, and shall keep an accurate, itemized account of all money received by him. His books shall, at all times, be open for the inspection of the mayor, council, city recorder, and to any taxpayer of the city. He shall also make up monthly statements of the money received by him and the amount paid out by him and to whom, showing the amounts in his hands from all sources, and shall post the same in the mayor's office on the last day of each month. He shall pay out the money in his hands upon the order of the city council, upon orders signed by the mayor and the recorder. He shall, on or before the expiration of the term of office of the mayor, and at such other times as the council may require, present to the council a full and complete statement of all the moneys with which he is chargeable, or that have been received by him and not previously accounted for, and shall at the same time, in like manner, furnish a complete statement, by separate items, of all disbursements made by him during such period, with his vouchers evidencing the same. He shall receive all taxes upon licenses and receipt to the party paying the same, by endorsement upon the permit granted by order of the council, or mayor as the case may be. He shall, upon the expiration of his term of office, turn over to the council all books and other property in his possession belonging to the city, except the money in his hands, which he shall turn over to his successor, upon the order of the council, as hereinbefore provided; and shall, before entering
48 upon the duties of his office, execute a bond with good security
49 payable to said city in a penalty of not less than ten thousand
50 dollars, conditioned that he will faithfully discharge the duties of
51 his office and account for and pay over as required by law and
52 the orders, ordinances, rules and regulations of the council of said
53 city, all money which shall come into his hands, which bonds shall
54 be subject to the approval of the council. He shall be chargeable
55 with all the city taxes, levies and assessments and money of the
56 city which shall come into his hands and shall account therefor.

Sec. 34. In addition to the other duties of the assessor it
2 shall be his duty on or before the first day of August, in each year,
3 to make a copy from the real and personal property books pre-
4 pared by him, and to certify such under his hand as a true and
5 correct copy thereof, and to deliver the same to the council, to
6 assist said council in preparing the annual estimate of expenses
7 to be certified as a basis for the annual levy. After such annual
8 levy is made in each year, it shall be the duty of the assessor to
9 extend said levy upon said real estate and personal property books
10 for said city, but the tax collector shall prepare proper tax tickets
11 therefrom against all owners of real estate and personal property
12 subject to taxation in said city.

ARTICLE XXI.

Licenses.

Sec. 35. The council shall prescribe by ordinance the time
2 and manner in which licenses of all kinds shall be applied for
3 and granted, and shall require the payment of the tax thereon to
4 the city recorder before the delivery thereof to the person applying
5 therefor, which tax shall include the same fees for the issuing
6 of such licenses as are charged for similar services by state and
7 county officers, which fees shall be paid into the city treasury.
8 The council may revoke any such license for a breach of any of
9 the conditions, or for other good cause shown, but the person
10 holding such license, must first have reasonable notice of the time
11 and place of hearing and adjudicating the matter, as well as the
12 cause alleged; and shall be entitled to be heard in person or by
13 council, in opposition to such revocation. The term for which
14 licenses provided for in this charter be granted shall be
15 governed by the general law providing for state licenses.

Section 36. The council shall have the right to institute
2 and prosecute proceedings in the name of the city for condemnation of real estate for streets, alleys, roads, drains, sewers, market grounds, city prison, city hall, water works, electric light plant or other works, or purposes of public utility. Such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and the expenses thereof shall be borne by the city, except in cases where it is proper under said chapter to charge said expenses or any part thereof against the defendant.

**ARTICLE XXII.**

**Bond Issues.**

Sec. 37. The council of the said city shall have the right to bond the said city for the purpose of paving the said streets, or for other permanent improvements, or for the purpose of taking up, paying off or refunding any already outstanding city bonds or items of indebtedness, whenever the council thereof may deem the same necessary; but the aggregate indebtedness of the said city for all purposes shall never at any time exceed five per centum of the assessed valuation of the taxable property therein according to the last assessment next preceding said date. The said council shall provide a fund for the payment of the interest annually on the said indebtedness so created, and to pay the principal thereof within and not exceeding thirty-four years; provided, that no debt shall be contracted hereunder, unless all questions connected with the same be first submitted to a vote of the qualified voters of said city, and have received three-fifths of all the votes cast for and against the same.

**ARTICLE XXIII.**

**Indebtedness Prohibited.**

Sec. 38. The council of the said city shall not, at any time, or for any purpose, create any indebtedness against the said city except as provided in the next preceding section, exceeding the available assets of the said city for the current year; and if the said council shall create such indebtedness or issue orders on the city for an amount exceeding the amount of money collected for that year for said city from all sources, and the amount of money then in the treasury appropriated, the members of said council shall be severally and jointly liable for the payment of the excess
of such indebtedness or orders over the amount of money applicable thereto, and the same may be recovered in any court having jurisdiction thereof. Any councilman violating the provisions of this section shall be deemed guilty of malfeasance in office, and may be removed as such councilman in pursuance of section fifteen of this act. Provided, however, this shall not be applicable to such members who have voted against said excess; and, provided, further, that the vote of each member of council shall be recorded.

ARTICLE XXIV.

Maintain Roads and Streets.

Sec. 39. The said city shall construct, conduct and maintain its own roads and streets, and by reason thereof shall not be required to pay any district or county road levies for the construction and maintenance of roads outside of the city limits.

ARTICLE XXV.

Ordinances.

Sec. 40. All ordinances, by-laws, resolutions and rules of the town of Welch in force on the day preceding the passage of this act, which are not inconsistent therewith, shall be and remain in full force over the whole boundary of said city of Welch, as established by this act, until the same are amended or repealed by the council of said city, and the officers elected on the first Thursday in January, one thousand nine hundred and nineteen, in the city of Welch, shall remain in office until their successors under this act are elected and qualified as hereinbefore provided; and after this act takes effect, shall have jurisdiction over all the territory embraced in the boundary specified in this act, and shall perform all the duties of such respective officers under this act; but nothing in this act shall be construed or held to, in any way, affect or impair any of the bonds, obligations or indebtedness of the city of Welch issued or contracted prior to the passage of this act; but, on the contrary, the said city of Welch shall be liable for all the bonds, obligations and indebtedness of the city of Welch as though the same had been created under this charter.

ARTICLE XXVI.

Streets and Sidewalks.

Sec. 41. The council shall have power, without petition of the owners of abutting property, to provide for the grading, con-
2-a struction, maintenance and repair of sidewalks, drains and gutters upon the streets of the city, and assess the expense of the construction, maintenance and repair of the same upon the property abutting thereon and the owners thereof, and collect the same in the same manner as other taxes and levies are collected, and shall have power, without the petition of the owners of abutting property, to grade, macadamize and pave the streets of the said city, or any of them, and assess part of the expenses of grading, macadamizing and paving not to exceed one-third thereof upon the abutting property on each side thereof, and the owners thereof, and collect the same in the same manner as other taxes and levies are collected; and such assessments for sidewalks, drains, gutters, macadamizing and paving shall be a lien upon such abutting property, the same as other taxes and levies within said city upon the property therein. Provided, that nothing herein shall be construed to prevent the council from arranging for the construction of any such improvement, by agreement with the abutting property owners, if the council shall so desire and deem it advisable to do so.

Sec. 42. The city council shall have power, upon the petition in writing of the owners, of the greater amount of frontage of the lots abutting on any street or alley or between any two cross streets, or alleys, to provide for the construction, reconstruction, repair and maintenance, of all local improvements including the grading, paving, sewer ing and otherwise permanently improving of streets and alleys of the city, and to provide for the assessment of the cost thereof, including all incidental expenses and the cost of intersections of streets, with interest payable annually, against the abutting or other specially benefited properties, according to their frontages, on each side of such streets or alleys, and against the owners thereof, upon the following conditions:

(a) Plan and Resolution. The city council, when deemed expedient by it, shall cause plans, specifications, profiles and estimates of the proposed improvements by grading, paving, curbing, sewer ing or otherwise locally improving any streets or alleys, to be made and filed in the office of the mayor, and shall by ordinance and resolution prescribe generally the location and character of the proposed improvement and refer to such plans, specifications, profiles and estimates.

(b) Notice and hearing. The city council shall then
cause notice thereof to be published once in some newspaper published in said city, fixing the date for a hearing thereon not less than one week after the adoption of such resolution. At the date stated in such resolution and notice, or at any adjourned meeting, the city council shall hear objections to the proposed improvement and may correct, amend or modify such plans, specifications, profiles and estimates, not extending such improvement to any other street or part of street, and may pass or adopt a resolution or ordinance providing for such improvement, by direct employment of labor or by contract with the lowest responsible bidder, and for the assessment of the cost thereof against the abutting or specially benefitted properties on each side of such street or alley.

(c) Assessment, docketing and payment. The city council shall, by resolution or ordinance, levy the assessment of the approved estimate of the cost of such improvement, including incidental expenses and intersections, upon the abutting or other specially benefited properties and against the owners thereof, in proportion to the frontages of such properties, designating the same by numbers, names of owners or other convenient description; and shall also assess against any street car or other railway company the cost of the improvement of the space between the rails of its track or tracks and two feet additional outside each rail (unless otherwise provided in the franchise therefor); which assessments shall be liens upon the respective properties and upon the tracks and franchises of such company for the distance of the improvement thereon, and said liens shall have priority over all other liens except taxes due the state. The said assessment shall be payable fifteen days after the levying thereof, unless the owners of such properties may elect to pay the same in ten annual installments as hereinafter provided; and, within thirty days after the levying thereof, the city recorder shall cause a memorandum of all unpaid assessments to be made, showing the names of the owners of such properties, descriptions of the properties, and the amounts of the assessments, respectively, and shall file the same in the office of the clerk of the county court of McCollow county for record in the deed of trust books therein; such assessments, after said period of thirty days, and before recordation of such memorandum, shall not be liens as against purchasers of such property for value and without notice. Upon
payment thereof, releases shall be executed and recorded in the manner provided by law.

(d) Collateral bonds. The city council shall, at the option of the owners or owners of such properties, permit payment of one-tenth of the amount assessed against them, respectively, within said fifteen days, and issue and sell its notes or bonds, without vote of the electors of the city, in anticipation of the payment of such special assessments in annual installments as follows: One-tenth of such amount with interest on said one-tenth, at six per cent per annum, payable annually, in one year from the date of the levying of such assessment, and a like one-tenth, with interest as aforesaid, at the expiration of each succeeding year until the whole amount shall have been paid.

(e) Method of improvement. The city council shall, after levying and collecting assessments and issuing its notes and bonds as foresaid, proceed with such local improvements according to the said approved plans, specifications, profiles, and shall pay the cost thereof out of the special assessment fund accruing from such payment and the sale of its notes or bonds. Provided, that the assessment against any such street car or other railway company shall be deducted from the cost to be paid by the owners of the abutting lots.

(f) Rebates or further assessments. Upon the completion of any improvement, any excess above the actual cost of the improvement shall be refunded to the owners of properties on the basis on which assessed, and in the event of a deficit in the assessment fund, the city council may by ordinance lay a supplementary assessment on the basis of the actual cost, which shall be made and collected as provided in the case of the original assessments for the improvement.

(g) Gas and water lines. The city council, before making any such local improvements, shall compel any person, firm or corporation having gas, water, telephone, street car or other public utility equipment on, in or under such street or alley under franchises therefor, to be moved, renewed, lowered or raised, and the gas or water lines or connections to be extended from the mains to the abutting properties, as directed, within ten days after notice so to do; and shall also cause the owners of properties abutting on said street or alley to install sewer connections at their expense, within ten days after notice so to do; and if the same be not done within said time, the work may be done by the
city, and the cost thereof, with a penalty of ten per cent of the 
cost, assessed against the owners of such franchises and against 
the said properties, respectively, for which such connections are 
made, which assessments shall be liens and may be collected as 
other taxes.

(h) Damages to improvements. Whenever any street or 
alley of the city, or any part thereof, shall have been graded, 
sewered, or otherwise permanently improved by order of the city 
council, pursuant to the authority conferred on them by this sec-
tion, by providing for an assessment of a part of the cost thereof, 
as provided by this section, against abutting property and the 
owners thereof, it shall not be within the power of the said city 
council to thus charge the said property of the owners thereof, 
with any part of the cost of regrading, re-paving, re-sewerling or 
again permanently improving such street or alley until after 
fifteen years from the completion of such grading, paving, sewer-
ing or otherwise permanently improving thereof. The city council 
shall, by ordinance provide for the protection, preservation and 
use of any such local improvements and shall prescribe fines and 
penalties for damages or injuries thereto, for which the person 
or company causing such injury shall be liable; and no owner or 
owners of abutting properties shall be compelled to pay subsequent 
special assessments for the reconstruction, repair and mainte-
nance of any curb, pavement, sewer or other local improvement, 
so injured or damaged by any other person or corporation in 
violation of such ordinance.

(i) The city council shall have power to pass and adopt 
ordinances not inconsistent with the constitution and laws of this 
state, for the purpose of carrying out the provisions of this 
section.

Sec. 43. The council of the city of Welch shall provide places 
for voting in each ward in all municipal elections of the city, and 
appoint commissioners residing therein to hold and conduct the 
election hereinbefore provided to be held, and shall pass all proper 
ordinances to give this act full force and effect. Provided, that 
the council may consolidate the voting places of two or more wards, 
if in its opinion no inconvenience is placed upon the voters in 
the respective wards.

Sec. 44. The city attorney shall be the legal ad-
viser of the city and all of its officers in all matters arising, and
in which legal proceedings may be taken; he shall prosecute all
suits, actions and proceedings instituted on behalf of said city,
and defend all suits and actions against said city, and when re-
quested in writing shall give his written opinion to the mayor
or council or any standing committee thereto upon such legal
questions as may be referred to him affecting the city's interest;
he shall perform such other duties as may be required. It shall
be his duty to attend the sessions of the council when requested and
prosecute all trials before said mayor and all appeals that are
taken from such mayor to the criminal or circuit court, and for
his services he shall receive such compensation as the council shall
provide, and in addition thereto in all criminal prosecutions con-
ducted by said city attorney, where there is a conviction of the
defendant, there shall be taxed an attorney's fee in favor of said
city attorney, not less than five nor more than ten dollars, which
said fee shall be taxed as a part of the costs of the case.

Sec. 45. The council shall designate some bank in the city
of Welch to act as treasurer, in which bank all moneys shall be
deposited. If no bank in the said city of Welch is willing to act
as such treasurer, then the council of the city of Welch shall ap-
point a city treasurer, prescribe his duties and provide compensa-
tion not to exceed the sum of three hundred dollars per year, pay-
able in equal monthly installments.

Sec. 46. Each councilman of said city shall receive from
the city to be paid out of the city treasury the sum of one hun-
dred and sixty dollars a year, payable in monthly installments,
and there shall be deducted from the salary of the mayor, recorder
and councilman two dollars for each time either of said officers
shall be absent from a regular meeting of said council, unless
such absence be caused by sickness or absence from the city.

ARTICLE XXVII.

Board of Health.

Sec. 47. The council shall appoint a suitable person, who
shall be a practicing physician, as health commissioner, whose
term of office shall be one year and until his successor is appointed
and qualified. The mayor, health commissioner and city attorney
are hereby constituted and shall be a city board of health. The
board of health shall do and perform all such duties and exercise
such powers as may be required of or conferred upon it by legal
8 ordinances of said city. The board of health shall have the power 9 to summon witnesses, hear testimony and to do any and all other 10 things necessary and proper in the performance of its duties under 11 this act and under the general laws of the state in such case made 12 and provided.

ARTICLE XXVIII.

Nuisances.

Sec. 48. The council of said city shall have authority to 2 abate and remove all nuisances in said city. It may compel the 3 owners, agents, assignees, occupants, or tenants of any lot, 4 premises, property, building, or structure upon, or in which any 5 nuisance may be, to abate and remove the same by orders therefor, 6 and by ordinance provide a penalty for the violation of such 7 orders.
8 Said council may also by its own officers, appointees, and em- 9 ployees abate and remove nuisances, including all obstructions on 10 the streets and alleys of said city. It may by ordinance regulate 11 the location, construction, repair, use, emptying, and cleaning of 12 all water closets, privies, cess-pools, sinks, plumbing, drains, yards, 13 lots, alley ways, pens, stables, and other places where offensive, un- 14 sightly, unwholesome, objectionable, or dangerous substances or 15 liquids are, or may, accumulate, and provide suitable penalties for: 16 violations of such regulations, which may be enforced against the 17 owner, agent, assignee, occupant, or tenant of any premises or 18 structure where such violation may occur.
19 If the owner, agent, tenant, assignee, or occupant of any 20 such premises, lot, property, building, or structure, as is men- 21 tioned herein, shall fail or refuse to abate or remove any such 22 nuisance as mentioned herein, or to comply with the provisions 23 of any such ordinance and the regulations herein contained, 24 the said council may have said nuisance abated or the provisions 25 of said ordinance, or ordinances, carried out, after reasonable 26 notice to said owner, occupant, tenant, agent or assignee, of its 27 intention so to do, and collect the expenses thereof, with one 28 per centum per month interest added from the date of said 29 notice, from the said owner, occupant tenant, agent, or assignee, 30 by distress or sale, in the same manner in which taxes levied 31 upon real estate for the benefit of said city are herein author- 32 ized to be collected, and the expense shall remain a lien upon
said lot, or part of lot, the same as taxes levied upon real estate
in said city; which lien may be enforced by a suit in equity
before any court having jurisdiction, as other liens against real
estate are enforced. In case of nonresident owners of real estate,
such notice may be served upon any tenant, occupant, assignee,
or rental agent, or by publication thereof once a week for not
less than two consecutive weeks in some newspaper of general
circulation in said city.

And in all cases where any tenant, occupant, or agent is re-
quired to abate and remove any nuisance under the provisions
of this section, or comply with the provisions of any such ordi-
nance as is mentioned herein, the expense thereof may be de-
ducted out of the accruing, or accrued, rent of said property,
or amount due said owner from said agent, and such tenant,
occupant, or agent may recover the amount so paid from the
owner, unless otherwise especially agreed upon.

Any expense incurred by the council, as herein provided,
in the manner aforesaid, may be collected in the manner herein
provided, notwithstanding the imposition of any other penalty
or penalties upon any of the persons named herein, under any
of the provisions of this act. The abatement or removal of any
such nuisance by the council, at the expense of said city, as
herein provided, shall be prima facie proof that the said notice
to the owner, occupant, tenant, agent, or assignee was given as
herein prescribed.

Sec. 49. The council may require all owners, tenants, or
occupants of improved property which may be located upon or
near any street or alley along which may extend any sewer or
system of sewerage, which the said city may construct, own, or
control, to connect with such sewer or system of sewerage, all
privies, ponds, water closets, cess-pools, drains, or sinks located
upon their respective properties or premises so that their con-
tents may be made to empty into such sewer or system of sewer-
age, and shall have the right to charge a reasonable amount for
the right to connect to such sewer.

ARTICLE XXIX:

Franchises.

Sec. 50. Franchises shall be granted by the council, allowing
to persons or corporations, for a limited time such occupancy of
portions of the street as may be necessary for works of public
utility and service, such as steam railway tracks, street railway tracks, poles and trolley wires, telephone and telegraph poles and subways, electric light and other electric poles, wires and subways, and gas and steam pipe lines, water, water lines and pipes. But no such franchise shall hereafter be granted except under the following restrictions:

1. No ordinance, granting any franchise for the use of the streets, alleys or public grounds for the town for any of the purposes of public utility above named, or for any other purpose of like nature, shall be passed unless it shall have been first proposed in the council, and notice of the object, nature and extent of the franchise shall have been published at least thirty days by the applicant, in some newspaper of general circulation in the city of Welch, before being acted upon, and shall have received a vote of the majority of the members of the council at a regular meeting after said publication. The votes thereon shall be taken by ayes and noes, and the same entered upon the journal.

2. Every grant of any such franchise shall be for a limited period of time. If no limit be expressly provided in the grant, the franchise shall be valid for one year only. In no case shall the franchise extend for a period exceeding fifty years.

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

4. No grant of a franchise or the extension of, or an addition to, any line of such work, over any additional street or territory of the city, shall be made for a period extending beyond the time limited for the expiration of the franchise of the principal work of which it is an extension; and if the franchise of the principal company or work is one which was granted before this act goes into effect, and is not limited as to time, the franchise granted for the extension or addition shall nevertheless be made subject to the conditions hereof, including a time limit of not exceeding fifty years. If a franchise be secured from the city by an individual or by an independent or new company, and the work constructed thereunder afterwards becomes a part of
44 it, or be operated as a part of a larger work of the same kind
45 whose franchise was previously obtained and is limited to ex-
46 pire earlier, such later franchise shall, by reason of such annexa-
47 tion, merger, or single operation, expire simultaneously with such
48 earlier franchise.

Sec. 51. All ordinances of the town of Welch, as they exist
2 at the time of the passage of this act, which are inconsistent
3 therewith, are hereby abrogated, and all acts and parts of acts
4 inconsistent with any of the provisions of this act are hereby
5 repealed.

CHAPTER 5.

(A House Bill No. 278--Mr. Bray.)

AN ACT creating the municipal corporation of the city of Ronce-
verte, in the county of Greenbrier, amending and re-enacting the
charter granted to said city of Ronceverte by act of the legis-
lature of West Virginia, chapter nine of the acts of one thousand
nine hundred and nine, passed on the twenty-fourth day of
February, one thousand nine hundred and nine.

[Passed February 20, 1919. In effect ninety days from passage. Became a law
without the Governor's approval.]

Sec.

1. City of Ronceverte; corporate
2. powers.
4. Control of streets and roadways.
5. Governing body.
6. Board of commissioners' powers.
7. Eligibility to office.
8. Terms of office.
10. Candidate; ballots; ascertaining
11. results; tie vote.
12. Duties and responsibilities of board
13. of commissioners.
14. Meetings of the board; keeping of
15. records.
16. Election of mayor.
17. Majority constitutes quorum.
18. Compensation of appointive officials.
19. Further duties of board of commis-
20. sioners.
21. Commissioners prohibited from
22. voting; when.
23. Commissioner cannot be surety on
24. bond for benefit of city.
25. Appointive positions; terms of of-
26. fice; renewals.
27. Duties of appointive officials;
28. mayor, his duties and powers;
29. salary.
30. Process in proceedings to enforce
31. ordinances.
32. Execution for fines and costs.
33. Jail to be used as lockup; jailor
34. lockup keeper.
35. Keeping of the docket.
36. Appeals to circuit court.
37. City clerk; his duties.
38. Collection of taxes.
39. Accurate account of moneys re-
40. ceived and disbursed.
41. Clerk's bond, with sureties.
42. City solicitor; duties; compensa-
43. tion.
44. City treasurer; depositing and dis-
45. bursing of moneys by.
46. Other officials.
47. City health board.
48. Lien for taxes.
49. Licenses.
50. Condemnation of real estate for
51. public utility; street paving.
52. Ordinances, by-laws, etc.
53. Franchises.
54. Sidewalks; construction of.
55. Street paving; assessment for.
56. Sewers; construction of; who to
57. pay for.
58. Assessment and levy.
59. Annual financial statement.
60. Bonds; additional levy.
61. Terms of office.
62. Penalties.
63. City manager; alternative.
64. Present ordinances in effect until
65. repealed.
66. Present officers to continue in power
67. until when.
68. Vested rights of the city unaffected
69. by this act.
70. Invalid parts of this act not held to
71. invalidate other sections or parts.
72. Act in effect from passage.
73. Acts and parts of acts inconsistent
74. herewith repealed.
Be it enacted by the Legislature of West Virginia:

Corporate Powers.

Section 1. That the inhabitants of that portion of Greenbrier county, in the state of West Virginia, included within the boundary described in section two of this act, now a municipal corporation existing and known as the city of Ronceverte, shall continue to be a body politic and corporate under the same name, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; plead and be impleaded; contract and be contracted with; acquire property for municipal purposes in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase; may sell, lease, hold, manage and control such property, and make any and all rules and regulations, by ordinance or resolution which may be required to carry out fully all provisions of any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may grant public franchises, to be exercised within the city; may acquire, own, construct, lease and operate light, heat and power plants and water works; may assess, levy and collect taxes for general and special purposes on all the subjects or objects within its boundaries which the city may lawfully tax; may borrow money for permanent improvements and public works on the faith and credit of the city by the issue or sale of bonds or notes of the city, and in the issuance and sale of bonds or notes of the city the said city shall be governed by the restrictions and limitations of the constitution and laws of the state relating to the issuance and sale of bonds; may pave, repave, curb, recurb, grade, regrade, sewer, resewer, or otherwise permanently improve any street, alley, or roadway within the city limits and assess the cost thereof as hereinafter provided for; may appropriate the money of the city for all lawful purposes; may create, provide for, construct, regulate and maintain all things of the nature of public works and improvements; may direct the laying out of lots and the opening of streets and roadways; may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience, welfare of the inhabitants of the city, and all nuisances and causes thereof; may regulate the construction, height, and materials used in all buildings and structures of any kind and every kind, and the maintenance, occu-
39 pancy and use thereof; may regulate and control the use, for what-
40 ever purposes, of the streets and other public places; may create,
41 establish, organize and abolish offices not specifically provided
42 for by this act, and fix the salaries and compensations of officers
43 and employees when not fixed herein; may make and enforce
44 local police, sanitary and other regulations, and prescribe, im-
45 pose and enforce reasonable fines and penalties including impris-
46 onment, and shall have the right to use the county jail of Green-
47 brier county when necessary; and may pass such ordinances and
48 resolutions as may be expedient or necessary for maintaining and
49 promoting the peace, good government and welfare of the city,
50 and for the performance of the functions thereof. The city of
51 Ronceverte, as constituted by this act, shall retain, keep and suc-
52 ceed to all rights, privileges, property, interest, claims and de-
53 mands heretofore acquired by, vested in or transferred to the
54 said city as heretofore constituted and shall have all powers that
55 now are or hereafter may be granted to municipalities by the
56 constitution or laws of West Virginia, or that are herein by im-
57 plication conferred, or are necessary to or consistent with the
58 purposes of this act; and all such powers, whether expressed or
59 implied, shall be exercised and enforced in the manner pre-
60 scribed by this act, or when not prescribed herein, in such manner
61 as shall be provided by ordinances or resolutions of the govern-
62 ing body herein provided for.

Boundaries and Jurisdiction.

Sec. 2. The corporate boundaries of the said city shall be as
2 follows, that is to say:
3 Beginning at a poplar tree on the north bank of the Green-
4 brier river, thence north forty-four degrees, fifty-seven minutes,
5 west one thousand seven hundred forty-nine six tenths feet to a
6 set stone near the top of the hill. Thence along side and near
7 the top of said hill, west seven hundred seventy-five three tenths
8 feet to a set stone, thence south sixty-three degrees, four minutes
9 west, crossing top of a hill, at five hundred forty-seven feet, and
10 center of L. & R. railroad track at one thousand two hundred
11 twenty-four feet and in all two thousand six hundred forty-six
12 feet to a set stone near stone culvert on the road from Lewisburg
13 to Ronceverte, thence north eighty-three thirty-three one hun-
14 dredths west one thousand one hundred forty-six eight tenths feet
15 to a set stone near D. H. Foglesong's house; thence south sixty-
16 six degrees, forty-eight minutes west three thousand forty-seven
17 four tenths feet to a set stone on top of a hill, thence south sixty-
18 one degrees, fifty-six minutes west one thousand fifty-five six tenths
19 feet to a set stone, in a hollow, thence south twenty-three de-
20 grees, forty-seven minutes west one thousand two hundred sixty
21 five tenths feet to a set stone, three feet from G. W. Perry’s line,
22 thence south forty-five degrees, thirteen minutes east two thou-
23 sand one hundred seventy-nine two tenths feet to a hickory tree
24 on the north bank of Greenbrier river, and thence upon the said
25 river with the top of the north bank of the main stream thereof,
26 and including the big islands, to the poplar tree, the point of
27 beginning, in all ten thousand feet, more or less.

Sec. 3. The city of Ronceverte shall construct, maintain and
2 control its streets and roadways and be exempt from the payment
3 of taxes for the construction and maintenance of roads outside
4 of the city limits, except that where the people of the city have
5 heretofore, by special election, joined in the issuance of bonds for
6 permanent road improvement within and without the city limits
7 and have assumed their share of such obligations this act shall
8 not exempt the taxable property of the city from the payment of
9 any special taxes provided in said election for the liquidation of
10 such indebtedness; nor shall this act prevent the future partici-
11 pation of the city in permanent road improvement by special vote
12 of the people under the laws of the state of West Virginia; but
13 the said county of Greenbrier shall be chargeable with the con-
14 struction and maintenance of all bridges within the city.

_Governing Body._

Sec. 5. The municipal authorities of the city shall be three
2 commissioners who shall constitute and be known as “The board
3 of commissioners of the city of Ronceverte.”

Sec. 6. All corporate powers of said city shall be vested in
2 and be exercised by the board of commissioners or under its direc-
3 tion as otherwise provided in this act.

Sec. 7. No person shall be eligible to the office of commis-
2 sioner who is not at the time of his election entitled to vote in
3 the city election and who was not for the preceding year assessed
4 with taxes upon personal or real property, or both, within the
5 city, of an assessed value of five hundred dollars, and did not
6 actually pay the taxes so assessed.

Sec. 8. Commissioners shall be elected from the city at large
2 for a term of three years, except that at the first election the one
3 ascertained to have been elected by the largest number of votes
4 shall serve for three years, the one ascertained to have been elected
5 by the next largest number of votes shall serve for two years,
6 and the third one ascertained to have been elected by the next
7 largest number of votes shall serve for one year. Thereafter one
8 commissioner shall be elected each year for a term of three years.
9 The commissioners shall each receive a salary of fifty dollars per
10 annum.

Elections.

Sec. 9. The first election under this act shall be held on
2 the first Tuesday in June, one thousand nine hundred and nine-
3 teen, at the regular voting places within the city, under the super-
4 vision of the council and officials of the city as at present con-
5 stituted, and be conducted, certified, returned and finally de-
6 termined, in accordance with the provisions of this act and the
7 laws and ordinances, or such parts thereof, as are now in effect
8 and not inconsistent with the provisions of this act.

Sec. 10. Municipal elections under this act shall be con-
2 ducted as follows:
3 (a) Every person who has been a bona fide resident of the
4 city for six months next preceding a city election therein, and
5 who is a qualified voter under the constitution and laws of this
6 state, shall be entitled to vote at said city election in the elec-
7 tion precinct in which he actually resides; but no person shall
8 be deemed a bona fide resident who is residing within the city
9 limits for any temporary purpose and expects to remove from
10 the city after said purpose shall have been accomplished. The
11 board of commissioners may by ordinance provide for the reg-
12 istration of voters under the laws of the state of West Virginia.
13 The board of commissioners shall, after the first election held
14 hereunder, establish the boundaries of and designate and provide
15 voting precincts within the city, which precinct boundaries and
16 places of voting shall be, if practicable, in conformity within
17 the city with those established for general election purposes by
18 the county.
19 (b) Any person eligible to the office of commissioner may
20 become a candidate and have his name placed upon the ballot,
21 either upon his own motion or by others, by filing with the city
22 clerk a declaration of his candidacy and a certificate of his
eligibility, within sixty days next preceding the day of the election, signed by twenty-five qualified voters of the city. Said declaration and certificate shall be accompanied by a fee of ten dollars to be paid into the treasury of the city, and shall be filed with the city clerk not less than fifteen days prior to the day of election. The names of all candidates for the office of commissioner shall appear on one ballot and said ballot shall be without party emblem or designation. The whole number of ballots to be printed for the election of commissioners shall be divided by the number of candidates and the quotient so obtained shall be the number of ballots in each series of ballots to be printed.

(c) The names of the candidates shall be arranged in alphabetical order and the first series of ballots printed. The first name shall then be placed last and the next series printed, and this process shall be repeated until each name shall have been first. These ballots shall then be combined into tablets in the order of the series with no two of the same series together.

(d) The ballots to be used for the election of commissioners shall be in form as follows:

<table>
<thead>
<tr>
<th>CANDIDATES FOR ELECTION TO THE OFFICE OF COMMISSIONER.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CITY OF RONCEverte, W. VA.</td>
</tr>
<tr>
<td>Tuesday, .......................... 19......</td>
</tr>
</tbody>
</table>

**DIRECTION TO VOTER:** Put a figure one in the blank space opposite the name of the candidate whom you most desire elected. Then put a figure two in the space opposite the name of the candidate who is your second choice. Then put a figure three in the space opposite the name of the candidate who is your third choice. Do not mark after more than three names. If you spoil this ballot, tear it across once and hand it to the election officer in charge and he will give you another.

<table>
<thead>
<tr>
<th>NAME OF CANDIDATES</th>
<th>CHOICE</th>
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<tr>
<td>..........................</td>
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</tr>
</tbody>
</table>
(e) A fac-simile as nearly as possible of the ballot to be used in all elections, bearing the names of all candidates in alphabetical order, shall be published in the same manner as is provided by law for the publication of ballots for general elections in West Virginia, together with the certificate of the city clerk that it contains the names of all candidates filing with him in the manner prescribed in this act, but that it does not show the order in which the names will appear on all ballots.

(f) A valid ballot cast in the elections for commissioners shall be one on which the voter has clearly expressed his choice of one or more candidates. If a voter express the same choice for more than one candidate, his vote shall be void as for that choice. If he express more than one choice for one candidate the highest properly expressed choice only shall be counted for said candidate.

(g) A vote equal to or greater than a majority of the total valid ballots cast within the city shall be necessary to an election. During the counting of the votes, all ballots or votes not counted shall be marked by the election commissioners of each precinct with the words "not counted" written upon the ballot or opposite the vote not counted, together with a statement of the reasons for not counting, and the total number of invalid ballots marked thus and not counted shall be ascertained by them at the conclusion of the counting and be shown upon the precinct return certificate and subtracted from the total number of ballots taken from the ballot box.

(h) In ascertaining the result of the election, the canvassing board shall first count the first choice votes received by each candidate. If a candidate be found to have received a total of first choice votes equal to or greater than a majority of the total valid ballots cast, he shall be declared elected. But if more than one commissioner is to be elected or no candidate shall have received the number of first choice votes necessary for an election, then the second choice votes received by each of the candidates who were not elected by the first choice votes shall be added to his first choice votes, and if one or more of said candidates shall be found to have received a total of first and second choice votes equal to or greater than a majority of the valid ballots cast, that candidate who shall have received the highest number of first and second choice votes shall be declared elected. But if the required number of commissioners shall not
102 be found to have been elected by first and second choice votes, 103 then the third choice votes received by each of the candidates 104 who were not elected by the first or first and second choice votes, 105 shall be added to his first and second choice votes, and those 106 candidates to the number of commissioners yet remaining to 107 be elected, who shall be found to have received the highest vote, 108 shall be declared elected in the order of the vote received, be- 109 ginning with the highest; and if an election of one or more be 110 prevented by a tie, then of those tied the one or ones who received 111 the highest total of first and second choice votes shall be declared 112 elected; and if there be yet a tie, then of those tied the one or 113 ones who received the highest number of first choice votes shall 114 be declared elected; and if there be yet a tie, then selection shall 115 be made by lot by placing within a hat the names of those can- 116 didates who are tied and drawing therefrom one name at a time 117 to the number of commissioners yet to be elected. The candi- 118 dates whose names are thus drawn shall be declared elected as 119 drawn.

Sec. 11. Commissioners only shall be elected by popular 2 vote. All other officials and employees shall be appointed by the 3 commissioners in such manner as is provided by this act or as 4 they may by ordinance properly prescribe, and shall hold office 5 during the pleasure of the board of commissioners, subject to re- 6 moval for cause. The annual election of commissioners shall be 7 held on the first Tuesday in June. Each person elected or ap- 8 pointed to an office in the city shall within thirty days after his 9 election or appointment and before entering upon the duties of 10 his office, take and subscribe the oath of office prescribed by law 11 for county officers, which shall be done before a notary public, 12 and the certificate of the officer administering the oath shall be 13 filed with the city clerk.

14 The term of office of a commissioner elected and qualified 15 shall begin with the first day of July next following the day of 16 his election. A vacancy in the office of commissioner shall be 17 filled by appointment by the remaining commissioners until the 18 next municipal election, when said vacancy shall be filled by 19 election for the part of the term then unexpired.

Sec. 12. At least four weeks before the day of an election 2 the board of commissioners shall appoint from among the quali- 3 fied voters for their respective voting precincts such election offi- 4 cers as are provided for by the laws of the state for holding elec-
tions. The said officers of election shall be selected from the
two political parties which at the last preceding state election
cast the highest number of votes in the precinct in which they
reside, and not more than two of said commissioners of election
nor more than one clerk shall belong to the same political party.
At least four weeks before the date of a municipal election the
city clerk shall appoint one ballot commissioner from among the
voters of the two aforesaid political parties, within the city, who
with himself as chairman, shall constitute the board of ballot
commissioners.
Elections under this act shall be conducted, returned and
the results thereof ascertained and declared in the manner pre-
scribed by the constitution and laws of the state in so far as said
laws are not inconsistent with this act, and all penalties pre-
scribed by said laws of the state in so far as consistent shall be
applicable under this act.
The board of commissioners shall by ordinance provide such
additional regulations in conformity with the provisions of this
act as are necessary for the proper conduct of elections.
The duties required of the clerks of the circuit and county
courts under the election laws of West Virginia, shall be per-
formed by the city clerk of said city. The duties required of the
commissioners of the county court under the provisions of said
laws shall be performed by the board of commissioners of said
city. The duties required of the sheriff under the provisions of
said laws shall be performed by the chief of police of said city,
except as specifically provided otherwise herein. And the duties
required of any constable under the provisions of said laws shall
be performed by any member of the police force of the said city.
Wherever the word “county” appears in said laws, the same shall
be taken to refer to the city of Ronceverte, and wherever the
words “election precinct” or “precincts” appear in said laws they
shall be taken to refer to the election precinct or precincts for the
municipal election, and wherever the words “court house” shall
appear in said laws as designating the place of meeting of the
election officers and boards, the same shall be taken to refer to
the municipal building.
If at any time a commissioner shall be a candidate for re-
election to said office, the other commissioners shall appoint some
person to act in his stead as a member of the canvassing board for
the purpose of canvassing the returns and ascertaining the result of the election at which he is a candidate.

**Duties and Responsibilities of Board of Commissioners.**

Sec. 13. The board of commissioners shall be vested with all legislative authority of the city and shall exercise the same by ordinance; other action by them may be by order upon motion. They shall, by ordinance, prescribe the manner in which the powers conferred upon the city shall be exercised in conformity with the provisions of this act.

Sec. 14. They shall meet in the municipal building of the city and shall provide by ordinance for the manner and times of holding said meetings, at least one regular meeting being held each month.

They shall cause to be kept in a well-bound book, called the "city journal," an accurate record of all their proceedings, by-laws, ordinances, orders, and resolutions, and the same shall be open for public inspection during usual office hours.

Sec. 15. A meeting shall be held on the first Monday of July of each year for the purpose of electing one of their number to the office of mayor. If they shall fail to agree upon a mayor within ten days, then the oldest commissioner in point of continuous service shall act as mayor, pro tempore until a mayor may be elected.

Sec. 16. A majority of the commissioners shall constitute a quorum for the transaction of business, and no act shall be done unless a majority of the commissioners shall vote in favor thereof.

Sec. 17. They shall fix the compensation of all appointive officials and employees of the city.

Sec. 18. They shall grant franchises, levy and collect taxes and assessments, order payment of approved accounts, hear and determine charges against all officials of the city other than members of their own body, require that the laws and ordinances be obeyed and enforced, cause the affairs of the city to be efficiently and economically administered, and perform such other duties as properly devolve upon the chief executive body of the city.

Sec. 19. No commissioner or official of the city shall vote upon or in any way participate in the consideration of any proposition in which he is, or may become interested, otherwise than as a resident of said city, nor shall he be financially interested, directly or indirectly, in any contract, sale or transaction, to which the city is a party, nor shall he vote on the same or participate in any...
Sec. 20. No commissioner or official of the city shall be surety on any bond given to or for the benefit of the city.

Sec. 21. The board of commissioners shall elect or appoint the following officers and employees:

(a) A city clerk.
(b) A chief of police and members of the police force.
(c) A city solicitor.
(d) A city treasurer.
(e) A street commissioner.
(f) A superintendent of water works and lights.
(g) Such other employees as may be necessary and provided for by ordinance.

Each of said officers shall hold office for one year and be subject to removal at any time for cause, by the appointing body. Their duties shall be prescribed by the board of commissioners, and as herein provided. One person may be elected or appointed to and discharge the duties of more than one of said offices.

Duties of Appointive Officials.

Sec. 22. The mayor shall preside at meetings of the board of commissioners; shall exercise such authority and perform such duties as are conferred upon him or imposed upon him by this act, the ordinances of the city and the laws and constitution of the state. He shall be the official head of the city for all ceremonial purposes and upon whom service may be had in civil process and by the governor for military purposes. He shall see that the orders, by-laws, ordinances and resolutions of the board of commissioners are faithfully executed; he shall be ex-officio a justice and conservator of the peace within the city and shall within the same have, possess and may exercise, all the powers and perform all the duties whether in civil or criminal proceedings, vested by law in a justice of the peace. Any summons, warrant or other process, issued by him may be executed at any place within the county; he shall have power during the recess of the regular meetings of the board of commissioners to appoint special police officers when he shall deem it necessary, and it shall be his duty to see that the peace and good order of the city are preserved, and that persons and property therein are protected; and to this end he may arrest and detain, or cause the arrest and detention of all riotous or dis-
21 orderly persons before taking other proceedings in the case; he
22 shall from time to time recommend to the governing body such
23 measures as he may deem needful for the welfare of the city; he
24 shall not receive any money due or belonging to the state or cor-
25 poration or to individuals, nor have the civil jurisdiction of a
26 justice, unless and until he shall have given the bond required of
27 a justice of the peace by the laws of West Virginia, and all the
28 provisions of said laws relating to moneys received by justices
29 shall apply to moneys received by him in like cases.
30 The mayor shall receive a salary of not less than one hundred
31 nor more than three hundred dollars per annum, and shall not
32 receive the salary of a commissioner in addition thereto; such
33 salary shall be in lieu of the fees which would otherwise accrue to
34 him in proceedings for the enforcement of ordinances, but all
35 such fees shall be collected when practicable, and accounted for
36 to the city, and he may tax such costs against any person or cor-
37 poration found guilty of the violation of any ordinance of the
38 city, as are provided to be taxed and recovered by justices of said
39 county in criminal cases.

Sec. 23. The process in proceedings to enforce any ordinance
2 prescribing a fine or imprisonment, or a fine and imprisonment,
3 for the violation thereof, shall be a summons in the name of the
4 city of Ronceverte as plaintiff directed to the chief of police, to
5 one of the regular police officers of the city, or to any constable of
6 any district within the said city, requiring him to summon the
7 person accused of such violations and who shall thereafter be
8 designated as defendant, to appear before the mayor at the time
9 and place therein named, to make answer to such accusation and
10 be dealt with according to law; such summons shall contain such
11 a statement of the facts alleged as will inform such person of the
12 general nature of the offense against the city with which he
13 stands charged, and except in cases of arrest upon view, shall be
14 issued only upon the complaint on oath, of some creditable person.
15 But the mayor may for good cause appearing, by endorsement on
16 the summons, order the person so accused to be forthwith appre-
17 hended and brought before him for a hearing on the charge. The
18 clerk of said city as well as the mayor, shall have authority to
19 receive any complaint in writing of the violation of any ordinance,
20 and to sign and issue the proper summons based upon such com-
21 plaint. The mayor shall possess and may exercise the power and
22 authority belonging to a justice under the laws of the state of
23 West Virginia in summoning and enforcing the attendance and
24 examination of witnesses, in punishing for contempt, in granting
25 continuances, and in securing and enforcing the further attend-
26 ance of the accused with a view to a trial or hearing. If any
27 recognizance be taken for such further attendance, and is for-
28 feited, the mayor may record the default, and an action be main-
29 tained in the name of the city, before the mayor, or any justice
30 having jurisdiction, against the accused and his sureties, if any,
31 to recover the penalty thereof.

Sec. 24. The mayor shall have power to issue an execution
2 for any fine and costs assessed or imposed by him, for the violation
3 of any ordinances, or he may at the time of rendering judgment
4 therefor, or at any time thereafter and before satisfaction of such
5 judgment, by his order in writing, require the immediate pay-
6 ment thereof; and in default of any such payment he may cause
7 the person so in default to be apprehended and brought before
8 him, and commit him to the jail of Greenbrier county or in his
9 discretion to the prison of said city, if one shall have been pro-
10 vided, and require him to labor on the streets until the fine and
11 costs are fully paid; but such imprisonment shall not exceed
12 ninety days.

Sec. 25. The jail of Greenbrier county may be used as a
2 lockup for said city. The jailor of said county shall take and
3 receive into his custody any person authorized to be confined
4 therein by the ordinance of said city, or sentenced to imprisonment
5 therein, or committed thereto, for nonpayment of a fine or costs
6 or for failure to enter into a recognizance by the judgment or
7 order of the mayor, in proceedings for the violation of an ordi-
8 nance; and the expense of maintaining such persons while so in
9 confinement shall, if such person be found guilty of such viola-
10 tion, be charged to such person as part of the costs, but whether
11 collected from such person or not, such expense shall be paid to
12 said jailor by the city.

Sec. 26. A book well bound and indexed, to be denominated
2 the "docket" shall be kept in the office of the mayor, in which
3 shall be noted each case brought or tried by him together with
4 the proceedings therein, including a statement of complaint, the
5 summons, the return, the fact of appearance, the defense, the
6 hearing, the judgment, the costs, and in case the judgment be
7 one of conviction, the action taken to enforce the same; the
8 record of such case shall be signed by the mayor or other person
9 acting in his stead; and the original papers thereof, if no appeal
10 be taken, shall be kept together and preserved in his office.

Appeal.

Sec. 27. Appeals shall lie from the judgment of the mayor
2 or municipal court to the circuit court of Greenbrier county, in
3 accordance with law.

City Clerk.

Sec. 28. In addition to such duties as the board of com-
2 missioners may prescribe, it shall be the duty of the city clerk
3 to keep the journal of the proceedings of the board of commis-
4 sioners, and have charge of and preserve the records, papers,
5 contracts and other documents belonging to the city; it shall be
6 his duty to attend the sessions of the municipal court and keep
7 an accurate record of its proceedings, and all judgments shall be
8 entered by him within twenty-four hours after the same are
9 rendered; he shall, in cases of sickness or disability of the mayor
10 to act, or in case of his temporary absence, perform the duties
11 of mayor, and shall be vested with all the powers necessary for
12 the performance of such duties; he shall also perform such other
13 duties pertaining to the fiscal affairs of the city, or otherwise, as
14 may be required of him by this act or by the board of commis-
15 sioners.
16 As soon as the rate of levy shall have been fixed by the
17 board of commissioners according to law, the clerk shall furnish
18 the officer whose duty it is to make out the land and personal
19 books, a certified copy of the order of the council, fixing the rate
20 of tax and such officer shall thereupon extend the tax against
21 the property situated in the city in the land and personal prop-
22 erty books in separate columns in said books.

Sec. 29. The clerk shall, when the extended copies of the
2 assessor's books are completed and returned to the clerk of the
3 county court, have access to the same for the purpose of making
4 out the tax tickets of the taxes therein extended, and it shall be
5 the duty of the clerk to make out all tax tickets, and when the
6 same shall have been examined, compared and approved by the
7 board of commissioners or its financial committee and found to
8 be correct, they shall be forthwith turned over to the clerk, whose
The clerk shall give notice that said tax tickets are in his hands for collection, stating the penalty for non-payment thereof, and the time and place where the same may be paid, which notice shall be published for two weeks in one or more newspapers published in the city.

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

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

Sec. 30. The said clerk shall receive all taxes, assessments, fines and costs, water rents, and other money due the city authorized by this act, or by any ordinance of the said city, to be paid to the city, and shall receipt for the same; he shall keep an accurate account of all money paid to him for the use of said city, showing under separate accounts the amounts received for account of taxes, sewer purposes, street improvements or pavements, licenses, water rents and other bills due the city, fines and costs and of other matters pertaining to his office, which books shall be at all times open to the inspection of the commissioners or to any committee appointed by the board of commissioners for such purposes; he shall pay over promptly all money which he may receive, within five days after the receipt thereof, into the hands of the treasurer of the said city, showing an itemized statement of the several funds included in said payment, taking the treasurer’s receipt therefor; he shall keep his office at the office of the mayor, unless otherwise ordered by the board of commissioners, and shall maintain office hours or be at his office for the transaction of business at such times as the board of commissioners may prescribe; he shall on or before the first day of January and July of each year, and oftener if directed by the board of commissioners, present to the said board a full, complete and detailed statement of all money with which he is chargeable, or that has been received by him from all sources up to that time, together with a statement of all money paid
26 to the treasurer and proper receipts therefor, and he shall at
27 such times return a list of all taxes, levies, assessments and other
28 claims in his hands for collection which he shall not have been
29 able to collect by reason of insolvency, removal, or other cause,
30 to which list he shall append an affidavit that he has used due
31 diligence to collect the several items therein mentioned, but has
32 been unable to do so, and if the board of commissioners should
33 be satisfied as to the correctness of said list, then may allow him
34 credit for said claims, but thereafter may direct the said city
35 clerk or someone else or may themselves take such lawful meas-
36 ures to collect the same as shall be by the board of commissioners
37 prescribed. The said clerk shall receive all taxes on licenses,
38 and receipt to the party paying the same by endorsement upon
39 the permit granted by order of the board of commissioners and
40 shall charge himself with the amount received from the same,
41 and report to the board of commissioners at the next regular
42 meeting thereafter, the amount so received, and pay the same
43 over to the treasurer taking his receipt for the same; he shall
44 upon the expiration of his term of office or upon the order of
45 the board of commissioners, turn over to his successor all money,
46 books of account and other property of said city in his possession,
47 and he and his bondsmen shall not be released until such full
48 and complete transfer to his successor has been made; he shall
49 receive such salary as may be fixed by the board of commis-
50 sioners.

51 The city clerk shall collect the capitation tax for the city
52 in the same manner and at the same time that the county asses-
53 sor collects the capitation tax for the county, and in respect to
54 this duty shall perform the duties required of the county assessor.

Sec. 31. The clerk of said city, before entering upon the
2 discharge of his duties, shall execute a bond conditioned for the
3 faithful performance of the duties of his office, and for the ac-
4 counting for and paying over, as required by law and by this
5 act, all money which may come into his hands by virtue of his
6 office, with sureties satisfactory to the board of commissioners,
7 payable to the city of Ronceverte, in a penalty of not less than
8 two thousand nor more than ten thousand dollars, as the board
9 of commissioners may prescribe; he shall be the custodian of all
10 bonds, notes, certificates and other evidences of indebtedness to
11 the city, together with all valuable papers which may be placed
in his possession by the board of commissioners, except that the
bond of the clerk shall be deposited with the mayor; he shall be
chargeable with, and it shall be his duty to collect the city taxes,
levies and assessments under such regulations as may be pre-
scribed by law and the ordinances of the city, and in case of non-
payment as defined by the laws of West Virginia, shall distrain
and sell therefor in like manner and have the same power and
authority possessed by the officer charged with the collection of
state and county taxes. At the time and in the same manner
provided by the laws of West Virginia for the return and pub-
lication of delinquent tax lists he shall make up a list of taxpay-
ers who are delinquent for the non-payment of tax on personal
property and cause the same to be published in accordance with
the laws of West Virginia for the publication of taxpayers de-
linquent for the non-payment of state and county taxes on per-
sonal property; and at the time and in the manner prescribed
by the laws of West Virginia the said city clerk shall return
to the auditor of West Virginia a list of the real estate in said
city delinquent for the non-payment of taxes and the same shall
be sold in the manner prescribed by law for such sales.

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

**City Solicitor.**

Sec. 32. The city solicitor shall be an attorney at law ad-
mitted to practice in the state of West Virginia. He shall be
the legal adviser of and attorney and counsel for the municipality
and for all officers thereof in matters relating to their official
duties; it shall be his duty to prepare when directed by the
board of commissioners, all ordinances for said city, to repre-
sent the said city in all matters and proceedings in any court in
which the said city is interested, and counsel the said board of
commissioners when requested; he shall receive a compensation
for his services to be fixed by the board of commissioners.
Sec. 33. The treasurer may be a citizen, a bank or trust company of said city, and shall be appointed by the board of commissioners and hold office during the pleasure of the board. All money due the city shall be paid to the clerk, and be by the clerk deposited with the treasurer. The money deposited with the treasurer shall be disbursed only upon orders drawn against the same, signed by the mayor and countersigned by the clerk. The treasurer shall receipt to the clerk for all money paid by him, and shall keep the regular books of accounts, showing the amount of the several funds paid or deposited with the treasurer by said clerk, and shall make report to the board of commissioners once a month or at such other times as the board of commissioners may direct, showing the receipts and disbursements of the funds of the city, and the treasurer shall produce his books and accounts to the board of commissioners upon the order of the board of commissioners. The treasurer shall give bond with security to be approved by the board of commissioners in a sum of not less than five thousand dollars, with condition that the said treasurer shall account for and pay over all money received for the account of said city, as may be directed by the board of commissioners. The said treasurer shall receive such compensation as the board of commissioners may fix, which shall not be more than at the rate of two hundred dollars per annum. Any bank or trust company of said city is hereby authorized to act as treasurer of said city, and the same shall be liable for all money deposited therein.

Other Officers.

Sec. 34. The chief of police, city commissioner, and other officials or employees deemed necessary by and appointed or employed by the board of commissioners, shall perform such duties as the board of commissioners shall by ordinance, resolution or order require. They shall be subject to removal at any time for cause by the board of commissioners without recourse to the city, and the board of commissioners may direct the dismissal of any employee for cause.
Sec. 35. The board of commissioners shall, at their first meeting after election, and thereafter at the first meeting in July of each year, appoint and constitute a city board of health to be composed of a chief health officer who shall be a practicing physician of good standing in the city, if such there be who will serve faithfully for the compensation of fifty dollars per annum, and if no practicing physician of good standing will serve as such chief health officer for said compensation, then the board of commissioners may appoint any reputable citizen as such chief health officer, who, with the city solicitor and two other citizens of good repute and interested in the welfare of the city, shall constitute the city board of health to exercise all powers conferred upon county health officers and boards by the laws of the state of West Virginia, and the said city board of health shall be independent of the county board of health, but shall bear the same relation to the state health department as county boards of health; the city health board shall protect the health of the city and take such measures as may be advisable to prevent the spread of contagious diseases; establish and maintain quarantines when necessary and required by state laws; may establish rules of sanitation and enforce the same. When the city health board shall have been established and each year thereafter, the county court of Greenbrier county shall estimate and ascertain the whole amount of public funds of the county which has been used, paid out or appropriated in the interest of the public health of the county, and shall refund to the city of Ronceverte the proportion of such amount which was borne by the taxable property of the city of Ronceverte to the taxable property of the entire county, and the county of Greenbrier shall be exempt from the maintenance of the public health of the city.

Sec. 36. There shall be a lien on the real estate within said city for the city taxes assessed thereon, and for all fines and penalties assessed to, or imposed upon the owners thereof, by the authorities of said city, from the time the same are so assessed or imposed, which shall have priority over all other liens, except the lien for taxes due the state, county and district; and which may be enforced by the board of commissioners or proper officer of the city in the same manner provided by law for the enforcement of the lien for county taxes.
License.

Sec. 37. The board of commissioners shall have authority to require a city license for anything done, carried on or exhibited within the city, for which a state license is now or may hereafter be required; for the keeping of hacks, carriages, carts, wagons and other vehicles for hire within the city, and for the keeping of dogs within the city; and the board of commissioners may provide for the killing of all dogs, the keeping of which is not so licensed. And upon all such licenses the city may impose a reasonable tax for the use of the city. The board of commissioners shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the properly designated official of the city before delivery to the person applying therefor, and the provisions of section thirty-nine, forty and forty-one of chapter thirty-six of the acts of one thousand nine hundred and five, relating to licenses shall govern the city in the granting of licenses similar in character to those therein mentioned, except where otherwise herein provided. Licenses for keeping dogs shall expire on the thirtieth day of June next after they are granted, and all other licenses may be for such times as the board of commissioners may determine.

Sec. 38. The board of commissioners shall have the right to institute proceedings in the name of the city for the condemnation of real estate for streets, alleys, sewers, drains, market grounds, city prison, or other work or purposes of public utility. Such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia and amendments thereto, and the costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Ordinances.

Sec. 39. No ordinance or by-law, and no resolution or measure for the expenditure of money other than to defray the current expenses and incidental expenses of the city, shall be deemed adopted or passed unless it shall have been fully read at two consecutive meetings of the board of commissioners, and shall have received a majority of the votes of all members of the board of commissioners, when it shall stand and be declared
8 adopted, and not otherwise, except an ordinance for the immediate preservation of the public peace, health or safety, which shall contain a statement of its urgency.

Franchises.

Sec. 40. Franchises may be granted by the board of commissioners to persons or corporations allowing such occupancy of portions of the streets and alleys as may be necessary for works of public utility and service, but no such franchise shall be passed granting any franchise for the use of any of the streets or alleys of the city for any of the purposes above named, except under the following conditions:

All franchises must be filed with the city clerk at least thirty days prior to the time when it is proposed that the board of commissioners shall act thereupon, and no action shall be taken until notice of such application, stating the object of such franchise and when the same shall be considered by the board of commissioners, shall have been given for four successive weeks in some newspaper of general circulation published in the city; nor shall any franchise be granted within thirty days after the application has been filed, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of said franchise to be heard; nor shall any franchise be granted for a longer period than fifty years. No franchise shall be granted without provision that the grantee, its successors or assigns, shall indemnify the city against all damages caused by the construction of such works.

If any corporation or person to whom a franchise has been granted heretofore, or may hereafter be granted, or their successors or assigns, shall fail to comply with the conditions of the ordinance granting such franchise within one year from the time said conditions are directed to be performed, said franchise shall be and the same become null and void.

Sidewalks.

Sec. 41. The board of commissioners shall have power to determine the material to be used in building all sidewalks, and shall determine where such sidewalks shall be constructed, and the width and grade thereof, and shall fix upon the material with which the same shall be built, and may make an order re-
quiring the owners of the lots, or parts of lots, facing or abutting on such sidewalk or footway, to pave the same with such material and on such grade and of such width, as may have been determined, at the expense of such owner, and under the supervision of the official of the city so designated by the board of commissioners, and if such owner of such abutting lot or lots, fail or refuse to pave the same in the manner or within the time required by the board of commissioners, the said board of commissioners may cause the same to be done, at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment and if the said assessment be not paid within thirty days from the date of said notice he shall cause a memorandum showing the name of the owner of said lot, a description of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of Greenbrier county, which shall be entered of record in the judgment lien docket in his office, and the same shall constitute a lien on such property, which may be enforced by a suit in equity in the name of the city, in the circuit court of Greenbrier county as other liens against real estate are enforced, and upon the payment of such assessment the clerk shall issue to the person entitled thereto a release of said lien; provided, however, that reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways, and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four successive weeks in a newspaper published in the city. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore or which may be hereafter laid and completed, and which may be deemed insufficient.

Street Paving.

Sec. 42. The board of commissioners shall have authority to provide that any street or alley or portion thereof, between the curbstones, shall be macadamized, or paved with bricks, cobblestones, or other suitable material, upon the lowest and best terms obtainable, and the whole cost of such macadamizing or paving, from curb to curb of such street or alley, shall be as-


7 assessed to the owners of the land or lots or fractional parts of
8 lots, fronting or abutting on such street or alley, that is to say,
- 9 the property owners on each side of said street or alley to be
10 assessed one-third each and the city one-third of the costs of
11 said improvements, to each property owner a sum proportionate
12 to the distance, or extent in feet by him owned, and one-third
13 of the sum so assessed shall be paid to the city by each property
14 owner within thirty days after the completion of the work and
15 the remainder in two equal installments of six and twelve months
16 thereafter with interest thereon, or at such other times as the
17 board of commissioners may prescribe. The expense of macadam-
18 izing or paving at the intersections of streets and alleys shall be
19 defrayed by the city.
20 After the said improvements have been made the board of
21 commissioners shall cause a notice to be published for one week
22 in a newspaper of said city, showing the owners of the property
23 and the number of feet fronting on said improvements, as well
24 as the time and the place when and where the said board of com-
25 missioners will proceed to fix said assessment as above provided,
26 and giving notice to any person having any interest in said prop-
27 erty to appear and show cause, if any they can, why such assess-
28 ment should not be made; and the board of commissioners may in
29 making said assessments, consider the petition of any person or cor-
30 poration relative to the inequality of said assessment, and may
31 equalize and adjust the same. A copy of the list of such assess-
32 ments showing name of owner, number of lot, or parcel of land,
33 amount of assessment, attested by the mayor and clerk, shall be
34 filed in the office of the clerk of the county court of Greenbrier
35 county, and recorded in the judgment lien docket in said office
36 within thirty days after the assessments are approved by the said
37 board of commissioners, otherwise the lien of said assessment shall
38 be void as to any purchaser of said real estate, for value and with-
39 out notice, who shall have purchased such real estate, and the
40 clerk shall execute and deliver on behalf of said city a release
41 of such lien, upon the payment in full of said assessment. The
42 assessment so made to any owner of real estate shall constitute
43 a lien on such estate; and like proceedings may be had and taken
44 to enforce such lien, or to recover from such owner the amount of
45 such assessment, or of any installment thereof, as those provided
Sec. 43. The board of commissioners of said city of Ronceverte shall have the authority under the provisions of ordinances adopted by the said board of commissioners of said city to cause all necessary sewers to be constructed in any or all of the streets, alleys and public grounds of said city upon the lowest and best terms to be obtained, and shall fix a uniform assessment against the owners of the real estate, lots or parcels of ground within the said city, abutting or abounding on the streets, alleys or public grounds, in which sewers are so constructed, which assessment shall not exceed seventy-five cents for each front foot of land, lot or parcel of ground, fronting or abutting on the street, alley or public ground in which such sewer is constructed. The intersections of such streets or alleys is to be paid by the city. The one-half of said assessment shall be paid within thirty days after said sewer is completed and ready for use, and the remaining one-half shall be paid within six months thereafter, with interest at the rate of six per centum per annum on the deferred amount. The board of commissioners may by ordinance compel the owners of lots or parcels of ground, fronting or abutting on any street or alley in which such sewer is constructed, under the supervision of such officer as the board of commissioners may designate, to connect any residence, store, or warehouse, factory or other building occupied by persons as a place of residence or for labor, with such sewer within thirty days after its completion, and may inflict fines and penalties for any violation of such ordinance. The intersections of all streets and alleys shall be provided with sewers at the expense of the city, but all connections to sewers in street or alley to be made by property owner abutting on said street wherein sewer is constructed. The sums of money thus assessed for sewer connection shall be a lien on the lots, tracts or parcels of land upon which they are assessed, which lien may be enforced by a suit in equity in the circuit court of Greenbrier county to subject the said real estate to the payment of the sum so assessed against it as herein provided, in the same manner that judgment liens are enforced.
The board of commissioners shall cause a notice to be published for one week in some newspaper published in the city, showing the owners of the real estate and number of feet owned by each, fronting on said improvement, as well as the time and place when and where the said board of commissioners will proceed to fix said assessments as herein provided, and giving notice to any person having an interest in the property so assessed to appear and show cause, if any he can, why such assessment should not be made; and the board of commissioners may, in making or reviewing said assessment consider the petition of any person, or corporation, affected thereby, relative to the inequality of said assessment and may equalize and adjust the same.

A copy of the list of such assessments, showing the name of owner, number of lot, or parcel of land, and amount of assessment, attested by the mayor and clerk, shall be filed in the office of the clerk of the county court of Greenbrier county and recorded in the judgment lien docket in said office within thirty days after the said assessments are approved by the board of commissioners, otherwise the lien of said assessment shall be void as to any purchaser of said real estate, for value and without notice, who shall have purchased such real estate, and the clerk shall execute and deliver on behalf of said city a release of such lien, upon the payment in full of said assessment.

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

Assessment and Levy.

Sec. 44. All assessments of property for purposes of taxation, the preparation for and levy of all taxes and levies, general or special, shall be ascertained, advertised within the said city, and levied, and in all respects conform to the provisions of chapter
5 nine of the acts of one thousand nine hundred and eight, and any
6 amendments which may be made thereto; any provision, section
7 or clause in this act to the contrary notwithstanding.
8 An annual capitation tax of one dollar may be levied upon
9 each male inhabitant of said city who has attained the age of
10 twenty-one years, and the said capitation tax may be collected at
11 the same time that the assessment is made.

Financial Statement.

Sec. 45. In the month of August in each year the board of
2 commissioners shall cause to be published in two newspapers of
3 opposite politics, if such there be, published within the city, and
4 if there be only one newspaper published within the city, then in
5 that newspaper, a sworn statement of the financial condition of
6 said municipal corporation; said statement shall contain an
7 itemized account of the receipts and expenditures of the city
8 showing the source from which all the money was derived, and
9 the name of a person to whom an order was issued, together with
10 the amount of each order, and why such order was issued, ar-
11 ranging the same under distinct heads, and also a specific list of
12 the debts of the city, showing the purpose for which any debt was
13 contracted, the time it became due, the rate of interest up to what
14 time the interest thereon has been paid, the amount of money in
15 the treasury at the end of the preceding year and debts contracted
16 during the preceding year. Such statement shall be prepared by
17 the city every twelve months for the year ending June thirtieth,
18 and shall then be published according to the provisions of this
19 section. The said statement shall be sworn to by the clerk, by the
20 mayor and members of the finance committee of the board of
21 commissioners.

Bonds—Additional Levy.

Sec. 46. The municipal authorities of said city of Ronceverte
2 shall have power and authority to issue and make sale of the bonds
3 of said city as provided by law and apply the proceeds thereof to
4 the payment for any general improvement therein or to any debt
5 or obligation of the said city, as provided by law.

Terms of Officers.

Sec. 47. The terms of all officers of the said city, except the
2 members of the board of commissioners, who are elected by the
3 people for terms of three years after the first election held under
4 this act, shall be for one year, unless otherwise provided herein
5 and except that all officers appointed or elected by the board of
6 commissioners are subject to removal at any time for cause.
7 Terms of office shall begin on the first day of July of each year
8 and end on the thirtieth day of June, and until their successors
9 are elected and qualified.

Penalties.

Sec. 48. If the board of commissioners fail or refuse to
2 perform the duties hereinbefore or hereinafter named, every mem-
3 ber of such board of commissioners and the clerk thereof con-
4 curring in such failure or refusal, shall be guilty of misdemeanor,
5 and upon conviction thereof, shall be fined not less than ten
6 dollars nor more than one hundred dollars for each offense.

City Manager—Alternative.

Sec. 49. If, at the end of any fiscal year, the board of com-
2 missioners may deem it in the interest of economy and efficiency
3 in the administration of the city's affairs, they may appoint,
4 employ, or elect a city manager, at a compensation to be fixed
5 by said board of commissioners, and such city manager shall be
6 the administrative head of the municipal government under the
7 direction and supervision of the board of commissioners; he may
8 be given such powers and duties as are by this act conferred upon
9 any or all other officials appointed by the board of commissioners,
10 and such other powers and duties as the board of commissioners
11 may prescribe, which are not in conflict with the constitution and
12 laws of this state; he shall be required to give such bond as is by
13 this act required of the city clerk, and in the performance of any
14 of the duties of the city clerk as prescribed herein, the said city
15 manager shall be held to all of the requirements and provisions
16 pertaining to such duties hereunder.
17 To carry into effect this section the board of commissioners
18 may discontinue the office of city clerk, and redistribute the duties
19 hereunder conferred upon the city clerk and other officials, and
20 provide such assistance to the city manager as may by the board
21 of commissioners be deemed necessary.
22 This section shall be without force and effect, until such
23 time as the board of commissioners, as provided herein, shall
24 declare by ordinance and proclamation that it shall go into effect.
Sec. 50. All ordinances and resolutions in force at the time of the taking effect of this act, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

Sec. 51. Persons holding office under the municipal government of the city of Ronceverte as at present constituted, shall continue in office and in the performance of their respective duties until the day on which this act shall become effective, and thereafter so long as their services shall be required, pending a reorganization of the said municipal government to conform to the requirements of this act.

Sec. 52. All vested rights of the city shall continue to be vested and shall not in any manner be affected by the passage of this act, nor shall any right or liability or pending suit or prosecution, either in behalf of or against the city, be in any manner affected by the passage of this act. All contracts entered into by the city or for its benefit prior to the taking effect of this act, shall continue in full force and effect. All public work begun prior to the taking effect of this act shall be continued and perfected hereunder.

Sec. 53. If any section or part of a section of this act shall be found to be invalid, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section unless such other section or part is clearly dependent for its operation upon the section or part so held invalid.

Sec. 54. This act shall for the purpose of nominating and electing officers and for all purposes connected therewith take effect from the time of passage, and for all other purposes shall take effect on the first day of the following July, one thousand nine hundred and nineteen.

Sec. 55. Chapter nine of the acts of the legislature of one thousand nine hundred and nine entitled “An act to create the municipal corporation of the city of Ronceverte,” and all other acts and parts of acts coming within the purview of this act and inconsistent herewith, are hereby repealed.
CHAPTER 6.

(DELETE 2x0 TO 438x642)

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

[Passed February 5, 1919. In effect ninety days from passage. Became a law without the Governor's approval.]

SEC. 1. The city of Benwood.
2. Boundaries described.
3. City wards.
4. City officers.
5. Municipal authorities.
7. Terms of officers.
10. Present officers continue in power until successors are elected; vacancies in office; how filled.
11. Relation of council to appointive officers.
12. Bonds and all obligations payable to "The city of Benwood."
13. Authority of council to remove from office officials guilty of misconduct or neglect of duty.
14. Place and time of holding meetings.
15. Keeping of records and minutes.
16. Reading and correcting minutes of previous meetings.
17. Adoption of ordinances, by-laws, etc.
18. General and special provisions for the government of the city.
19. Furnishing of water for city, domestic, fire and other purposes.
20. Franchise; granting of; restrictions and conditions.
21. Power to prescribe penalties for violation of ordinances.
22. Mayor; his duties and powers; salary; process in proceedings to enforce ordinances.
23. Execution for fines and costs assessed.
24. Jail of Marshall county to be used as city lock-up.
25. Mayor's docket.
26. Right of appeal from mayor's judgment.
27. Transcript of record.
28. Including costs in appeal.
29. Appeal in costs other than for violation of ordinances.
30. City clerk; his duties; keeping of records; assessment and collection of taxes; discount allowed; license; taxes; salary.
31. Bond of city clerk; further duties of clerk.
32. City solicitor; duties; compensation.
33. Chief of police; policemen; bonds with sureties; salary.
34. Arrests for violations of ordinances; trials.
35. Health officer; duties; compensation.
36. Treasurer; how selected; deposit and disbursement of moneys; statement to council; treasurer's bond; compensation.
37. Street commissioner; duties; compensation.
38. City engineer; duties; compensation.
39. Fiscal year, begins and ends.
40. Property subject to taxation.
41. Estimate of expenses; levy.
42. Licenses; what for; how applied and granted.
43. Power to condemn.
44. Sidewalks; method of providing.
45. Street paving; providing for; assessment to pay for.
46. sewers; may be constructed; procedure.
47. Adoption of chapter eight, acts of nineteen hundred and eight, relative to paving and sewerage, by vote of council.
48. Issuance of bonds; when permitted; additional levy.
49. Publication of notices in newspapers.
50. Present officers to continue in power until successors qualify; ordinances in effect until amended, repealed or superseded.
51. Repealing acts and parts of acts inconsistent.

Be it enacted by the Legislature of West Virginia:

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

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

Boundaries.

Sec. 2. The boundaries of said city shall be as follows: Beginning at a point on the west side of the Ohio river in the state line, where the line between Ohio and Marshall counties intersects the same; thence with the Ohio and Marshall county lines crossing the river; south eighty-five degrees east to a stake on the hill side; thence south twenty-four degrees twenty-five minutes west one hundred and forty-two and five tenth poles to a point in the middle of Bogg's run located south forty-seven degrees forty-five minutes east nine and one-tenth poles from a notch cut in the face and top of the east wing of the abutment of the turnpike bridge over said run; thence following a line which passes through the center of the top (at its north end) of the river hill south of the run, south twelve degrees forty-five minutes west fifty-three fifteen hundredths poles to a point north of and near the top of the said hill; thence south thirty-seven degrees west thirty-three twenty-two hundredths poles to a stake; thence south twenty-seven degrees thirty minutes west forty-three poles to a stake; thence south fourteen degrees west seventeen poles to a stake; thence south ten degrees east thirty-four five tenths poles to a white oak; thence south three degrees thirty one minutes west thirty-five poles to a stake; thence south eight degrees east twelve poles to a stake; thence south three degrees west fifty-five five tenth poles to a stake; thence south two degrees east seventy-three poles to a red oak; thence south eleven degrees thirty minutes east twenty-four poles to a stake; thence south two degrees thirty minutes west twenty-five five tenths poles;
27 thence south twenty-four degrees east thirty-four twenty-five hundred twenty poles to a stake; thence south eleven degrees east thirty-eight poles to a stake; thence south thirty degrees thirty minutes east fifty-one five tenths poles to the south east corner of the original corporation on top of the river hill; thence with the top of the ridge of the said hill, south one degree west nine hundred thirty feet to a stake; thence south thirty-seven degrees forty-five minutes west five hundred sixty feet to a double honey locust tree on the south point of the hill; thence south twenty-three degrees thirty minutes west three hundred ninety-eight feet to a honey locust on the point of the hill above the hill road; thence leaving the ridge south twenty-one degrees fifteen minutes west three hundred eighty-four feet to a stake on the north side of McMechen's run located south twenty-one degrees fifteen minutes east seven five tenth feet from a large sycamore standing on the said bank; thence down the run south seventy-one degrees forty-five minutes west one hundred thirty-two feet; south seventy degrees fifteen minutes west ninety-two feet; south seventy-eight degrees forty-five minutes west two hundred nine five tenths feet; north eighty-five degrees forty-five minutes west one hundred sixteen feet; south seventy-four degrees forty-five minutes west four hundred feet; south fifty-two degrees west one hundred eighty-five feet; south eighty-six degrees west two hundred forty-seven feet; north sixty-four degrees thirty minutes west one hundred seven feet; north seventy-eight degrees west two hundred twelve feet; south eighty-nine degrees fifteen minutes west one hundred seventy-nine five tenth feet; north eighty-four degrees fifteen minutes west one hundred forty feet; south eighty-six degrees fifteen minutes west one hundred forty-eight five tenths feet; west ninety-one feet south sixty-nine degrees thirty minutes west one hundred seventy-eight feet to the mouth of said McMechen's run; thence crossing the Ohio river south eighty-one degrees fifteen minutes west to a point in the mouth of Pinch run, at its intersection with the state line; thence up the river with the said state line, to the place of beginning.

Wards.

Sec. 3. The said city shall be divided into not less than five, nor more than seven wards, but until the first election after
3 this act goes into effect, it shall remain divided into five wards 4 as at present. A change in the wards may be made by the council 5 by ordinance, but in making any such change regard must be had 6 to the compactness of the territory of every ward, to an equalizing 7 of the number of inhabitants of the several wards, and no ordi- 8 nance shall be passed changing the ward which effects a gerry- 9 mander of territory, or which does not more nearly equalize the 10 number of inhabitants in the several wards. But a change in 11 the number of councilmen or in the representation from any 12 ward, shall only be made so as to affect the council to be elected 13 to succeed the council making such change. Until otherwise pro- 14 vided by ordinance, the number of councilmen shall remain as 15 at present.

**Officers.**

Sec. 4. The officers of said city shall be a mayor, chief of 2 police, who shall be *ex-officio* sanitary officer and member of the 3 city board of health, clerk, who shall be *ex-officio* collector, street 4 commissioner, treasurer, health officer, city solicitor, city engineer, 5 and two councilmen from each ward. The mayor and chief of 6 police shall be elected by the qualified voters of said city. The 7 councilmen shall be elected by the qualified voters of their re- 8 spective wards. The other officers named shall be appointed by 9 the council of said city. No person shall be eligible for any office 10 in said city, unless he is a qualified voter thereof, nor unless he 11 has resided therein for at least one year before his election; and 12 in the case of a councilman, he shall be a *bona fide* resident of 13 the ward from which he is elected, and the removal of a council- 14 man from the ward in which he is elected, shall vacate his office. 15 All officers of said city, except city solicitor, city engineer, and 16 treasurer, must be residents therein and be entitled to vote.

**Municipal Authorities.**

Sec. 5. The municipal authorities of said city shall consist 2 of the mayor and councilmen, who together shall form a common 3 council, and all the corporate powers of said corporation shall be 4 exercised by said council, or under its authority, except where 5 otherwise provided by this act.

**Elections.**

Sec. 6. The first election hereunder shall be held on the first 2 Tuesday in April, one thousand nine hundred and twenty, and
3 biennially thereafter. Every person who has been a **bona fide** resident of the said city for one year next preceding any election, and otherwise a qualified voter, under the constitution and laws of the state, shall be entitled to vote at such election, in the ward in which he resides. The elections shall be held, conducted, returned, and the results ascertained, certified and determined, under such rules and regulations as may be prescribed by the council, which shall not be inconsistent with the general laws of the state governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and determined by the common council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of county and district officers. The council shall be the judge of the election, returns and qualifications of its members. In case two or more persons receive an equal number of votes for the same office, the common council shall decide by vote, which of them shall be returned elected, and shall make their return accordingly.

**Terms of Officers.**

Sec. 7. The term of office of the mayor and chief of police shall begin on the first day of May next succeeding their election and shall be for the term of two years, and until their successors have been elected and qualified. The clerk, treasurer, solicitor, health officer, street commissioner and city engineer, shall be appointed by the council and shall hold their office during the pleasure of the council. Any former incumbent shall be ineligible for a second appointment unless he shall have fully settled up the business of his former term or terms. At the first election provided for in section six of this act there shall be elected a mayor and chief of police, whose term of office shall begin on the first day of May next succeeding their election and shall be for the term of two years, and until their successors are elected and qualified, and two councilmen from each ward, whose term of office shall begin on the first day of May next succeeding their election, the one thereof receiving the highest number of votes shall hold his office for the term of four years, and the one receiving the next highest number of votes shall hold his office for the term of two years, and until their successors are elected and qualified. On the same day in each succeeding two years, one councilman
from each ward shall be elected and shall hold office for four years from the first day of May next succeeding their election and until their successors are elected and qualified.

Sec. 8. The council of said city shall have the right to fix the compensation for the members thereof, which compensation, however, shall not exceed sixty dollars per year to each member.

Sec. 9. Every person elected or appointed to any office in said city shall within twenty days after his election or appointment and before entering upon the discharge of the duties thereof, take and subscribe the oath of office prescribed by law for officers generally, which may be done before the mayor or clerk of said city, or before any person authorized by law to administer oaths; and the same, together with the certificate of the officer administering the oath, shall be filed with the clerk of said city.

Sec. 10. All officers in office when this act takes effect shall hold their respective offices during their present term and until their successors are elected and qualified, unless the office be abolished or be vacated by death, resignation, removal, or otherwise, but their duties shall be as provided in this act.

Council shall have the power to fill all vacancies in office, whether such vacancies occur by death, resignation, removal, or otherwise, and to fill any new offices created by this act, until the next general election, hereunder.

Sec. 11. The council shall prescribe the powers and define the duties of all officers by it appointed, except so far as the same are by this act defined; shall fix their compensation, and may require and take from them respectively, bonds payable to the city in its corporate name with such sureties and in such penalties as may be deemed proper, conditioned for the faithful performance of their duties.

Sec. 12. The council shall require and take from all officers elected or appointed as aforesaid, whose duty it shall be to receive funds, assets or property belonging to the city, or have charge of the same, such bonds, obligations or other writings as may be deemed necessary and proper to secure the faithful performance of their several duties. All bonds, obligations or other writings taken in pursuance of any of the provisions of this act shall be made payable to "The City of Benwood," with such sureties and in
9 such penalties as may be deemed proper, conditioned for the faithful performance of their duties and for the accounting for and paying over, as required by law, all moneys coming into their hands by virtue of their offices, and the respective persons and their heirs, executors and assigns bound thereby, shall be subject to the same proceedings on said bonds, obligations and other writings, for enforcing the conditions of the terms thereof, by motion or otherwise, before any court of competent jurisdiction held in and for the county of Marshall, that collectors of county levies and other sureties are or shall be subject to on their bonds for enforcing the payment of the county levies.

Sec. 13. The council shall have the authority to remove from office any elected officer of the city for misconduct or neglect of duty, by an affirmative vote of three-fourths of the members of the council, but only after reasonable notice to such officer, and a hearing of the charges preferred; and any vacancy in office, however occasioned, may be filled by the council for the unexpired term.

Sec. 14. The council shall fix the place and time of holding its regular meetings; may provide for special and adjourned meetings; shall have power to compel the attendance of its members; and may prescribe rules and regulations, not inconsistent here-with, for the transaction of business and for its own guidance and government. The council shall be presided over at its meetings by the mayor, or in his absence by the clerk, or in the absence of both the mayor and clerk, then by one of the councilmen selected by a majority of the council present, who may vote on any question as member of the council. The mayor shall have a vote only in case of a tie and in no case shall the presiding officer have more than one vote. A majority of the council shall be necessary to constitute a quorum for the transaction of business. No member of the council shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than a resident or taxpayer.

Sec. 15. The council shall cause to be kept by the clerk in a well bound book to be called the “minute book” an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called the “ordinance book” accurate copies of all the ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any one required to
7 pay taxes to the city, or who may be otherwise interested. All
8 oaths and bonds of officers of the city and all papers of the council
9 shall be endorsed, filed and securely kept by the clerk, except the
10 bond of the clerk, which shall be filed with the mayor. All printed
11 copies of such ordinances purporting to be published under au-
12 thority of the council and transcripts of such ordinances, acts,
13 orders and resolutions, certified by the clerk under the seal of
14 the city, shall be deemed præna facie correct, when sought to be
15 used as evidence in any court or before any justice.

Sec. 16. At each meeting of the council, the proceedings of
2 the last meeting shall be read, and if erroneous, corrected, and
3 signed by the presiding officer for the time being. Upon the call
4 of any member, the yeas and nays on any question shall be taken
5 and recorded in the minute book.

Sec. 17. No ordinance or by-law, and no resolution or
2 measure for the expenditure of money other than to defray the
3 current and incidental expenses of the city, shall be deemed passed
4 or adopted unless it shall have been fully read at two consecutive
5 meetings of the council, and shall have received a majority of
6 the votes of the members present, when it shall stand and be
7 declared adopted and not otherwise.

Sec. 18. The council of said city shall have power to lay off,
2 vacate, close, open, alter, grade and keep in good repair the
3 roads, streets, alleys, pavements, sidewalks, cross-walks, drains
4 and gutters therein for the use of the citizens or of the public,
5 and to improve and light the same, and to keep the same free
6 from obstructions of every kind; to regulate the width of pave-
7 ments and sidewalks on the streets and alleys, and to order the
8 pavements, sidewalks, footways, drains and gutters to be kept
9 in good order, free and clean, by the owners or occupants of the
10 real property next adjacent thereto; to establish and regulate
11 markets, prescribe the times of holding the same, provide suit-
12 able and convenient buildings therefor, and prevent the fore-
13 stalling or regrating of such markets; to prevent injury or an-
14 noyance to the public or to individuals from anything dangerous,
15 offensive or unwholesome; to prohibit or regulate slaughter-
16 houses and soap factories within the city limits; or the exercise
17 of any unhealthy or offensive business, trade or employment;
18 to abate all nuisances within the city limits, or to require and
19 compel the abatement or removal thereof, by or at the expense
of the person causing the same, or at the expense of the owner
21 or occupant of the ground on which they are placed or found;
22 to cause to be filled up, raised or drained by or at the expense
23 of the owner, any city lot or tract of land covered or subjected
24 to be covered by stagnant water; to prevent horses, hogs, dogs,
25 cattle, sheep, or other animals and fowls of all kinds from going
26 or being at large in such city, and as one means of prevention,
27 to provide for impounding and confining such animals and fowls,
28 and upon failure to reclaim, for the sale thereof; to protect
29 places of divine worship and to preserve order in and about the
30 premises where and when such worship is held; to regulate the
31 keeping of gunpowder and other inflammable or dangerous sub-
32 stances; to provide and regulate the building of houses or other
33 structures, and for the making and maintaining of division
34 fences by the owners of adjoining premises, and for the proper
35 drainage of city lots or other parcels of land, by or at the expense
36 of the owner or occupant thereof; to provide against damage or
37 danger by fire; to punish for assaults and batteries; to arrest,
38 convict and punish any person for gambling or keeping gaming
39 tables, commonly called A, B, C, or E, O, table or faro bank or
40 keno table, or table of like kind, under any denomination,
41 whether the game or table be played with cards, dice or other-
42 wise, or shall be a partner, or concerned in interest, in the keep-
43 ing or exhibiting such table or bank, or keeping or maintaining
44 any gaming house or place, or betting or gambling for money
45 or anything of value; to suppress houses of ill-fame and to
46 arrest and punish persons loitering in, or visiting them, or loiter-
47 ing at public places or upon the streets; to prevent lewd and
48 lascivious conduct; the sale or exhibition of indecent pictures
49 or other representations; the desecration of the Sabbath day;
50 profane swearing; to protect the persons of those residing or
51 being within said city; to appoint when necessary or advisable
52 a police force, permanent or temporary, to assist the chief of
53 police in the discharge of his duties; to build or purchase, or
54 lease and to use, a suitable place within or near said city for
55 the safe keeping or punishment of persons charged with or con-
56 victed of the violation of ordinances; to provide for the employ-
57 ment of persons convicted of the violation of ordinances or who
58 may be committed in default of the payment of fines, penalties
59 or costs, and who are otherwise unable to discharge the same,
60 by putting them to work for the benefit of the city, and to use
61 such means to prevent their escape while at work, as they may
62 deem expedient; to erect, or authorize or prohibit the erection
63 of gas works, electric light works or water works within the
64 city limits; to prevent injury to such works, or the pollution of
65 any gas or water used or intended to be used by the public or by
66 individuals, and to do all things necessary to adequately supply
67 said city and the inhabitants thereof with pure, healthful and
68 wholesome water; to use, generate, distribute, sell and control
69 electricity and gas for heat, light and power and to furnish lights
70 for the streets, houses, buildings, stores, and other places
71 in and about said city; to provide a sewerage system
72 for said city; to provide for and regulate the weighing and
73 measuring of hay, coal, lumber and other articles sold or kept
74 or offered for sale, within said city; to establish and construct
75 wharves and docks, and to repair, alter or remove any landing,
76 wharf, or dock which has been or shall be so constructed and
77 collect rates and charges for the use thereof; to regulate the
78 running and speed of engines and cars and all kinds of vehicles
79 within the said city; to organize one or more fire companies and
80 provide necessary apparatus, tools, implements, engines or any
81 of them for their use, and in their discretion to organize a paid
82 fire department; to make regulations with respect to the erec-
83 tion and location of all pipes, conduits, telephone, telegraph, and
84 electric light or other poles within said city, and the extension
85 of any wires, lines and poles by any individuals or corporation;
86 to create by ordinances such committees or boards, and delegate
87 such authority thereto as may be deemed necessary or advisable;
88 to provide for the annual assessment of the taxable property
89 therein, including dogs kept in said city, and to provide a reve-
90 nue for the city for municipal purposes, and to appropriate such
91 revenue to its expense, and generally to take such measures as
92 may be deemed necessary or advisable to protect the property,
93 public and private, within the city; to preserve and promote the
94 health, safety, comfort and well being of the inhabitants thereof.
95 The council of said city shall have power and authority to
96 control and regulate the construction and repairs of all houses
97 and other buildings within the said city; to provide for the grant-
98 ing of building permits; to cause the removal of unsafe walls
99 or buildings; and may prohibit the erection on any such street,
or in any such square, of any building, or of any addition to
any building unless the outer walls thereof be made of brick
and mortar or other fire-proof material; and to provide for the
removal of any building or addition which shall have been erect-
ed contrary to such prohibition, at the expense of the owner or
owners thereof.

The said council of said city shall have any and all additional
power and authority granted to cities, towns and villages by
chapter forty-seven of the code, or any additional powers here-
after granted to municipal corporations by the legislature of
this state.

Sec. 19. The council of said city shall have the power to
contract with persons, private or municipal corporations, for
furnishing to said city, through and over the streets, alleys and
public grounds of said city, water for domestic, fire and other
purposes, for use by the inhabitants of said city and persons and
corporations in the vicinity thereof, and said city by its council
may provide for the sale of said water to the consumer thereof
upon such terms and conditions as it may deem proper, provided,
however, that no contract for such water shall be made by the
city for a longer period than ten years.

Franchises.

Sec. 20. Franchises may be granted by the city council to
persons or corporations allowing such occupancy of portions of
the streets and alleys as may be necessary for works of public
utility and service, but no such franchise shall hereafter be grant-
ed except under the following restrictions and conditions: No
ordinance shall be passed granting any franchise for the use of
any of the streets or alleys of said city for any of the purposes
above named, until the same shall have been filed with the clerk
at least thirty days prior to the time when it is to be acted upon
by the council, and notice of such application, stating the object
of such franchise, and when the same will be considered by the
council, shall have been given thirty days' notice in some news-
paper of general circulation published in said city.

Nor shall such franchise be granted within thirty days after
the application has been filed, nor until an opportunity has been
given any citizen or corporation interested in the granting or re-
fusing of said franchise to be heard.
Nor shall any franchise be hereafter granted by council for a longer period than fifty years; provided, that the council shall have the power to renew any such franchise for the term of fifty years when the same shall have expired. No franchise hereafter granted for a longer term than fifty years shall be of any force or validity. No grant of any such franchise shall be made without at the time of making it providing that the grantee, its successors or assigns, shall indemnify the city against all damages caused by the construction and maintenance of such works.

Any person or corporation to whom a franchise has been or may hereafter be granted by said city, who shall fail or refuse to comply with the conditions of the ordinance granting the same within thirty days after receiving notice of such failure, shall forfeit all rights and privileges conferred by said franchise unless said failure be waived by resolution of the council of said city.

Sec. 21. To carry into effect these enumerated powers and all others by this act or by general law conferred, or which may hereafter be conferred upon the said city or its council or any of its officers, the said council shall have and possess full authority to make, pass and adopt all needful ordinances, by-laws, orders and resolutions not repugnant to the constitution and laws of the United States or of this state; and to enforce any or all of such ordinances, by-laws, orders or resolutions by prescribing for a violation thereof, fines and penalties and imprisonment in either the county jail of Marshall county, or the city prison if there be one; but no fine shall exceed one hundred dollars, and no term of imprisonment shall exceed ninety days. Such fines and penalties shall be imposed and recovered, and such imprisonment inflicted and enforced, by and under the judgment of the mayor of said city, or in case of absence or inability to act, of the clerk of said city, or in case of absence or inability to act of both of said officers, of one of the councilmen, appointed for that purpose by the council.

Said city is hereby authorized to work its prisoners on the public streets and other improvements of said city or to hire its prisoners to the county court of Marshall county to work on the public roads, and other improvements of said county on such terms and conditions as may be agreed upon; without making such work a part of the judgment against such prisoners, but credit shall be allowed any prisoner for the value of such work
26 as fixed by council, and when the fine and costs are fully paid by
27 work, the prisoner shall be discharged from custody.

Mayor.

Sec. 22. The mayor shall be the chief executive officer of the
2 city and shall see that the orders, by-laws, ordinances and regula-
3 tions of the council thereof are faithfully executed; he shall be
4 ex-officio a justice and conservator of the peace within the city
5 and shall within the same have, possess and may exercise, all the
6 powers and perform all the duties whether in civil or criminal
7 proceedings, vested by law in a justice of the peace. Any sum-
8 mons, warrant or other process, issued by him, may be executed
9 at any place within the county; he shall have power during the
10 recess of the regular meetings of council to appoint special po-
11 lice officers when he shall deem it necessary, and it shall be his
12 duty to see that the peace and good order of the city are pre-
13 served, and that persons and property therein are protected; and
14 to this end he may arrest and detain, or cause the arrest and
15 detention, of all riotous and disorderly persons before taking
16 other proceedings in the case; he shall from time to time recom-
17 mend to the council such measures as he may deem needful for the
18 welfare of the city; he shall not receive any money due or be-
19 longing to the state or corporation or to individuals, unless and
20 until he shall have given the bond and security required of a
21 justice of the peace by chapter fifty of the code of West Vir-
22 ginia; and all the provisions of said chapter relating to moneys
23 received by justices shall apply to moneys received by him in
24 like cases.
25 The mayor shall receive a salary of not less than five hun-
26 dred nor more than eight hundred dollars per annum; such
27 salary shall be in lieu of the fees which would otherwise accrue
28 to him in proceedings for the enforcement of ordinances, but all
29 such fees shall be collected when practicable, and accounted for
30 to the city, and he may tax such costs against any person or cor-
31 poration found guilty of the violation of any ordinance of the
32 city, as are provided to be taxed and recovered by justices of said
33 county in criminal cases.
34 The process in proceedings to enforce any ordinances pre-
35 scribing a fine or imprisonment, or a fine and imprisonment, for
36 the violation thereof, shall be a summons in the name of the city
37 of Benwood as plaintiff directed to the chief of police, to one of
the regular police officers of the city, or to any constable of any
district within the said city, requiring him to summon the person
accused of such violation, and who shall thereafter be designated
as defendant, to appear before the mayor at the time and place
therein named to make answer to such accusation and be dealt
with according to law; such summons shall contain such state-
ment of the facts alleged as will inform such person of the gen-
eral nature of the offense against the city of which he stands
charged, and except in case or arrest upon view, shall be issued
only upon the complaint, on oath, of some credible person. But
the mayor for good cause appearing, by endorsement on the
summons, may order the person so accused to be forthwith appre-
hended and brought before him for a hearing of the charge.
The clerk of said city, as well as the mayor, shall have authority
to receive any complaint in writing of the violation of any ordi-
nance, and to sign and issue the proper summons based upon
such complaint. The mayor shall have, possess and may exer-
cise the power and authority belonging to a justice under sec-
tion two hundred and twenty-four and two hundred and twenty-
five of chapter fifty of the code of West Virginia, in summoning
and enforcing the attendance and examination of witnesses, in
punishing for contempt, in granting continuances, and in se-
curing and enforcing the further attendance of the accused with
a view to a trial or hearing. If any recognizance be taken for
such further attendance, and is forfeited, the mayor may record
the default, and an action be maintained in the name of the city,
before the mayor, or any justice having jurisdiction, against the
accused and his sureties, if any, to recover the penalty thereof.

Sec. 23. The mayor shall have the power to issue an exe-
cution for any fine and costs assessed or imposed by him, for the
violation of any ordinance, or he may at the time of rendering
judgment therefor, or at any time thereafter and before satis-
faction of such judgment, by his order in writing, require the
immediate payment thereof; and in default of such payment he
may cause the person so in default to be apprehended and brought
before him, and commit him to the jail of Marshall county or
in his discretion to the prison of said city, if one shall have been
provided, until the fine and costs are fully paid; but such
imprisonment shall not exceed ninety days.

Sec. 24. The jail of Marshall county may be used as a lock-
up for said city. The jailor of said county shall take and re-
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3 receive into his custody any person authorized to be confined there- in by any ordinance of the city, or sentenced to imprisonment therein, or committed thereto, for non-payment of a fine or costs, or failure to enter into a recognizance by the judgment or order of the mayor, in proceedings for the violation of an ordinance; and the expense of maintaining such persons while so in confinement shall, if such person be found guilty of such violation, be charged to such person as part of the costs, but whether collected from such person or not, such expense shall be paid to said jailor by the city.

Mayor's Docket.

Sec. 25. A book well bound and indexed, to be denominated the "docket" shall be kept in the office of the mayor, in which shall be noted each case brought or tried by him, together with the proceedings therein, including a statement of complaint, the summons, the return, the fact of appearance or non-appearance, the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same; the record of such case shall be signed by the mayor or other person acting in his stead; and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Appeal.

Sec. 26. In any case for the violation of an ordinance of the said city in which there is a judgment by the mayor of imprisonment, or for fine of more than ten dollars, an appeal shall lie at the instance of the person against whom such judgment is rendered to the circuit court of Marshall county. Such appeal shall not be granted by the mayor unless, within ten days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient, in a penalty double the amount of fine and costs, with condition that the person appealing will appear before the said court on the first day of the next term thereof, to answer for the offense against the city with which he stands charged, and not thence depart without leave of said court, and will perform and satisfy any judgment which may be rendered against him by the circuit court on appeal. The provisions of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizance in criminal cases, shall be ap-
17 pllicable to the recognizance contemplated by this section, ex-
18 cept where herein otherwise provided; but any money recovered
19 thereon or by virtue thereof shall inure to the said city.

Sec. 27. If such appeal be taken the mayor shall forth-
2 with deliver to the clerk of said court the complaint in writing,
3 if any, the summons, a transcript of the record including the
4 judgment, the recognizance, and any other papers belonging to
5 the case; and such clerk shall receive and file the same, and
6 place the case upon the trial docket of the next succeeding term
7 of said court, and said court shall proceed to try the same in
8 its order.

Sec. 28. If the appellant be found guilty of a violation of
2 the ordinance in question, whether upon the verdict of a jury
3 or otherwise, the court shall ascertain by its judgment the fine
4 or imprisonment or the fine and imprisonment to be paid or
5 suffered by such defendant, having regard to the punishment pre-
6 scribed by such ordinance, and shall include in any such judg-
7 ment the costs incurred by said city, as well in the proceedings
8 before the mayor as those in court, including a fee to the attorney
9 for the city of ten dollars, and the fees, if any, of the jailor
10 or the keeper of the city prison; and the proceedings to enforce
11 the collection of any such fine and costs, may be as provided
12 in section ten, eleven and twelve of chapter thirty-six of the
13 code of West Virginia, except that the writ mentioned in the
14 tenth section may be issued by the clerk upon the order of the
15 mayor of the city, and the notice contemplated by the eleventh
16 section shall be given to such officer.

Sec. 29. From all judgments by the mayor in cases other
2 than for violations of ordinances, appeals shall be allowed as in
3 similar cases before justices.

Clerk.

Sec. 30. It shall be the duty of the city clerk to keep a
2 journal of the proceedings of the council and have charge of and
3 preserve the records, papers, contracts and other documents belong-
4 ing to the city; it shall be his duty to attend the sessions of the
5 police court and keep an accurate record of its proceedings, and
6 all judgments shall be entered by him within twenty-four hours
7 after the same are rendered; he shall, in case of sickness or dis-
8 ability of the the mayor to act, or in case of his absence from
9 the city, or during any vacancy in the office of the mayor, perform
t10 the duties of mayor, and shall be vested with all the powers nec-
t11 essary for the performance of such duties; he shall also perform
t12 such other duties pertaining to the fiscal affairs of the city, or
t13 otherwise, as may be required of him by this act or by the
t14 council.

15 The officer whose duty it is to make out the land books for
16 Marshall county or such other person as the council may ap-
17 point shall, annually, at such compensation as agreed upon with
18 council, not later than the fifth day of August, furnish to the
19 clerk, showing in separate amounts, the aggregate value of all the
20 personal property and the aggregate value of all the real estate
21 in the city, as ascertained from the land and personal property
22 books of said county for the current year; upon receiving said
23 statement the clerk shall present the same to council at a meeting
24 to be held not later than the second Tuesday in August, for
25 the purpose of determining the rate of levy in said city for the
26 current year; as soon as the rate of levy shall have been fixed
27 by council, the clerk shall furnish the officer whose duty it is
28 to make out the land and personal property books, a certified copy
29 of the order of the council, fixing the rate of tax, and such
30 officer shall thereupon extend the tax against the property situated
31 in the city in the land and personal property books in separate
32 columns in said books.

Sec. 31. The clerk shall, when the extended copies of the
2 assessor's books are completed and returned to the clerk of the
3 county court, have access to the same for the purpose of making
4 out the tax tickets of the taxes therein extended, and it shall be
5 the duty of the clerk to make out all tax tickets, and when the
6 same have been examined, compared and approved by the financial
7 committee of the council and found to be correct, they shall be
8 turned over to the clerk not later than the tenth day of September
9 following the levy, whose receipt shall be returned to the council
10 and entered upon its records, and the clerk shall be charged there-
11 with.

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

17 To all persons who shall pay their taxes in full before the
18 first day of December next succeeding said levy there shall be
19 allowed a discount of two and one-half per centum on the whole
20 amount of the taxes so paid, and not otherwise.
21 The clerk shall immediately proceed to collect from the
22 persons by distraint or otherwise the entire amount of the taxes
23 with which they are severally charged therein, and remaining un-
24 paid on the first day of January next succeeding said levy, with
25 interest at the rate of one per centum per month from said
26 first day of January until they are fully paid.
27 All license taxes shall be payable on the first day of July
28 of each year, or at such time as such license may be issued.

Sec. 32. The said clerk shall receive all taxes, assessments,
2 fines and costs and other money due the city authorized by this act
3 or by any ordinance of the said city, to be paid to the city, and
4 shall receipt for same; he shall keep an accurate account of all
5 money paid to him for the use of said city, showing under separ-
6 ate accounts the amount received for account of taxes, sewer
7 purposes, street pavement, licenses, fines and costs and of other
8 matters pertaining to his office, which books shall at all times be
9 open to the inspection of the council or to any committee ap-
10 pointed by it for such purposes; he shall pay over promptly all
11 money which he may receive, within five days after the receipt
12 thereof, into the hands of the treasurer of the said city, showing
13 an itemized statement of the several funds included in said pay-
14 ment, taking the treasurer’s receipt therefor; he shall keep his of-
15 fice at the office of the mayor, unless otherwise ordered by the coun-
16 cil, and shall keep his office open for the transaction of business
17 during usual business hours, and as may be directed by council; he
18 shall on or before the last day of March and September of each
19 year and oftener if directed by council, present to the council a
20 full, complete and detailed statement of all money with which
21 he is chargeable, or that has been received by him from all
22 sources up to the time, together with a statement of all money
23 paid to the treasurer, and proper receipts therefor, and he shall
24 at such times return a list of all taxes, levies, assessments and
25 other claims in his hand for collection which he shall not have
26 been able to collect by reason of insolvency, removal, or other
27 cause, to which list he shall append an affidavit that he has
28 used due diligence to collect the several items therein mentioned,
29 but has been unable to do so, and if the council should be satis-
30 fied as to the correctness of said list, it shall allow him a credit
for said claim, but may thereafter take such lawful measures to
collect the same as shall be by it prescribed. The said clerk
shall receive all taxes on licenses, and receipt to the party pay-
ing the same by endorsement upon the permit granted by order
of the council and shall charge himself with the amount received
from the same, and report to the council at the next regular meet-
ing thereafter, the amount so received, and pay the same over
to the treasurer, taking his receipt for the same; he shall, upon
the expiration of his term of office, or upon the order of council,
turn over to his successor all money, books of account and other
property of said city in his possession; he shall receive such sal-
ary as may be fixed by the council, which shall not be less than at
the rate of eight hundred dollars, nor more than fifteen hun-
dred dollars per annum.

Sec. 33. The clerk of said city, before entering upon the
discharge of his duties, shall execute a bond conditioned for the
faithful performance of the duties of his office, and for the ac-
counting for and paying over, as required by law, all money which
may come into his hands by virtue of his office, with sureties satis-
factory to the council, payable to "The City of Benwood", in a pen-
alty of not less than five thousand nor more than ten thousand dol-
lars, as the council may prescribe; he shall be custodian of all
bonds, notes, certificates and other evidence of indebtedness to
the city, together with all valuable papers which may be placed
in his possession by the council, except that the bond of the clerk
shall be deposited with the mayor; he shall be chargeable with,
and it shall be his duty to collect, the city taxes, levies and as-
sessments under such regulations as may be prescribed by law
and the ordinances of the city, and in case the same are not
paid within one month after they are placed in his hands for
collection, he may distrain and sell therefor in like manner and
have the same power and authority possessed by the officer with
the collection of state taxes.

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

Sec. 34. The city solicitor shall prosecute and defend all suits for or against the city and when requested so to do, shall give his opinion in writing to the mayor, the council, or any standing committees of council, upon such legal questions as may be referred to him, affecting the city's interest. For his services he shall receive such compensation as the council may allow.

Chief of Police.

Sec. 35. It shall be the duty of the chief of police to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties, and he may for good cause appearing to him, with the consent of the police committee, for neglect of duty or insubordination, suspend any such officer from duty, and report his action and his reason therefor to the next regular meeting of council for action thereon; he shall make a list of all dogs within said city liable to tax, collect the licenses tax thereon and pay the same to the clerk, as may be provided by ordinance of said city; he shall be present in the police court whenever the same shall be in session, and see that all its orders and requirements are properly executed; he shall with the consent of the council entered of record, but not otherwise, appointed one or more policemen, as the council may determine; he shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for and paying over, as required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than one thousand dollars nor more than five thousand dollars, as the council may prescribe; he shall receive such salary as may be fixed by council, which shall not be less than nine hundred dollars nor more than fifteen hundred dollars per annum.

Each policeman appointed as prescribed by this section shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office and as is required by law, and for the accounting for and paying over, as is required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than one hundred
32 dollars nor more than five thousand dollars, as the council may
33 prescribe.

Sec. 36. In case a violation of any ordinance of said city
2 is committed in the presence, or within view of the chief of police
3 or other police officer, the offender may be forthwith apprehended
4 and taken before the mayor, and a complaint under oath, stating
5 such violation, there lodged and filed; and thereupon such offender
6 may be tried and dealt with according to law, without summons.
7 The chief of police shall execute, within the county of Marshall,
8 when directed to him, any proper process issued by the mayor in
9 proceedings for the enforcement of ordinances; and shall collect
10 by levy of execution, or otherwise, and duly account for all fines
11 and costs imposed in such proceedings. He shall also have all
12 the rights and powers, within said city, in regard to the arrest
13 of persons, the collection of claims, and the execution and re-
14 turns of process, that are or may be lawfully exercised by a
15 constable of a district within the same, and shall be entitled to
16 the compensation therefor; and he and his sureties shall be liable
17 to all fines, penalties and forfeitures that a constable is liable, for
18 any dereliction of duty in office, to be recovered in the same man-
19 ner, and in the same courts, that such fines, penalties and for-
20 feitures are recovered against constables.

Health Officer.

Sec. 37. The health officer shall perform such duties as may
2 be provided by any ordinance of said city, or by resolution of the
3 council, and shall receive a salary at the rate of not more than
4 three hundred dollars per year. He shall receive no compen-
5 sation from said city, other than the salary herein provided.

Treasurer.

Sec. 38. The treasurer may be any citizen of said city, or
2 bank or trust company of Marshall county, and shall be selected
3 by council and may hold office during the pleasure of the council.
4 All money due the city shall be paid to the clerk, and be by the
5 clerk deposited with the treasurer. The money deposited with the
6 treasurer shall be disbursed only upon orders drawn against the
7 same, signed by the mayor and countersigned by the clerk. The
8 treasurer shall receipt to the clerk for all money paid by him,
9 and shall keep regular books of account, showing the amount
10 of the several funds paid or deposited with the treasurer by said
11 clerk, and shall make report to the council once a month or at
12 such other times as the council may direct, showing the re-
13 ceipts and disbursements of the funds of the city, and the treas-
14 urer shall produce his books of account to the council or any
15 committee of the same for inspection, upon the order of the
16 council.
17 The treasurer shall give bond, with security to be approved by
18 the council, in a sum of not less than five thousand dollars, with
19 condition that the said treasurer shall account and pay over all
20 money received for the account of said city, as may be directed by
21 the council. The said treasurer shall receive such compensation
22 as the council may fix, which shall not be more than at the rate of
23 two hundred dollars per annum. Any bank or trust company
24 of Marshall county is hereby authorized to act as treasurer of said
25 city, and the same shall be liable for all money deposited therein.

Street Commissioner.

Sec. 39. The street commissioner shall perform such duties
2 as are now, or which may hereafter be imposed upon him by any
3 ordinance of said city, and shall receive such compensation as
4 may be fixed by council.

City Engineer.

Sec. 40. The city engineer shall be selected by the council,
2 and shall hold office during the pleasure of the council; he shall
3 perform such duties as may be required of him by the council or
4 provided by ordinance of said city, and his compensation therefor
5 shall be fixed by the council.

Fiscal Year.

Sec. 41. The fiscal year of said city shall begin on the
2 first of May and end on the thirtieth day of April of each year.

Property Subject to Taxation.

Sec. 42. All property real and personal within said city
2 which is subject to taxation under the constitution and laws of
3 the state of West Virginia, shall be assessed for and subject to
4 taxation for the benefit of said city.

Levy.

Sec. 43. The council shall cause to be made up annually,
2 and spread upon its minute book, an accurate estimate of all
3 sums which are or may become lawfully chargeable against the
4 city, and which ought to be paid within one year, and it shall order
5 at a meeting to be held by it in the month of August of each year,
6 as provided by law, a levy of so much as will, in its judgment,
7 be necessary to pay the same; such levy shall be upon all the real
8 estate and personal property otherwise subject to state and county
9 taxes, and an annual capitation tax of one dollar upon each male
10 inhabitant of said city who has attained the age of twenty-one
11 years; provided, that such levy shall not exceed the sum of fifty
12 cents upon each hundred dollars of the ascertained value of the
13 real and personal property.

**Lien for Taxes.**

Sec. 44. There shall be a lien on real estate within said city
2 for the city taxes assessed thereon, and for all fines and penalties
3 assessed to, or imposed upon the owners thereof, by the authorities
4 of such city, from the time the same are so assessed or imposed,
5 which shall have the priority over all other liens, except the lien
6 for taxes due the state, county and district; and which may be en-
7 forced by the council in the same manner provided by law for the
8 enforcement of the lien for county taxes. If any real estate within
9 said city be returned delinquent for the non-payment of the de-
10 linquent taxes thereon, a copy of such delinquent list may be
11 certified by the council to the auditor, and the same may be sold
12 for the city taxes, interest and commission thereon, in the same
13 manner, at the same time and by the same officer as real estate
14 is sold for the non-payment of state taxes.

**Distress for Taxes.**

Sec. 45. If any person against whom, or upon whose prop-
2 erty any taxes shall be lawfully assessed for the benefit of said city
3 shall not wholly pay such tax on or before the first day of January
4 after the same shall have become due, it shall be lawful for the
5 officer authorized to collect such tax to take reasonable distress
6 of any personal property in said city, belonging to said delinquent,
7 in which he or she shall have any right or interest, and sell such
8 property, right, or interest at public auction in said city, having
9 given ten days' notice of the time and place of sale, by adver-
10 tisement posted in some public place in said city, and published
11 or posted in such other manner as may be prescribed by ordi-
Any, to the owner of the property so levied and sold.

**Other Remedies.**

Sec. 46. In addition to all other means for the collection thereof, all taxes, as well as all other demands due to the said city, may be recovered by any appropriate suit or proceeding in the name of the city before any justice of Marshall county, if the amount be within his jurisdiction, or in the circuit court of said county if the amount be within the jurisdiction of said court, and any judgment so obtained may be enforced as other judgment liens are enforced.

**Licenses Generally.**

Sec. 47. The council shall have the authority to require a city license as follows: For anything to be done, carried on or exhibited within the city, for which a state license is now or may hereafter be required, for the keeping of hacks, carriages, carts, wagons, and other vehicles for hire within the city, and for keeping of dogs within the city, and the council may provide for the killing of all dogs, the keeping of which is not so licensed. And upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 48. The council shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and shall require the payment of the tax thereon to be made to the clerk of said city before delivery to the person applying therefor, and the provisions of sections thirty-nine, forty and forty-one of chapter thirty-two of the code of West Virginia, one thousand nine hundred and thirteen, relating to licenses, shall govern the city in the granting of licenses similar in character to those therein mentioned, except where otherwise herein provided. Licenses for keeping dogs shall also expire on the thirtieth day of June next after they are granted, and all other licenses may be for such times as the council may determine.
Power to Condemn.

Sec. 49. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds, landings, wharves, city prison, or other work or purposes of public utility; such proceedings shall conform to the provisions of chapter forty-two of the code of West Virginia, and costs thereof shall be borne by the city, except that in contests involving a hearing in the circuit court, costs shall be recovered by the prevailing party.

Sidewalks.

Sec. 50. After having caused a proper grade to be established at the expense of said city, the council may require sidewalks, footways, or sidewalk and gutter combined, on the streets, avenues or alleys of the said city to be paved with concrete, brick, stone or other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional parts of lots, facing or abutting on such sidewalk or footway, and if the owner of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment, giving said owner notice of the time the council will hear and determine any objection which may be made to such assessment, and the council shall proceed to hear such objections, if any, and if in the opinion of the council such assessment should be made, such fact, with the amount of the same shall be recorded in the "minute book" of the council, and if the said assessment be not paid within thirty days from the date of such hearing the clerk shall cause a memorandum showing the name of the owner of said lot, a description of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of Marshall county, which shall be entered of record in the judgment lien docket in his office, and the same shall constitute a lien on such property, which may be enforced by a suit in equity in the name of the city, in the circuit court of Marshall county, as other liens against real estate are enforced, and upon the payment of said assessment the clerk shall issue to the person entitled thereto a release of said lien, provided, however, that reason-
able notice shall first be given to said owners that they are required
to construct such sidewalks or footways, and in case the owner is
a non-resident of the state, the notice aforesaid may be given by
publication for four successive weeks in a newspaper published in
said city. The provisions of this section shall also be applicable
to needed repairs to any of the pavements of the city, and to the
substitution of new pavements for any which may have been here-
tofores, or which may be hereafter laid and completed, and which
may be deemed insufficient.

Street Paving.

Sec. 51. The council shall have the authority to provide
that any street, avenue or alley or any portion thereof, between the
curbstones, shall be macadamized, or paved with bricks, cobble-
stones, or other suitable material, upon the lowest and best terms
obtainable, after advertisement for four weeks in one or more news-
papers in the city, for bids and proposals for the work; and two-
thirds of the cost of such macadamizing or paving, from curb to
curb of such street, avenue, or alley, shall be assessed to the owners
of lots, or fractional parts of lots, fronting or abutting on such
street, avenue or alley, that is to say: The property owners on
each side of said street, avenue, or alley to be assessed one-third of
the cost of said improvement, to each property owner a sum pro-
portionate to the distance, or extent in feet by him owned, and one
third of the sum so assessed shall be paid by each property owner to
the city within thirty days after the completion of the work, and
the remainder in two equal installments in six and twelve months
thereafter, with interest thereon at the rate of six per centum per
annum, or at such other times as the council may prescribe. The
remaining one-third of such expense, as well as the expense of mac-
adamizing or paving at the intersection of streets, avenues and al-
leys, shall be defrayed by the city. The council shall cause a no-
tice to be published for one week in a newspaper of said city, show-
ing the owners of the property and the number of feet fronting on
said improvements, as well as the time and the place where the said
council will proceed to fix said assessments as above provided, and
giving notice to any person having an interest in said property to
appear and show cause, if any they can, why such assessment
should not be made; and the council may, in making said assess-
ments, consider the petition of any person or corporation relative
to the inequality of said assessment, and may equalize and adjust
the same. The assessment to be made to any owner of real estate shall constitute a lien on such estate; and like proceedings may be had and taken to enforce such lien, or to recover from such owner the amount of such assessment, or any installment thereof, as those provided for in the preceding section providing for the laying of sidewalks. The council of said city may cause an additional annual levy of fifteen cents on the hundred dollars of the ascertained value of all the real and personal property within said city, or subject to taxation, for the purpose only of defraying the expenses of paving the streets, avenues and alleys of said city as hereinafter provided; such levy shall be made at the time the general levy laid, and shall be collected in like manner, but a separate account shall be kept of the receipts and expenditures of such fund.

Sewers.

Sec. 52. The council of said city shall have the authority under the provision of ordinances adopted by the council of said city to cause all necessary sewers to be constructed in any or all of the streets, alleys and public grounds of said city upon the lowest and best terms to be obtained by advertisements for bids or proposals therefor by the clerk of the said city by the direction of said council, and shall fix a uniform assessment against the owners of the real estate, lots or parcels of ground within said city, abutting or abounding on the streets, alleys or public grounds, in which sewers are so constructed, which assessment shall not exceed one dollar for each front foot of land, lot or parcel of ground, fronting or abutting on the street, alley or public ground in which said sewer is constructed. The one-half of said assessment shall be paid within thirty days after said sewer is completed and ready for use, and the remaining two-thirds of said assessment shall be paid in two equal installments, on or before six months and twelve months respectively, from the time said sewer is completed and ready for use, and said deferred payments to bear interest at the rate of six per centum per annum, and said council may by ordinance compel the owners of lots or parcels of ground, fronting or abutting on any street or alley in which such sewer is constructed, under the supervision of such officer as council may designate, to connect any residence, store, warehouse, factory or other building occupied or used by persons, with such sewer within thirty days after its completion, and may impose and inflict fines and penalties for any violation of such ordinance.
The intersections of all streets and alleys and avenues shall be provided with sewers at the expense of the city, but all connections in street, avenue or alley shall be made by the property owner abutting on such street, avenue or alley wherein such sewer is constructed in the manner prescribed by said council by ordinance.

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

The funds derived by the said city from assessments for construction of sewers, as herein provided, shall be used by said city for sewer construction only, and the clerk and treasurer shall keep separate accounts of receipts and disbursements of said fund and shall make separate reports with respect to said fund from time to time, as the council may direct, and the said clerk and treasurer shall be liable to said city on their official bonds for the payment of all money which may come into their hands, respectively, by vir-
Sec. 53. In addition to all other methods provided in this act for grading, paving, sewer ing and otherwise improving the avenues, streets and alleys of said city, its said council may by resolution passed by vote of three-fifths of all members thereof, adopt the provisions of chapter eight of the acts of the year one thousand nine hundred and eight of the legislature of West Virginia without submitting the adoption of said chapter eight to a vote of the qualified voters of said city as provided in section seventeen of said chapter eight, and upon the passage of said resolution by said council, said council may proceed with the improvement specified in said resolution according to the provisions of said chapter eight applicable to such improvement the same as though the provisions of said chapter eight relating thereto were incorporated in this act.

Bonds—Additional Levy.

Sec. 54. The municipal authorities of said city shall have the power and authority to issue and make sale of the bonds of said city and to apply the proceeds thereof to the payment for any general improvement therein, or to any debt or obligation of the said city as provided in chapter forty-seven of the code of West Virginia or any amendment thereof, or may submit to the voters of said city the question of making an additional levy for any improvement in said city, and if three-fifths of the votes cast at such election on such question be in favor of such additional levy the said council may levy the same. Said municipal authorities also shall have the power and authority to issue and make sale of the bonds of said city and to apply the proceeds thereof to the purchase or erection of a gas works, electric light and power plant, or water works, or all of such works and plants, for the use of said city, or to any other improvement for the use of said city, as provided in chapter forty-seven-a of the code of West Virginia.

Sec. 55. Wherever in this act, any notice is required to be published, or any publication required to be made in any newspaper published in said city, if at such time such notice is required to be published, or such publication made, there be no newspaper published in said city, then such notice may be published
Sec. 56. All officers of said city elected to office and acting as such at the time this act takes effect shall continue in office until the first day of May in the year one thousand nine hundred and twenty and until their successors in office are elected and qualified under the provisions of this act, and receive the compensation heretofore conferred, prescribed and allowed by former charter, by general law or by the ordinances of said city. All ordinances of said city in force at the time this act takes effect shall continue in force and to have full operation and effect under the provisions of this act until amended, repealed or superseded by the council of said city. And wherever in said ordinances the word "recorder" shall occur, under this act, such word "recorder" shall be read "clerk" and construed to mean the clerk of said city.

Sec. 57. All acts and parts of acts, whether special or general, coming within the purview of this act, and inconsistent herewith, are hereby repealed.

CHAPTER 7.

( House Bill No. 136—Mr. Moore.)

AN ACT amending and re-enacting chapter twelve of the acts of one thousand nine hundred and five, entitled "An act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof, and chapter three of the acts of one thousand nine hundred and fifteen, regular session, municipal charters, amending and re-enacting sections two, four, five, eleven, thirteen, sixteen, twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-two of chapter twelve of the acts of one thousand nine hundred and five, entitled 'An act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits, and prescribing and defining the powers and duties thereof.'"
Be it enacted by the Legislature of West Virginia:

That chapter twelve of the acts of one thousand nine hundred and five, entitled an act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits and prescribing and defining the powers and duties thereof, and chapter three of the acts of one thousand nine hundred and fifteen, regular session, municipal charters, amending and re-enacting sections two, four, five, eleven, thirteen, sixteen, twenty-four, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-three, thirty-four, thirty-six, thirty-seven, and forty-two of chapter twelve of the acts of one thousand nine hundred and five, entitled an act incorporating the city of McMechen, in the county of Marshall, fixing its corporate limits, and prescribing and defining the powers and duties thereof.

Section 1. The inhabitants of Marshall county, in this state, 2 and now and hereafter residing within the boundaries prescribed 3 in the next section hereof, shall be and they are hereby constituted 4 a body politic and corporate, by and under the name of "the city 5 of McMechen," and as such and by and in the name shall have 6 perpetual succession and a common seal, and may sue and be sued,
contract and be contracted with, purchase, lease, hold and use real
and personal property necessary for corporate purposes, and grant,
sell, convey, transfer, let and assign the same; and generally shall
have all the rights, powers and franchises belonging or appertaining
to municipal corporations in this state; and shall have and succeed
to all the powers, franchises, rights, privileges, and immunities,
and be subject to all responsibilities, which were conferred upon,
or belonging or appertaining to the city of McMechen, by virtue
of chapter twelve of the acts of the legislature of this state, passed
February twenty-fourth, one thousand nine hundred and five.

Boundaries.

Sec. 2. The boundaries of said city shall be as follows:
Commencing at the southwest corner of the corporation of the city
of Benwood, the same being on the west edge of the Ohio river, in
the Ohio state line, where it crosses the mouth of Pinch run, thence
with the south corporation lines of the city of Benwood, north
eighty-one degrees fifteen minutes east, crossing the river at a
point in mouth of McMechen's run; thence up the same with its
meanders, north sixty-nine and one-half degrees, east one hundred
and seventy-eight feet; south eighty-one degrees east ninety-one
feet; north eighty-six and one-fourth degrees east one hundred and
forty-eight and five-tenths feet; south eighty-eight and one-half degrees east ninety-one
feet; north eighty-six and one-fourth degrees east one hundred and
forty-eight and five-tenths feet; south eighty-eight and one-half degrees east
one hundred and forty-eight and five-tenths feet; south eighty-six and one-fourth
degrees east one hundred and forty feet; north eighty-eight and
one-fourth degrees east one hundred and seventy-nine and five-
tenths feet; south eighty-six degrees east on hundred and eighty-five feet; north
fifty-two degrees east one hundred and eight feet; north seventy-four and three-fourths
degrees east four hundred feet; south eighty-five and three-fourths
degrees east one hundred and sixteen feet; north sixty-eight and
three-fourths degrees east two hundred and nine and five-tenths
feet; north seventy and one-fourth degrees east ninety-two feet;
and generally shall
north seventy-one and one-fourth degrees east one hundred
and thirty-two feet to a point on the north side of the run, located south
twenty-one and one-fourth degrees east seven and one-half feet
from a large sycamore witness, standing on the north bank of the
run; thence, leaving the corporation line of the city of Benwood,
and generally shall
north seventy and one-half degrees east two hundred and eighty-
five feet to a point at the forks of the run; thence up the south fork
south seventy-seven and three-fourths degrees east two hundred
and twenty feet; north twenty-seven and one-half degrees east sis-
ty-nine feet; south seventy-nine and one-half degrees east eighty-
five feet to a point in the run, located north fourteen and one-half
degrees east thirty-eight feet from the northwest corner of a small
frame house standing between the run and the McMechen cemetery
fence; thence up the run south sixty-six degrees east one hundred
and fifty-nine feet to a point in the original easterly corporation
line of McMechen; thence with said line, leaving the run, south
sixteen degrees east two hundred and fifty-one and ninety-five one-
hundredths feet to a stake in a field located north seventy-three and
one-half degrees east sixteen degrees east two hundred and fifty-one and ninety-five one-
hundredths feet from a gum tree stump, south of the cemetery fence,
the said stake being also located south five and one-half degrees
west eighty feet from the extreme easterly corner of the McMechen
cemetery fence; then from said stake with the original easterly cor-
poration line of McMechen, south thirteen degrees west sixty
sand one hundred and seventy-one feet to a point in the old bed of
Jim's run, south of the present bed, and located south seventy-five
degrees east seven hundred and ninety-two feet from the center of
the Baltimore & Ohio railroad stone bridge; thence leaving the
original corporation line of McMechen, south eleven degrees east
one hundred and forty-six and six-tenths feet to a point in the east
line of the "First addition to Riverview;" thence with said east line
south twenty-three degrees forty minutes west four hundred and
eighty-five feet to the north side of Twenty-third street; thence,
following said north side of Twenty-third street, north sixty-six
degrees twenty minutes west three hundred feet to the south west
corner of lot No. 264; north seventy-seven degrees five minutes
west fifty and eight-tenths feet to the south-west corner of lot No.
262; north eighty-three degrees thirty minutes west; three hundred
fifty feet more or less with the north line of twenty-third street,
and that line extended across Marshall street to the east property
line of the Baltimore & Ohio railroad company's right of way,
thence with said east line, in a south-westerly direction, eleven
hundred feet more or less to the point of intersection of the said
right of way line with the eastward extension of the north line of
Twenty-seventh street, which street lies on the north side of an ad-
dition called "Riverview addition," situated between the right of
way of the Baltimore & Ohio railroad company's main line, and
71 the right of way of the said Baltimore & Ohio railroad company's
72 Ohio river division, thence with the north line of Twenty-seventh
73 street, and its extension north seventy-five degrees thirty minutes
74 west to, and across, the Ohio river, to the Ohio state line, thence
75 up the river along the waters edge, following the said state line to
76 the beginning.

Wards.

Section 3. The territory of said city is hereby divided into
2 four wards as follows:
3 All that part of said city lying north of Sixth street, and the
4 line of Sixth street extended to corporate lines, shall constitute the
5 first ward of said city; that part lying between said Sixth and
6 Tenth streets and lines of said streets extended to corporate limits,
7 shall constitute the second ward, and all that part of said city lying
8 between Tenth and Thirteenth streets and lines of said streets ex-
9 tended to corporate limits, shall constitute the third ward, and all
10 that part of said city south of Thirteenth street and the line of
11 Thirteenth street extended to corporate limits, shall constitute the
12 fourth ward of said city. The council of said city may change the
13 boundaries of the different wards, but regard shall be had to equal-
14 ity of population of the several wards.

Officers.

Sec. 4. The officers of said city shall be a mayor, clerk, mar-
2 shal, treasurer, solicitor, health officer, street commissioner, city
3 engineer, and two councilmen from each ward. The mayor shall
4 be elected by the qualified voters of said city. The clerk, marshal,
5 health officer, street commissioner, treasurer, solicitor and city
6 engineer shall be appointed by the council, and the councilmen,
7 shall be elected by the qualified voters of their respective wards.
8 No person shall be eligible to any elective office unless he is a
9 qualified voter thereof, nor unless he has resided therein for at
10 least six months before his election; and in case of a councilman,
11 unless he is a bona fide resident of the ward from which he is elect-
12 ed, and a freeholder of said city; and the removal of a councilman
13 from the ward in which he was elected, or his ceasing to be a free-
14 holder in said city, shall vacate his office.
15 The council may by ordinance or resolution appoint one person
16 to perform the duties herein provided to be performed by one or
17 more of the above named officers, define the duties to he performed
18 by such officers, and fix the compensation therefor.
Sec 5. The municipal authorities of said city shall consist of the mayor and councilmen, who together shall form a common council, and all the corporate powers of said corporation shall be exercised by said council or under its authority, except where otherwise provided.

Term of Officers.

Sec. 6. The term of office of the mayor shall begin on the first Monday in April next succeeding his election and shall be for the term of two years, and until his successor shall have been elected and qualified. The clerk, marshal, treasurer, health officer, street commissioner, solicitor, and city engineer, shall be appointed by the council and shall hold their office during the pleasure of the council. The same person shall not be appointed for two consecutive terms unless he shall have fully settled up the business of his former term or terms. At the first election provided in section eight of this act there shall be elected a mayor, whose term of office shall begin on the first Monday in April next succeeding his election and shall be for the term of two years, and until his successor is elected and qualified, and two councilmen from each ward whose term of office shall begin on the first Monday in April next succeeding their election, the one thereof receiving the highest number of votes shall hold his office for the term of four years, and the one receiving the next highest number of votes shall hold his office for the term of two years, and until their successors are elected and qualified. On the same day each succeeding two years one councilman from each ward shall be elected and shall hold office for four years from the first Monday in April next succeeding their election and until their successors are elected and qualified.

Sec. 7. Every person elected or appointed to any office in said city shall within twenty days after his election or appointment and before entering upon the discharge of the duties thereof, take and subscribe the oath of office prescribed by law for officers generally, which may be done before the mayor or clerk of said city, or before any person authorized by law to administer oaths; and the same, together with the certificate of the officer administering the oath, shall be filed with the clerk of the city.

Elections.

Sec. 8. The first election hereunder shall be held on the first Tuesday in March, one thousand nine hundred and twenty, and bi-
Every person who has been a \textit{bona fide} resident of the city for three months next preceding any election, and has paid all municipal taxes levied and assessed against him for the preceding tax year, and otherwise a qualified voter under the constitution and laws of the state, shall be entitled to vote at such election in the ward in which he resides. The election shall be held, conducted and the results thereof be ascertained, returned and determined under such rules and regulations as may be prescribed by the council, which shall not be inconsistent with the general laws of the state governing municipal elections, and shall conform as nearly as practicable to such laws. Contested elections shall be heard and decided by council, and the proceedings therein shall conform as nearly as may be to similar proceedings in the case of contested elections of county and district officers. The council shall be the judge of the election, return and qualification of its own members. In case two or more persons receive an equal number of votes for the same office, if such number be the highest cast for such office, the city council shall decide by vote which of them shall be returned elected, and shall make their return accordingly.

\textit{Council.}

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

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

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

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

Sec. 13. The council shall cause to be kept by the clerk in a well bound book to be called the “minute book” an accurate record of all its proceedings, ordinances, acts, orders and resolutions, and in another to be called the “ordinance book” accurate copies of all the ordinances adopted by the council, both of which shall be fully indexed and open to the inspection of any one required to pay taxes to the city, or who may be otherwise interested. All oaths and bonds of officers of the city and all papers of the council shall be endorsed, filed and securely kept by the clerk, except the bond of the clerk, which shall be filed with the mayor. All printed copies of such ordinances purporting to be published under authority of the council and transcripts of such ordinances, acts, orders and resolutions, certified by the clerk under the seal of the city, shall be deem-
Sec. 14. At each meeting of the council, the proceedings of the last meeting shall be read, and if erroneous, corrected, and signed by the presiding officer for the time being. Upon the call of any member, the yeas and nays on any question shall be taken and recorded in the minute book.

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

Sec. 16. The council of said city shall have power to lay off, vacate, close, open, alter, grade and keep in good repair the roads, streets, alleys, pavements, sidewalks, cross-walks, drains and gutters therein for the use of the citizens or of the public, and to improve and light the same, and to keep the same free from obstructions of every kind; to regulate the width of pavements and sidewalks on the streets and alleys, and to order the pavements, sidewalks, footpaths, drains and gutters to be kept in good order, free and clean, by the owners or occupants of the real property next adjacent thereto; to establish and regulate markets, prescribe the times of holding the same, provide suitable and convenient buildings therefor, and prevent the forestalling or regulating of such markets; to prevent injury or annoyance to the public or to individuals from anything dangerous, offensive or unwholesome; to prohibit or regulate slaughter-houses and soap factories within the city limits; or the exercise of any unhealthy or offensive business, trade or employment; to abate all nuisances within the city limits, or to require and compel the abatement of removal thereof, by or at the expense of the person causing the same, or at the expense of the owner or occupant of the ground on which they are placed or found; to cause to be filled up, raised or drained by or at the expense of the owner, any city lot or tract of land covered or subject to be covered by stagnant water; to prevent horses, hogs, dogs, cattle, sheep, or other animals, and fowls of all kinds from going or being at large in such city, and as one means of prevention, to provide for impounding and confining such animals and fowls and upon
28 failure to reclaim, for the sale thereof; to protect places of
divine worship and to preserve order in and about the premises
where and when such worship is held; to regulate the keeping
of gunpowder and other inflammable or dangerous substances;
to provide and regulate the building of houses or other struc-
tures, and for the making and maintaining of division fences by
the owners of adjoining premises, and for the proper drainage
of city lots or other parcels of land, by or at the expense of the
owner or occupant thereof; to provide against damage or danger
by fire; to punish for assaults and batteries; to arrest, convict
and punish any person for gambling or keeping gaming tables,
commonly called A. B. C. or E, O, table or faro bank or keno table,
41 or table of like kind, under any denomination, whether the game
42 or table be played with cards, dice or otherwise, or shall be a
43 partner, or concerned in interest, in the keeping or exhibiting
44 such table or bank, or keeping or maintaining any gaming house
45 or place, or betting or gambling for money or anything of value;
to suppress houses of ill-fame and to arrest and punish persons
46 loitering in, or visiting them, or loitering at wharves or upon the
47 streets; to prevent lewd and lascivious conduct; the sale or
48 exhibition of indecent pictures or other representations; the
desecration of the Sabbath day; profane swearing; to protect the
persons of those residing or being within said city; to appoint
51 when necessary or advisable a police force, permanent or tem-
52 porary, to assist the chief of police in the discharge of his
duties; to build or purchase, or lease and to use, a suitable place
54 within or near said city for the safe keeping or punishment of
55 persons charged with or convicted of the violation of ordinances;
to provide for the employment of persons convicted of the viola-
tion of ordinances or who may be committed in default of the
payment of fines, penalties or costs, and who are otherwise
unable to discharge the same, by putting them to work for the
benefit of the city, and to use such means to prevent their escape
while at work, as they may deem expedient; to erect, or authorize
or prohibit the erection of gas works, electric light works or water
works within the city limits; to prevent injury to such works, or
the pollution of any gas or water used or intended to be used by
the public or by individuals, and to do all things necessary to
adequately supply said city and the inhabitants thereof with
pure, healthful and wholesome water; to use, generate, distribute,
sell and control electricity and gas for heat, light and power and
to furnish lights for the streets, houses, buildings, stores, and
other places in and about said city; to provide a sewerage sys-
tem for said city; to provide for and regulate the weighing and
measuring of hay, coal, lumber and other articles sold or kept or
offered for sale, within said city; to establish and construct
wharves and docks, and to repair, alter or remove any landing,
wharf, or dock which has been or shall be so constructed and to
establish and collect rates and charges for the use thereof; to
regulate the running and speed of automobiles, motorcycles,
vehicles, engines and cars within the said city; to organize one
or more fire companies and provide necessary apparatus, tools,
implements, engines or any of them for their use, and in their
discretion to organize a paid fire department; to make regula-
tions with respect to the erection and location of all pipes, con-
ducts, and telephone, telegraph, electric light or other poles with-
in said city, and the extension of any wires, lines and poles by any
individuals or corporation; to create by ordinances such com-
mitees on boards, and delegate such authority thereto as may be
deemed necessary or advisable; to provide for the annual assess-
ment of the taxable property therein, including dogs kept in said
city, and to provide a revenue for the city for municipal purposes,
and to appropriate such revenue to its expense, and generally to
take such measures as may be deemed necessary or advisable to
protect the property, public and private, within the city; to pre-
serve and promote the health, safety, comfort and well being of
the inhabitants thereof.

The council of said city shall have power and authority to con-
trol and regulate the construction and repairs of all houses and
other buildings within the said city; to provide for the granting
of building permits; to cause the removal of unsafe walls or build-
ings and may prohibit the erection on any such street, or in any
such square, of any building, or of any addition to any building
unless the outer walls thereof be made of brick and mortar or
other fire proof material; and to provide for the removal of any
building or addition which shall have been erected contrary to
such prohibition, at the expense of the owner or owners thereof.
The said council of said city shall have any and all addi-
tional power and authority granted to cities, towns and villages
by chapter forty-seven of the code, or any additional powers here-
after granted to municipal corporations by the legislature of this
state.
Sec. 17. The council of said city shall have the power to contract with persons, private or municipal corporations, for furnishing to said city, through and over the streets, alleys and public grounds of said city, water for domestic, fire and other purposes, for use by the inhabitants of said city and persons and corporations in the vicinity thereof, and said city by its council may provide for the sale of said water to the consumer thereof upon such terms and conditions as it may deem proper, provided, however, that no contract for such water shall be made by the city for a longer period than ten years.

Sec. 18. Before the council of said city shall accept the dedication to public uses, any highway, avenue, streets or alleys within said city, the highways, avenues, streets and alleys so dedicated for highway purposes shall be constructed to a proper grade to be approved by council, and the dedication of such streets, highways, avenues and alleys shall be for usual highway purposes and without reservation or restriction.

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

Said city is hereby authorized to work its prisoners on the public streets and other improvements of said city or to hire its prisoners to the county court of Marshall county to work on the public roads, and other improvements of said county, on such terms and conditions as may be agreed upon; without making such work a part of the judgment against such prisoners; but credit shall be allowed any prisoner for the value of such work as fixed by council,
and when the fine and costs are fully paid by work, the prisoner shall be discharged from custody.

Franchises.

Sec. 20. Franchises may be granted by the city council to persons or corporations allowing such occupancy of portions of the streets and alleys as may be necessary for works of public utility and service, but no such franchise shall hereafter be granted except under the following restrictions and conditions: No ordinance shall be passed granting any franchise for the use of any of the streets or alleys of the city for any of the purposes above named, until the same shall have been filed with the clerk at least thirty days prior to the time when it is to be acted upon by the council, and notice of such application, stating the object of such franchise, and when the same will be considered by the council, shall have been given thirty days’ notice in some newspaper of general circulation published in Marshall county. Nor shall such franchise be granted within thirty days after the application has been filled, nor until an opportunity has been given any citizen or corporation interested in the granting or refusing of said franchise to be heard. Nor shall any franchise be hereafter granted by council for a longer period than twenty-five years, provided, that the council shall have the power to renew any such franchise for the term of ten years, when the same shall have expired. No franchise hereafter granted for a longer term than twenty-five years shall be of any force or validity. No grant of any such franchise shall be made without at the time of making it providing that the grantee, its successors or assigns, shall indemnify the city against all damages caused by the construction and maintenance of such works. Any person or corporation to whom a franchise has been or may hereafter be granted by said city, who shall fail or refuse to comply with the conditions of the ordinance granting the same within thirty days after receiving notice of such failure, shall forfeit all rights and privileges conferred by said franchise unless said failure be waived by resolution of the council of said city.

Power to Condemn.

Sec. 21. The council shall have the right to institute proceedings, in the name of the city, for the condemnation of real estate for streets, alleys, avenues, sewers, drains, market grounds,
4 landings, wharves, city prison, or other work or purposes of public
5 utility; such proceedings shall conform to the provisions of chapter
6 forty-two of the code of West Virginia, and costs thereof shall be
7 borne by the city, except that in contests involving a hearing in
8 the circuit court, costs shall be recovered by the prevailing party.

**Levy.**

Sec. 22. The council shall cause to be made up annually, and
2 spread upon its minute book, an accurate estimate of all sums which
3 are or may become lawfully chargeable against the city, and which
4 ought to be paid within one year, and it shall order at a meeting to
5 be held by it in the month of August of each year, as provided by
6 law, a levy of so much as will, in its judgment, be necessary to pay
7 the same; such levy shall be upon all the real estate and personal
8 property otherwise subject to state and county taxes, and an annual
9 capitation tax of one dollar upon each male inhabitant of said city
10 who has attained the age of twenty-one years; provided, that such
11 levy shall not exceed the sum of forty cents upon each hundred
12 dollars of the ascertained value of the real and personal property;
13 and, provided further, that an additional special levy of ten cents
14 upon each one hundred dollars of such valuation may be levied for
15 the purpose only of paying the principal and interest of the bonds
16 of said city now outstanding.

**Lien for Taxes.**

Sec. 23. There shall be a lien on real estate within said city
2 for the city taxes assessed thereon, and for all fines and penalties
3 assessed to, or imposed upon the owners thereof, by the authorities
4 of such city, from the time the same are so assessed or imposed,
5 which shall have the priority over all other liens, except the lien
6 for taxes due the state, county and district; and which may be en-
7 forced by the council in the same manner provided by law for the
8 enforcement of the lien for county taxes. If any real estate within
9 said city be returned delinquent for the non-payment of the delin-
10 quent taxes thereon, a copy of such delinquent list may be certified
11 by the council to the auditor, and the same may be sold for the
12 city taxes, interest and commission thereon, in the same manner, at
13 the same time and by the same officer as real estate is sold for the
14 non-payment of state taxes.
Distress for Taxes.

Sec. 24. If any person against whom, or upon whose property any taxes shall be lawfully assessed for the benefit of said city shall not wholly pay such tax on or before the first day of January after the same shall have become due, it shall be lawful for the officer authorized to collect such tax to take reasonable distress of any personal property in said city, belonging to said delinquent, in which he or she shall have the right or interest, and sell such property, right, or interest at public auction in said city, having given ten days' notice of the time and place of sale, by advertisement posted in some public place in said city, and published or posted in such other manner as may be prescribed by ordinance of said city, if council shall by ordinance require any other or more ample advertisement, and out of the proceeds of such sale after defraying all expenses, to pay said city the said tax, or as much thereof as shall be delinquent, and return the remainder, if any, to the owner of the property so levied and sold.

Other Remedies.

Sec. 25. In addition to all other means for the collection thereof, all taxes, as well as all other demands due to the said city, may be recovered by any appropriate suit or proceeding in the name of the city before any justice of Marshall county, if the amount be within his jurisdiction, or in the circuit court of said county if the amount be within the jurisdiction of said court, and any judgment so obtained may be enforced as other judgment liens are enforced.

Licenses Generally.

Sec. 26. The council shall have the authority to require a city license as follows: For anything to be done, carried on or exhibited within the city, for which a state license is now or may hereafter be required, for the keeping of hacks, carriages, carts, wagons, and other vehicles for hire within the city, and for keeping of dogs within the city, and the council may provide for the killing of all dogs, the keeping of which is not so licensed. And upon all such licenses the council may impose a reasonable tax for the use of the city.

Sec. 27. The council shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and
3 shall require the payment of the tax thereon to be made to the
4 marshal of said city before delivery to the person applying therefor
5 and the provisions of sections thirty-nine, forty and forty-one of
6 chapter thirty-two of the code of West Virginia, one thousand nine
7 hundred and thirteen, relating to licenses, shall govern the city in
8 the granting of licenses similar in character to those therein men-
9 tioned, except where otherwise herein provided. Licenses for
10 keeping dogs shall also expire on the thirtieth day of June next
11 after they are granted, and all other licenses may be for such times
12 as the council may determine.

Mayor.

Sec. 28. The mayor shall be the chief executive officer of the
2 city and shall see that the orders, by-laws, ordinances and regula-
3 tions of the council thereof are faithfully executed; he shall be ex-
4 officio a justice and conservator of the peace within the city and
5 shall within the same have, possess and may exercise, all the powers
6 and perform all the duties whether in civil or criminal proceedings,
7 vested by law in a justice of the peace. Any summons, warrant or
8 other process, issued by him, may be executed at any place within
9 the county; he shall have power during the recess of the regular
10 meetings of council to appoint special police officers when he shall
11 deem it necessary, and it shall be his duty to see that the peace and
12 good order of the city are preserved, and that persons and property
13 therein are protected; and to this end he may arrest and detain, or
14 cause the arrest and detention, of all riotous and disorderly per-
15 sons before taking other proceedings in the case; he shall from time
16 to time recommend to the council such measures as he may deem
17 needful for the welfare of the city; he shall not receive any money
18 due or belonging to the state or corporation or to individuals, unless
19 and until he shall have given the bond and security required of a
20 justice of the peace by chapter fifty of the code of West Virginia;
21 and all the provisions of said chapter relating to moneys received
22 by justices shall apply to moneys received by him in like cases.
23 The mayor shall receive a salary of not less than two hundred
24 nor more than three hundred dollars per annum; such salary shall
25 be in lieu of the fees which would otherwise accrue to him in pro-
26 ceedings for the enforcement of ordinances, but all such fees shall
27 be collected when practicable, and accounted for to the city, and he
28 may tax such costs against any person or corporation found guilty
29 of the violation of any ordinance of the city, as are provided to be
taxed and recovered by justices of said county in criminal cases.

The process in proceedings to enforce any ordinances prescribing a fine or imprisonment, or a fine and imprisonment, for the violation thereof, shall be a summons in the name of the city of McMechen as plaintiff, directed to the marshal, or to one of the regular police officers of the city, or to any constable of any district within the said city, requiring him to summon the person accused of such violation, and who shall thereafter be designated as defendant, to appear before the mayor at the time and place therein named to make answer to such accusation and be dealt with according to law; such summons shall contain such statement of the facts alleged as will inform such person of the general nature of the offense against the city of which he stands charged, and except in cases of arrest upon view, shall be issued only upon the complaint, on oath, of some credible person. But the mayor for good cause appearing, by endorsement on the summons, may order the person so accused to be forthwith apprehended and brought before him for a hearing of the charge. The clerk of said city, as well as the mayor, shall have authority to receive any complaint in writing of the violation of any ordinance, and to sign and issue the proper summons based upon such complaint. The mayor shall have, possess and may exercise the power and authority belonging to a justice under section two hundred and twenty-four and two hundred and twenty-five of chapter fifty of the code of West Virginia, in summoning and enforcing the attendance and examination of witnesses, in punishing for contempt, in granting continuances, and in securing and enforcing the further attendance of the accused with a view to a trial or hearing. If any recognizance be taken for such further attendance, and is forfeited, the mayor may record the default, and an action be maintained in the name of the city, before the mayor, or any justice having jurisdiction, against the accused and his sureties, if any, to recover the penalty thereof.

Sec. 29. The mayor shall have the power to issue an execution for any fine and cost assessed or imposed by him, for the violation of any ordinance, or he may at the time of rendering judgment therefor, or at any time thereafter and before satisfaction of such judgment, by his order in writing, require the immediate payment thereof, and in default of such payment he may cause the person so in default to be apprehended and brought before him, and commit him to the jail of Marshall county or in his discretion to the prison of said city, if one shall have been provided, until the
10 fine and costs are fully paid; but such imprisonment shall not exceed ninety days.

Sec. 30. The jail of Marshall county may be used as a lockup for said city. The jailor of said county shall take and receive into his custody any person authorized to be confined therein by any ordinance of the city, or sentenced to imprisonment therein, or committed thereto, for non-payment of a fine or costs, or for failure to enter into a recognizance by the judgment or order of the mayor, in proceedings for the violation of an ordinance; and the expense of maintaining such persons while so in confinement shall, if such person be found guilty of such violation, be charged to such person as part of the costs, but whether collected from such person or not, such expense shall be paid to said jailor by the city.

Mayor's Docket.

Sec. 31. A book well bound and indexed, to be denominated the "docket" shall be kept in the office of the mayor, in which shall be noted each case brought or tried by him, together with the proceedings therein, including a statement of complaint, the summons, the return, the fact of appearance or non-appearance, the defense, the hearing, the judgment, the costs, and in case the judgment be one of conviction, the action taken to enforce the same; the record of such case shall be signed by the mayor or other person acting in his stead; and the original papers thereof, if no appeal be taken, shall be kept together and preserved in his office.

Appeal.

Sec. 32. In any case for the violation of an ordinance of the said city, in which there is a judgment by the mayor of imprisonment, or for a fine of more than ten dollars, an appeal shall lie at the instance of the person against whom such judgment is rendered to the circuit court of Marshall county. Such appeal shall not be granted by the mayor unless within ten days from the date of the judgment, such person shall enter into a recognizance, with security deemed sufficient, in a penalty double the amount of fine and costs, with condition that the person appealing will appear before the said court on the first day of the next term thereof, to answer for the offense against the city with which he stands charged, and not thence depart without leave of said court, and will perform and satisfy any judgment which may be rendered against him by the
circuit court on appeal. The provisions of chapter one hundred and sixty-two of the code of West Virginia, relating to recognizance in criminal cases, shall be applicable to the recognizance contemplated by this section, except where herein otherwise provided; but any money recovered thereon or by virtue thereof shall inure to the said city.

Sec. 33. If such appeal be taken the mayor shall forthwith deliver to the clerk of said court the complaint in writing, if any, the summons, a transcript of the record including the judgment, the recognizance, and any other papers belonging to the case; and such clerk shall receive and file the same, and place the case upon the trial docket of the next succeeding term of said court, and said court shall proceed to try the same in its order.

Sec. 34. If the appellant be found guilty of a violation of the ordinance in question, whether upon the verdict of a jury or otherwise, the court shall ascertain by its judgment the fine or imprisonment to be paid or suffered by such defendant, having regard to the punishment prescribed by such ordinance, and shall include in any such judgment the costs incurred by said city, as well in the proceedings before the mayor as those in court, including a fee to the attorney for the city of ten dollars, and the fees, if any, of the jailor or the keeper of the city prison; and the proceedings to enforce the collection of any such fine and costs, may be as provided in section ten, eleven and twelve of chapter thirty-six of the code of West Virginia, except that the writ mentioned in the tenth section may be issued by the clerk upon the order of the mayor of the city, and the notice contemplated by the eleventh section shall be given to such officer.

Sec. 35. From all judgments by the mayor in cases other than for violation of ordinances, appeals shall be allowed as in similar cases before justices.

Solicitor.

Sec. 36. The city solicitor shall prosecute and defend all suits for or against the city, and when requested so to do, shall give his opinion in writing to the mayor, the council, or any standing committee of council, upon such legal question as may be referred to him, affecting the city's interest. For his services he shall receive such compensation as the council may allow.

Sec. 37. It shall be the duty of the marshal to preserve order and quiet in said city, and to see that all subordinate police officers faithfully perform their official duties, and he may for good cause appearing to him for neglect of duty or insubordination, suspend any such officer from duty, and report his action and his reason therefor to the next regular meeting of council for action thereon; he shall make a list of all dogs within said city liable to tax, collect the license tax thereon and pay the same to the treasurer, as may be provided by ordinance of said city; he shall collect the taxes, assessments, licenses, and fees which may become due the city, and pay the same to the treasurer as herein provided; he shall be present in the police court whenever the same shall be in session, and see that all its orders and requirements are properly executed; he shall with the consent of the council entered of record, but not otherwise, appoint one or more policemen, as the council may determine; he shall before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office, and for the accounting for any paying over, as required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than five thousand dollars nor more than fifteen thousand dollars, as the council may prescribe; he shall receive such salary as may be fixed by council, which shall be at the rate of not less than six hundred dollars nor more than one thousand dollars per annum, and two per centum on all taxes, fines, assessments and proceeds of licenses, collected by him and paid to the treasurer of said city as herein provided.

Each policeman appointed as prescribed by this section shall, before entering upon the discharge of his duties, execute a bond conditioned for the faithful performance by him of the duties of his office and as is required by law, and for the accounting for and paying over, as is required by law, all money which may come into his hands by virtue of his office, with sureties satisfactory to the council, in a penalty of not less than one hundred dollars nor more than five thousand dollars, as the council may prescribe.

Sec. 38. In case a violation of any ordinance of said city is committed in the presence, or within view of the marshal or other police officer, the offender may be forthwith apprehended and taken before the mayor, and a complaint under oath, stating such violation, there lodged and filed; and thereupon such offender may be
tried and dealt with according to law, without summons. The
marshal shall execute, within the county of Marshall, when directed
to him, any proper process issued by the mayor in proceedings for
the enforcement of ordinances; and shall collect by levy of execu-
tion, or otherwise, and duly account for, all fines assessed and costs
imposed in such proceedings. He shall also have all the rights and
powers within said city, in regard to the arrest of persons, the col-
lection of claims, and the execution and return of process, that are
or may be lawfully exercised by a constable of a district within the
same, and shall be entitled to the same compensation therefor; and
he and his sureties shall be liable to all the fines, penalties and for-
feitures that a constable is liable, for any dereliction of duty in of-
lice, to be recovered in the same manner, and in the same courts,
that such fines, penalties and forfeitures are recovered against con-
stables.

Clerk.

Sec. 39. It shall be the duty of the city clerk to keep a
journal of the proceedings of the city council and have charge of and
preserve the records, papers, contracts and other documents belong-
ing to the city; he shall keep regular books of account of the finan-
cial transaction of the city; he shall enter all judgments rendered
by the mayor within a reasonable time after the same are rendered;
he shall, in case of sickness or disability of the mayor to act, or in
case of his absence from the city, or during any vacancy in the office
of the mayor, perform the duties of mayor, and shall be vested with
all the powers necessary for the performance of such duties; he
shall also perform such other duties pertaining to the fiscal affairs
of the city, or otherwise, as may be required of him by this act or
by the council. He shall be paid such compensation as may be
provided by council, which shall be at the rate of not less than two
hundred dollars nor more than three hundred dollars per year.
Such clerk shall give bond with security to be approved by the
council in a penalty of not less than five hundred dollars, payable
to said city, conditioned for the faithful performance of his duties
as such clerk.

The officer whose duty is to make out the land books for Mar-
shall county, or such other person as the council may appoint, shall,
anually, at such compensation as agreed upon with council, not
later than the fifth day of August, furnish to the clerk, showing in
23 separate amounts, the aggregate value of all the personal property
24 and the aggregate value of all the real estate in the city, as ascer-
25 tained from the land and personal property books of said county
26 for the current year; upon receiving said statement the clerk shall
27 present the same to council at a meeting to be held not later than
28 rate of levy in said city for the current year; as soon as the rate of
29 levy shall have been fixed by council, the clerk shall furnish the offi-
30 cer whose duty it is to make out the land and personal property
31 books, a certified copy of the order of the council, fixing the rate of
32 tax, and such officer shall thereupon extend the tax against the
33 property situated in the city in the land and personal property
34 books in separate columns in said books.

Sec. 40. The clerk shall, when the extended copies of the
2 assessor's books are completed and returned to the clerk of the
3 county court, have access to the same for the purpose of making out
4 the tax tickets of the taxes therein extended, and it shall be the
5 duty of the clerk to make out all tax tickets, and when the same
6 have been examined, compared and approved by the financial com-
7 mittee of the council and found to be correct, they shall be turned
8 over to the marshal not later than the tenth day of September fol-
9 lowing the levy, whose receipt shall be returned to the council and
10 entered upon its records, and the marshal shall be charged there-
11 with.

12 The marshal shall give notice that said tax tickets are in
13 his hands for collection, stating the penalty for nonpayment there-
14 of, and the time and place where the same may be paid, which no-
15 tice shall be posted for fifteen days in a public place in each ward
16 of said city.
17 To all persons who shall pay their taxes in full before the first
18 day of December next succeeding said levy there shall be allowed
19 a discount of two and one half per centum on the whole amount of
20 the taxes so paid, and not otherwise.

21 The marshal shall immediately proceed to collect from the
22 persons by district or otherwise the entire amount of the taxes with
23 which they are severally charged therein, and remaining unpaid on
24 the first day of January next succeeding said levy, with interest at
25 the rate of one per centum per month from said first day of Janu-
26 ary until they are fully paid.

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

Sec. 41. The said marshal shall receive all taxes, assess-
ments, fines and costs and other money due the city authorized by
this act, or by any ordinance of the said city, to be paid to the city,
and shall receipt for same; he shall keep an accurate account of all
money paid to him for the use of said city, showing under separate
accounts the amount received for account of taxes, sewer purposes,
street pavement, licenses, fines and costs and of other matters per-
taining to his office, which books shall at all times be open to the
inspection of the council or any committee appointed by it for
such purposes; he shall pay over promptly all money which he may
receive, within five days after the receipt thereof, into the hands
of the treasurer of the said city, showing an itemized statement of
the several funds included in said payment, taking the treasurer's
receipt therefor; he shall keep his office at the office of the mayor,
unless otherwise ordered by the council; he shall on or before the
last day of March and September of each year, and oftener if di-
rected by council, present to the council a full, complete and detail-
ed statement of all money with which he is chargeable, or that has
been received by him from all sources up to the time, together with
a statement of all money paid to the treasurer, and proper receipts
therefor, and he shall at such times return a list of all taxes, lev-
ies, assessments and other claims in his hands for collection which
he shall not have been able to collect by reason of insolvency, re-
moval, or other cause, to which list he shall append an affidavit that
he has used due diligence to collect the several items therein men-
tioned, but has been unable to do so, and if the council should be
satisfied as to the correctness of said list, it shall allow him a credit
for said claim, but may thereafter take such lawful measures to
collect the same as shall be by it prescribed. The said marshal
shall receive all taxes on licenses, and receipt to the party paying
the same by endorsement upon the permit granted by order of the
council and shall charge himself with the amount received from the
same, and report to the council at the next regular meeting there-
after, the amount so received, and pay the same over to the treas-
urer, taking his receipt for the same; he shall, upon the expiration
of his term of office or upon the order of council, turn over to his
successor all money, books of account and other property of said
city in his possession.

Sec. 42. The marshal of said city shall be chargeable with,
and it shall be his duty to collect, the city taxes, levies and assess-
ments under such regulations as may be prescribed by law and the
ordinances of the city, and in case the same are not paid within
one month after they are placed in his hands for collection, he may
distrain and sell therefor in like manner and have the same power
and authority possessed by the officer with the collection of state
taxes.

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

Health Officer.

Sec. 43. The health officer shall perform such duties as may
be provided by any ordinance of said city, or by resolution of the
council, and shall receive a salary at the rate of not more than
three hundred dollars per year. He shall receive no compensation
from said city, other than the salary fixed by council.

Treasurer.

Sec. 44. The treasurer may be any citizen, a bank or trust
company of said city, and shall be selected by council and may hold
office during the pleasure of the council. All money due the city
shall be paid to the marshal and be by the marshal deposited with
the treasurer. The money deposited with the treasurer shall be
disbursed only upon orders drawn against the same, signed by the
mayor and countersigned by the clerk. The treasurer shall receipt
to the marshal for all money paid by him, and shall keep regular
books or account, showing the amount of the several funds paid or
deposited with the treasurer by said marshal, and shall make
report to the council once a month or at such other times as the
council may direct, showing the receipts and disbursements of the
funds of the city, and the treasurer shall produce his books of
account to the council or any committee of the same for inspection,
upon the order of the council.

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

Street Commissioner.

Sec. 45. The street commissioner shall perform such duties
2 in regard to construction and repair of streets and alleys, and re-
3 moval of garbage as are now, or which may hereafter be imposed
4 upon him by any ordinance of said city, and shall perform such
5 other duties as may be required by council. He shall receive such
6 compensation as may be fixed by council, which shall be at the rate
7 of not less than five hundred dollars nor more than one thousand
8 one hundred dollars per annum.

City Engineer.

Sec. 46. The city engineer shall be selected by the council,
2 and shall hold office during the pleasure of the council; he shall
3 perform such duties as may be required of him by the council or
4 provided by ordinance of said city, and his compensation therefor
5 shall be fixed by the council.

Fiscal Year.

Sec. 47. The fiscal year of said city shall begin on the first
2 day of April and end on the thirty-first day of March of each
3 year.

Property Subject to Taxation.

Sec. 48. All property real and personal within said city
2 which is subject to taxation under the constitution and laws of
3 the state of West Virginia, shall be assessed for and subject to
4 taxation for the benefit of said city.

Sidewalks.

Sec. 49. After having caused a proper grade to be established
2 at the expense of said city, the council may require sidewalks, foot-
3 ways or sidewalks and gutter combined, on the streets, avenues or
4 alleys of the said city to be paved with concrete, brick, stone or
other suitable material as the council may determine, under the direction of the street commissioner, by the owners respectively of the lots, or the fractional parts of lots, facing or abutting on such sidewalk or footway, and if the owner of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the clerk shall notify the owner of said lot the amount of such assessment, giving said owner notice of the time the council will hear and determine any objection which may be made to such assessment, and the council shall proceed to hear such objections, if any, and if in the opinion of the council such assessment should be made, such fact, with the amount 18-\(a\) of the same shall be recorded in the “minute book” of the council, and if the said assessment be not paid within thirty days from the date of such hearing the clerk shall cause a memorandum showing the name of the owner of said lot, a description of the lot, and the amount of such assessment, to be filed in the office of the clerk of the county court of Marshall county, which shall be entered of record in the judgment lien docket in his office, and the same shall constitute a line on such property, which may be enforced by a suit in equity in the name of the city, in the circuit court of Marshall county, as other liens against real estate are enforced, and upon the payment of said assessment the clerk shall issue to the person entitled thereto a release of said lien, provided, however, that reasonable notice shall first be given to said owners that they are required to construct such sidewalks or footways, and in case the owner is a non-resident of the state, the notice aforesaid may be given by publication for four successive weeks in a newspaper published in Marshall county, West Virginia. The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore, or which may be hereafter laid and completed, and which may be deemed insufficient.

Street Paving.

Sec. 50. The council shall have the authority to provide that any street, avenue or alley or any portion thereof, between the curbstones or gutters, shall be macadamized, or paved with bricks,
cobblestones, or other suitable material, upon the lowest and best terms obtainable, after advertisement for four weeks in one or more newspapers published in Marshall county, West Virginia, for bids and proposals for the work; and two-thirds of the cost of such macadamizing or paving, between the curbs or gutters of such street, avenue, or alley, shall be assessed to the owners of lots, or fractional part of lots, fronting or abutting on such street, avenue or alley, that is to say, the property owners on each side of said street, avenue or alley to be assessed one-third of the cost of said improvement, to each property owner a sum proportionate to the distance, or extent in feet by him owned, and one-third of the sum so assessed shall be paid by each property owner of the city within thirty days after the completion of the work, and the remainder in two equal installments in six and twelve months thereafter, with interest thereon at the rate of six per centum per annum, or at such other times as the council may prescribe. The remaining one-third of such expense, as well as the expense of macadamizing or paving at the intersection of streets, avenues and alleys, shall be defrayed by the city. The council shall cause a notice to be published for one week in a newspaper published in Marshall county, West Virginia, showing owners of the property and the number of feet fronting on said improvements, as well as the time and the place where the said council will proceed to fix said assessments as above provided, and giving notice to any persons having an interest in said property to appear and show cause, if any they can, why such assessment should not be made; and the council may, in making said assessments, consider the petition of any person or corporation relative to the inequality of said assessment, and may equalize and adjust the same. The assessment to be made to any owner of real estate shall constitute a lien on such estate; and like proceedings may be had and taken to enforce such lien, or to recover from such owner the amount of such assessment, or of any installment thereof, as those provided for in the preceding section providing for the laying of pavements. The council of said city may cause an additional annual levy of fifteen cents on the hundred dollars of the ascertained value of all the real and personal property within said city, or subject to taxation, for the purpose only of defraying the expense of paving the streets, avenues, alleys, wharves and public grounds of said city as herein provided; such levy shall be made at the time the general levy is laid, and shall be collected
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in like manner, but a separate account shall be kept of the receipts and expenditures of such fund.

Sec. 51. In addition to the method provided in the next preceding section for improving the streets, avenues, alleys, wharves and public grounds of said city, the council may by resolution passed by a vote of three-fifths of all the members thereof, provide that certain streets, avenues, alleys, wharves and public grounds of said city shall be paved, or otherwise improved, or that sewers shall be constructed in certain streets, avenues, alleys, wharves and public grounds of said city, under the provisions of chapter eight of the acts of the legislature of this state for the year one thousand nine hundred and eight, extra session, without submitting the adoption of said chapter to a vote of the qualified voters of said city as provided in section seventeen of said chapter, and upon the passage of said resolution the provisions of said chapter eight shall be adopted for the purposes contained in said resolution, and the council may proceed with the improvement according to the provisions of said chapter the same as though the provisions thereof were incorporated in this act.

Bonds Additional levy.

Sec. 52. The municipal authorities of said city shall have the power and authority to issue and make sale of the bonds of the said city and to apply the proceeds thereof to the payment for any general improvement therein, or to any debt or obligation of the said city as provided in chapter forty-seven of the code of West Virginia, nineteen hundred and thirteen, or may submit to the voters of said city the question of making an additional levy, and if three-fifths of the votes cast therein be in favor of such increase levy the council may levy the same.

Sec. 53. The city of McMecchen shall succeed to all the rights, powers and liabilities, and be vested with the title to all property of the city of McMecchen as heretofore existing, and all officers of said city of McMecchen acting as such at the time this enactment takes effect shall continue to exercise the powers, perform the duties, and receive the compensation heretofore granted, prescribed and allowed by former charter, by general law or by ordinances of said city, until the first Monday in April, one thousand nine hundred and twenty, or until their successors, the officers herein mentioned, are elected or appointed and qualify, and all ordinances in force at the time this act becomes operative shall
12 continue to have full force and effect until amended, repealed or 13 superseded by the council of said city.

Sec. 54. All acts and parts of acts coming within the pur- 2 view of this act, and inconsistent herewith, are hereby repealed.

CHAPTER 8.

(House Bill No. 11—Mr. Hamilton.)

AN ACT to amend, revise and consolidate into one act, the act of the legislature of West Virginia, passed February sixteenth, one thousand nine hundred and one, entitled, "An act to amend and re-enact and to reduce into one act the several acts incorporating the town of Mannington, in the county of Marion, defining the powers thereof and describing the limits of said town, and incorporating the city of Mannington, in said county," and all subsequent acts of the legislature of said state, including the acts passed February seventeenth, one thousand nine hundred and five; February twentieth, one thousand nine hundred and fifteen, and February nineteenth, one thousand nine hundred and seventeen, which form a part of the charter of the city of Mannington.

[Passed February 6, 1910. In effect from passage. Became a law without the Governor's approval.]
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Sec. 39. Collection of taxes by chief of police; duties relative thereto.

40. Manner by which license may be applied for and granted.

41. Application of section thirty-nine, chapter thirty-two, Barnes' code, for one thousand nine hundred and eighteen, relating to state license.

42. Right of condemnation of real estate for public utility.

43. Repealing acts or parts of acts inconsistent.

Sec. 44. Duties of council in being at time this act becomes effective.

45. Ordinances to remain in effect until amended, superseded or repealed.

46. Present officers to remain in power until successors qualify.

47. Act effective when adopted by qualified voters; special election provided for.

48. In event of failure of act to take effect.

49. If act is adopted and fails to take effect.

Be it enacted by the Legislature of West Virginia:

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

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

Beginning at a stake in the northern side of the old Man-nington and Clarksburg turnpike, near the residence of E. B. Koen, and running thence south seventy-six degrees east three hundred and sixty-three feet to a stake in the northern side of said turnpike; thence south forty-seven degrees thirty minutes east seven hundred and thirty-four feet to a stake in the northern side of said turnpike; thence south thirty-one degrees fifteen minutes east six hundred and thirty and five-tenths feet to a stake in the northern side of said turnpike; thence south sixteen degrees twenty-five minutes east three hundred and three feet to a stake in the northern side of said turnpike; thence leaving said turnpike south seventy-three degrees fifty-two minutes east seven hundred and fifty-seven feet to a stake in the field; thence north seventy-nine degrees thirty-six minutes east eight hundred and eighty-six feet to a stake, which bears south sixty-five degrees west ninety-five feet from oil well number twelve on the original J. W. Phillips tract; thence south fourteen degrees fourteen minutes east one thousand
five hundred and fifty-five feet to a stake twenty feet to the left of well number three on said J. W. Phillips tract; thence north seventy-six degrees fifty-four minutes east eight hundred and eighty-five feet to a stake, three feet from the northwest corner of lot number two, block No. N, twenty-eight feet to the left at right angles; thence north sixty-one degrees, fifty-six minutes east four hundred and thirty-five feet to a stake eight feet to the right of the southeast corner of lot number thirty-nine, block M; thence crossing Buffalo creek and the Baltimore and Ohio railroad, north forty-two degrees fifty-two minutes west five hundred and seventy feet to a stake at the southern edge of the pike; thence north forty degrees fifty-seven minutes west two hundred and sixty-nine feet to a stake at the south side of the pike; thence north thirty-three degrees fifty-four minutes west three hundred feet to a stake at the south side of the pike; thence north forty-six degrees thirty-four minutes west one hundred and ninety-one feet to a stake at the south side of the pike; thence north seventy-one degrees forty-nine minutes west one hundred and fifty-seven and five-tenths feet to a stake at the southern edge of the pike; thence south eighty-seven degrees twenty-one minutes west one hundred and fifty-four and five-tenths feet to a stake near a culvert; thence north one degree twenty-four minutes west four hundred and eighty feet to a walnut; thence north thirty-three degrees twenty minutes west one thousand eight hundred and twenty feet to a stake; thence north eight degrees forty-five minutes west
six hundred and sixty feet to a stake; thence north fifteen de-
grees fifteen minutes east eight hundred and fourteen feet to a
stake; thence north thirty-five degrees five minutes west one
thousand six hundred and ten feet to a white oak on a bluff;
thence north eighty-three degrees thirty minutes west three hun-
dred and sixty-five feet to a point on the northeast corner of the
head wall of a culvert on the bluff; thence north thirty-five
degrees west one thousand six hundred and ten feet to a white
oak on a bluff; thence north eighty-three degrees thirty minutes
west three hundred and sixty-five feet to a point on the north-
est side of the county road; thence south forty-two degrees fif-
teen minutes west one thousand and seventy-two feet to a
point on the root of a white oak tree, corner to Koen and
Beaty, from which the corner of Koen heirs, Sallie Beaty and
Snodgrass, formerly Geo. Furbee estate, bears north thirty-three
degrees thirty minutes west two hundred and twenty-five feet;
thence north eighty-two degrees west seven hundred and sixty
feet to a gum in Koen heirs field; thence south fifty-four degrees
twenty minutes west one thousand nine hundred feet to the
northeast corner of the Grand View plan of lots; thence south eighty-
six degrees thirty minutes west eight hundred and twenty-five feet
to a stake; thence south two degrees west one thousand one hun-
dred and fifty-five feet to a stake, which line runs in part with the
east side of Linden avenue; thence south fifty-seven degrees fifteen
minutes east one thousand five hundred and eighty-eight feet to a
stake near Buffalo creek; thence crossing said creek, south seventy-
one degrees fifteen minutes east five hundred and thirty feet to a
servis in Koen's field; thence north seventy-four degrees east one
thousand six hundred and ten feet to a stake in the north side of
the Mannington and Clarksburg turnpike, the place of beginning.

Sec. 3. The territory of said city shall be divided into five
wards described as follows:

First ward—All that portion of said city lying east of Pyles
Fork creek and Buffalo creek to that point on Buffalo creek
where the line of Fairview street extended in a southwestern di-
rection strikes Buffalo creek, and with this line and Fairview
Sec. 4. The municipal authorities of said city shall consist of a mayor and ten councilmen, who together shall form a common council, and who shall receive such compensation as the council shall from time to time determine, and which shall not be increased or diminished during their term of office.

Sec. 5. All the corporate powers of said corporation shall be exercised by said council or under their authority, except when otherwise provided.

Sec. 6. The mayor and councilmen at the time of their election shall be free holders in said city, and shall be entitled to vote for the members of the common council of said city as residents and legal voters therein.

Sec. 7. There shall be a chief of police, who shall be ex-officio collector, a city attorney, street commissioner, superintendent of water works, city physician, assessor, three auditors, city surveyor and clerk, who at the time of their election or appointment shall be entitled to vote for the members of its common council. The city attorney, city physician and city surveyor shall be appointed by the common council, to hold their respective offices for the term of one year from the first day in April, or until their successors shall have been appointed and qualified.

Sec. 8. On the second Monday in March, one thousand nine hundred and nineteen, and on said day of every succeeding year,
there shall be elected by the qualified voters of said city a mayor, 4 chief of police, who shall be ex-officio collector, and three auditors, who shall hold their respective offices for one year and until 6 their successors shall be elected and qualified.

Sec. 9. On the same day two members of the council shall 2 be elected in each ward in said city who shall reside in the ward 3 for which they are elected, and the candidate receiving the high- 4 est number of votes shall be elected for two years, from the first 5 day in April, succeeding his election, and the candidate receiving 6 the next highest number of votes shall be elected for one year 7 from the first day in April succeeding his election. And on the 8 same day each succeeding year one member of the council 9 shall be elected in each ward in the said city whose term of office 10 shall be for two years from the first day of April succeeding his 11 election, and until his successor shall be elected and qualified. 12 Each ward shall constitute an election precinct, and the council 13 shall establish a voting place in each, and the election of council- 14 men shall be by wards. No voter shall be entitled to vote at any 15 city election except in the ward in which he resides, and if any 16 voter shall vote for any person for councilman who is not a 17 resident of the ward in which he is voted for, such vote or votes 18 shall not be counted for such person or persons.

Sec. 10. Every male person residing in said city shall be 2 entitled to vote for all officers elected under this act, but no per- 3 son who is a minor or of unsound mind, or a pauper, or who is 4 under a conviction of treason, felony or bribery in an election, 5 or who has not been a resident of this state for one year, and of 6 the city of Mannington for sixty days, and is a bona fide resident 7 of the ward in which he offers to vote, and each voter shall be 8 entitled to vote for only two auditors.

Sec. 11. In all the elections by the people the mode of voting 2 shall be by ballot; but the voter shall be left free to vote by open, 3 sealed or secret ballot, as he may elect. The election in said city 4 shall be held and conducted and the result thereof certified, re- 5 turned and finally determined under the laws in force in this 6 state, relating to general elections, on the date of the passage of 7 this act. The corporate authorities of said city shall perform the 8 duties in relation to such election required by general law of 9 county courts and officers on the date of the passage of this act, 10 and the provisions of chapter three, of the code of West Virginia, 11 and any amendments to said chapter, in effect on the date of the
12 passage of this act concerning elections by the people, shall govern such election and be applicable thereto, and the penalties therein prescribed for offenders relating to elections shall be enforced against the offenders at such corporate elections, and said act and its amendments shall have the same force and effect as if it were specially applicable to such corporate elections.

Sec. 12. Whenever two or more persons shall receive an equal number of votes for councilmen or other city officers, such tie shall be decided by the council in being.

Sec. 13. All contested elections shall be heard and decided by the common council for the time being; and the contest shall be made and conducted in the same manner as provided for in contests for county and district officers; and the common council shall conduct their proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

Sec. 14. Whenever a vacancy shall occur from any cause in the office of mayor, councilmen, chief of police and ex-officio collector, street commissioner, superintendent of water works or city assessor, the council for the time being shall, by a vote of the majority of those present, fill the vacancy until the next election, at which time a successor to fill the unexpired term of such office shall be elected by the people, or be appointed by the council.

Sec. 15. The street commissioner, superintendent of water works, city attorney, city physician, city surveyor, city assessor, and clerk shall be appointed by the council. The council shall also have authority to provide by ordinance for the appointment of such officers as shall be necessary and proper to carry into full force any authority, power, capacity or jurisdiction which is or shall be vested in the said city, or in the council, or in the mayor, or any other officer or body of officers thereof; and to grant to the officers so appointed the power necessary or proper for the purpose above mentioned. The council shall, by ordinance, define the duties of all officers so appointed or elected as aforesaid, and allow them reasonable compensation, which shall be by monthly or annual salaries, and not otherwise; and which compensation shall not be increased or diminished during their term of office and shall require and take from all of such officers, whether elected or appointed, whose duty it shall be to receive its funds, assets or property, or have charge of the same, such bonds, obligations or other writings as they shall deem necessary or proper to insure the faithful performance of their
19 several duties. All officers so appointed or elected may be removed
20 from office for malfeasance, non-feasance, or misfeasance, by the
council; and, unless their term of office be otherwise fixed by ordi-
22 nance, they shall be considered as holding their respective offices at
the pleasure of the council. The chief of police shall have all pow-
ers, rights and privileges, within the corporate limits of said city,
in regard to the arrest of persons, the collections of claims, the exe-
cution and return of processes that can be legally exercised by a
constable of a district within the same, and he and his sureties shall
be liable to all fines, penalties and forfeitures that a constable of a
district is legally liable to for any failure or dereliction in his said
office, to be recovered in the same manner and in the same courts
that the said fines, penalties and forfeitures are now recov-
ered against such district constable. It shall be the duty of the
chief of police, as ex-officio collector, to collect city taxes, licenses,
levies, assessments, water rents and deposits, and such other city
claims as are placed in his hands for collection by the council, and
may distraint and sell for city taxes; and he shall have, in all other
respects, the same power as a sheriff to enforce the payment and col-
lection thereof. All officers appointed by the council must be resi-
dents of the city and qualified voters at the time of their appoint-
ment.

Sec. 16. All bonds, obligations and other writings, taken in
pursuance of any provision of this act, shall be made payable to
"The City of Mannington," and the respective persons, and their
heirs, executors, administrators and assigns bound thereby, shall be
subject to the same proceedings on the said bond, obligation or
other writings, for enforcing the conditions of the terms thereof,
by motion or otherwise, before any court of record held in and for
the county of Marion that collectors of county levies, and other
sureties are, or shall be subject to on their bonds for enforcing the
payment of the county levies.

Sec. 17. The mayor and council and all other officers pro-
vided for in this act shall each, before entering upon the duties of
their office and within one week from date of their election or ap-
pointment, give the bond required from any officer by section fif-
teen of this act and take the oath prescribed by law for all officers
of this state, and make oath or affirmation that they will truly,
faithfully and impartially, to the best of their ability, discharge the
duties of their respective offices so long as they continue therein.
Said oath or affirmation may be taken before any person author-
ized to administer oaths under the laws now in force, or before the mayor or clerk of said city.

Sec. 18. The mayor and all other officers provided for in this act shall enter upon the duties of their offices upon the first day of April each year, or as soon as they are qualified, and shall continue therein until their successors are elected or appointed and qualified.

Sec. 19. If any person elected to the office of mayor, councilman, chief of police and *ex-officio* collector, or auditor shall not be eligible to such office under the provisions of this act, or shall fail to qualify as herein required, the council for the time being shall declare his said office vacant and shall proceed to fill the vacancy as required by this act; and the council shall have authority to remove any of its members for cause; provided nine-tenths of all the members of which the council shall consist concur in such removal; but the cause of such removal shall be specified and recorded in the minutes.

Sec. 20. The mayor shall be the chief executive officer and treasurer of the city and shall take care that the orders, by-laws, ordinances, acts and resolutions of the council thereof are faithfully executed. He shall be *ex officio* a justice and conservator of the peace within the city, and shall within the same have, possess and exercise all the powers and perform all the duties vested by law in a justice of the peace, except that he shall have no jurisdiction in civil cases or causes of action arising out of the corporate limits of the city. He shall have the same power to issue attachments in civil suits as a justice of his county has though the cause of action arose out of his city. But in such cases he shall have no power to try the same, but said attachment shall be returnable to and be heard before some justice of his county.

Any warrant or other process issued by him may be executed at any place in the county; he shall have control of the police of the city and may suspend any policeman for cause, and he may appoint special police officers whenever he deems it necessary; and it shall be his duty especially to see that the peace and good order of the city are preserved, and that persons and property therein are protected, and to this end he may cause the arrest and detention of all riotous and disorderly persons in the city before issuing his warrant therefor. He shall have the power to issue executions for all fines; penalties and costs imposed by him, or he may require the immediate payment thereof, and in default of such payment he may
commit the party in default to the jail of the county of Marion or
other place of imprisonment in such corporation, if there be one,
until the fine or penalty and costs, shall be paid, but the term of
imprisonment in such cases shall not exceed thirty days. And in
all cases where a person is sentenced to imprisonment or to the pay-
ment of a fine of ten dollars or more (and in no case shall a judg-
ment for a fine of less than ten dollars be given by the mayor if the
defendant, his agent or attorney object thereto) such person shall
be allowed an appeal from such decision to the intermediate or cir-
cuit court of Marion county, upon the execution of an appeal bond
with surety deemed sufficient by the mayor, in a penalty double the
amount of the fine and costs imposed by the mayor, with condition
that the person proposing to appeal will perform and satisfy any
judgment which may be rendered against him by the said courts on
such appeal. If such appeal be taken, the warrant of arrest, (if
there be any) the transcript of judgment, the appeal bond and
other papers of the case, shall be forthwith delivered by the mayor
to the clerk of said courts, and the court shall proceed to try the
case as upon indictment or presentment, and render such judgment
including that of the costs as the law and the evidence may re-
quire. The mayor shall, from time to time, recommend to the
council such measures as he may deem needful for the welfare
of the city. The expense of maintaining any person committed
to the jail of the county by him, except it be to answer an indict-
ment or be under the provisions of sections two hundred twenty-
seven and two hundred twenty-eight of chapter fifty, of the
amended code of this state, shall be paid by the city. But the may-
or shall not receive any money belonging to the state or individ-
uals, unless he shall give the bond and security required of a jus-
tice of the peace by chapter fifty of the said code,' and all the pro-
visions of said chapter relating to money received by justices shall
apply as to like moneys received by the mayor.

Sec. 21. The clerk shall keep the journal of the proceedings
of the council and have charge of and preserve the records, papers,
contracts and other documents belonging to the city; shall attend
all sessions of the police court and keep an accurate record of its
proceedings, and all judgments shall be entered by him within twen-
ty-four hours after the same are rendered. He shall also perform
such other duties pertaining to the fiscal affairs of the city, or
otherwise, as may be required of him by this act, or by council.

Sec. 22. The presence of a majority of the council shall be
necessary to make a quorum for the transaction of business. And
in the absence from the city, or in the case of sickness or inability
of the mayor, or during any vacancy in the office of mayor, some
member of council appointed so to do, annually, by said council at
its first regular or called meeting, shall perform the duties of mayor
which pertain to him as the chief executive of said city, and be
vested with all the power necessary for the performance of such
duties.

Sec. 23. The council shall cause to be kept by the clerk in a
well-bound book, to be called the “minute-book”, an accurate rec-
ord of all its proceedings, ordinances, acts, orders and resolutions;
and in another, to be called “ordinance book”, accurate copies of all
general ordinances adopted by the council, both of which shall be
fully indexed and open to the inspection of any one required to pay
taxes to the city, or who may be otherwise interested. All oaths
and bonds of officers in the city, and all papers of the council, shall
be endorsed, filed and securely kept by the clerk. The bond of of-
ficers shall be recorded in a well-bound book to be called the “rec-
ord of bonds.” The clerk shall perform all such other duties as
may by ordinance of the council be prescribed. All printed copies
of such ordinances purporting to be published under authority of
the council, and transcripts of such ordinances, acts, orders and
resolutions, certified by the clerk under the seal of the city, shall
be deemed prima facie correct, when sought to be used in any court
or before any justice.

Sec. 24. At each meeting of the council the minutes of the
last meeting shall be read and corrected, if erroneous, and signed
by the presiding officer for the time being. Upon the call of any
member the ayes and noes on any question shall be taken and rec-
dored in the journal or minutes, and the roll shall be called alpha-
etically.

Sec. 25. The mayor shall have a vote only in case of a tie.

Sec. 26. The meeting of the council shall be held at such
places and at such times as they shall from time to time ordain
and appoint, but it shall be lawful for the council, by ordinance, to
vest in any officer of said city, or in any member or number of
members of their own body, the authority to call special meetings;
and it shall, by ordinance, prescribe the mode in which notice of
such meetings shall be given, and no business shall be transacted
unless a majority of all the members of which it then consists shall
be present, except that a less number may compel the attendance of
absent members under such reasonable penalties as they may think proper to impose, and all questions put, except in such matters as are hereinafter provided for, shall be decided by a majority of the members present.

Sec. 27. All moneys belonging to the city shall be paid over to the mayor, and no money shall be paid out by him except as the same shall have been appropriated by the council and upon an order signed by the mayor and clerk, and not otherwise.

Sec. 28. The council shall have authority to erect a city hall, engine-house or houses, and to regulate the same; to establish and maintain free public libraries and reading rooms, to purchase books, papers and manuscripts therefor, and to receive donations and bequests of money and property for the same, in trust or otherwise, and to designate such agents or trustees to manage the same in such manner as it shall, by ordinance, prescribe; and to erect a work-house, jail, house of refuge, hospital or infirmary, and other buildings necessary for said city; and the use and occupation of said buildings shall be prescribed by ordinance.

Sec. 29. The said city shall be allowed to use the county jail of Marion county for the confinement of all persons who shall be sentenced to imprisonment under the ordinances of said city; and all persons confined in said county jail by virtue hereof shall be under the charge and custody of the sheriff of said county, who shall receive, keep and discharge the same in such manner as shall be prescribed by the ordinances of said city, or otherwise according to law.

Sec. 30. The council shall have and hereby is given authority to acquire by purchase, or otherwise, any and all real estate within said city, or adjacent thereto, not to exceed twenty acres, necessary for cemetery purposes; to maintain and keep the same in good condition and repair, and to provide, by taxation or otherwise, sufficient funds necessary to maintain and keep the same in good condition and repair; to regulate the burial of the dead within said city, and to preserve the peace within all the cemeteries acquired by it, whether situated within or without the corporate limits of said city, and all other cemeteries within said city; and in general to have such care and control over said cemeteries as will promote the public good.

Sec. 31. Upon the petition, in writing, of the persons owning the greater amount of frontage of the lots abutting on any street or alley, between any two cross streets, or between a cross street and
4 alley, the council of said city city, by a lawful majority thereof, may
5 order such part of any street or alley to be paved between the side-
6 walks with cobblestone, brick, Belgian blocks, asphaltum or other
7 suitable material, from one of such cross streets or alleys to the
8 other, under such regulations as may be fixed by ordinance duly
9 passed by council; two-thirds of the cost of such paving shall be as-
10 sessed to the owners of the lots or fractional parts of lots abutting
11 on that part of the street or alley so paved, in proportion to the dis-
12 tance such lot or part of a lot abuts on such street or alley, and the
13 remaining one-third of the cost of such paving shall be paid by the
14 city. In making such assessments the basis shall be the cost of
15 paving that part of the street or alley on which the property lies,
16 included between the adjoining cross streets or alleys; and the
17 amounts assessed against the owners of each lot or fractional part of
18 a lot shall be in the proportion which the frontage of such lot or
19 part of a lot bears to the whole cost of paving said street or alley
20 between said cross streets or alleys as aforesaid.
21 There shall be a lien on all real estate within such city for the
22 city taxes assessed thereon, from the day fixed by law for the com-
23 mencement of the assessment of such taxes each year, and the inter-
24 est upon such taxes at the rate of ten per centum per annum, from
25 the first day of January next after such assessment until payment,
26 which may be enforced by the council in the same manner now pro-
27 vided by law for the enforcement of the lien for state or county
28 taxes, or in such other manner as the council may by ordinance pre-
29 scribe. There shall also be a lien on all real estate within such
30 city for other assessments, fines and penalties assessed or imposed,
31 which shall have priority over all other lines except the liens for
32 taxes, and may be enforced by the council by suit in equity in the
33 corporate name of the city in the same manner now prescribed by
34 law for the enforcement of the lien for state or county taxes, or in
35 such other manner as the council may by ordinance prescribe.

Sec. 32. If any real estate within said city be returned de-
2 linquent for the nonpayment of the taxes thereon, a copy of such
3 delinquent list may be certified by the council to the auditor and
4 the same may be sold for the taxes, interest and commissions thereon,
5 in the same manner, at the same time and by the same officer, as
6 real estate is sold for the nonpayment of state taxes.

Sec. 33. The council of said city shall have the power within
2 said city to lay off, vacate, open, close, alter, widen, extend, curb,
3 grade, pave and keep in good repair the roads, streets, alleys, side-
4 walks, crosswalks, drains and gutters therein, for the public use, 
5 and to improve and light the same, and have them kept free from 
6 obstruction on or over them; to regulate and determine the width 
7 of all pavements, sidewalks, streets and public alleys, and to order 
8 sidewalks, footways, and gutters to be curbed and paved and kept 
9 in good order, free and clean by the owners or occupants thereof, 
10 or the real property next adjacent thereto; provided, however, 
11 that nothing in this act shall be construed as to require the city 
12 of Mannington to build or keep in repair any bridge or bridges 
13 within said corporation owned by the county, and the officers of 
14 the said city, in preservation of law and order, shall have jurisdic-
15 tion over said bridge or bridges within said corporation; to estab-
16 lish and regulate markets, prescribe the time of holding the same, 
17 and what articles only shall be sold in said market, and prevent 
18 the forestalling of such markets; to prevent injury or annoyances 
19 to the public or to individuals from anything dangerous, offensive 
20 or unwholesome; to prohibit or regulate slaughter houses, tan 
21 houses and soap factories within the city limits; or the exercise 
22 of any unhealthful or offensive business, trade or employment; 
23 to abate all nuisances within the city limits; or to require and 
24 compel the abatement or removal thereof at the expense of the 
25 owner or occupant of the grounds on which they are placed or 
26 found; to cause to be filled up or raised or drained by or at the 
27 expense of the owner, any city lot or tract of land covered or 
28 subject to be covered by stagnant water; to prevent horses, hogs, 
29 cattle, sheep and other animals and fowls, of all kinds, from going 
30 or being at large in said city; and as one means of prevention, to 
31 provide for impounding and confining such animals and fowls, 
32 and upon failing to reclaim, for the sale thereof; to protect places 
33 of Divine worship, and preserve order in and about the premises 
34 where and when such worship is held; to prohibit any theatrical 
35 or any performance, show or exhibition which the council may 
36 deem injurious to the morals and good order of the city; to regu-
37 late the keeping of gunpowder, nitroglycerine and other inflam-
38 mable or dangerous substances, and prohibit the storing or keep-
39 ing of the same in large or unsafe quantities within said city; to 
40 provide and regulate the building of houses and other structures, 
41 and determine the distance that they shall be from any street or 
42 alley, and the material of which they shall be composed; to cause 
43 the removal of unsafe walls or buildings; to provide for the mak-
44 ing and maintaining of all division fences by the owners of ad-
45 jacent premises, and the drainage of lots or other parcels of land
by proper drains and ditches by or at the expense of the owner
or occupant thereof; to make regulations with respect to erecting
and locating of all telephone, telegraph, electric light or other
poles within said city, and the extension of any wires, lines and
poles by any individual or corporation; to make regulations for
guarding against danger or damage from fire; to organize one or
more fire companies and provide necessary apparatus, tools, imple-
ments, engines, or any of them for their use, and, in their dis-
cretion, to organize and maintain a paid fire department, and to
prescribe rules and regulations for the government of said fire
department; to protect the persons and property of those being
or residing within the city; to preserve peace and good order in
said city; and for this purpose to appoint the necessary police
force, temporary or permanent, to assist the chief of police in the
discharge of his duties, and to prescribe rules and regulations for
the government of the police department of the said city; to
preserve the health of the inhabitants of said city, and for this
purpose may establish a board of health, and prescribe rules and
regulations for the government of said board, and to prevent the
spread of contagious diseases and sickness in said city; and to
this end said council may enact, prescribe and enforce strict rules
of isolation and quarantine of all persons afflicted with con-
tagious or infectious diseases, as well as such persons as may be
suspected of being afflicted with such diseases, and to erect and
maintain necessary building or buildings for the safe
keeping and custody of such persons suffering from con-
tagious diseases; to authorize and prohibit the erection of gas
works or electric light works or water works in or near said city;
ton prevent injury of such work, or the pollution of any gas or
water used or intended to be used by the public, or any individual;
to provide for and regulate the weighing or measuring of hay,
coal, lumber and other articles sold or kept or offered for sale
within said city, and to establish rates and charges for said weigh-
ing or measuring; to regulate the transportation thereof through
the streets of said city; to regulate the running or speed of engines
and cars within the city, and may prevent unnecessary using or
blowing of any whistles on said engines or cars; to prevent
the firing of guns, crackers, or any combination of gunpowder
or other combustibles or dangerous materials, and the throwing
of fire balls within said city; to prevent the riding or driving of
horses and animals, automobiles and bicycles at an improper or
dangerous rate of speed within the city limits; to prevent or suppress gaming and gambling, in any form, or the operation of gaming and gambling devices, within said city limits; to prevent or suppress vagrancy, burglary and theft; to punish for assaults and batteries; to prohibit the keeping of, or loitering, or visiting houses of ill fame, or loitering in saloons or on the streets or highways; to prevent lewd or lascivious conduct and the making, sale of or exhibition of indecent pictures or other representations; to suppress or prevent the desecration of the Sabbath day; profane swearing and obscene language; to prohibit the exhibition of moving pictures of all kinds on the Sabbath day, whether an admission fee is charged therefor or not; to prohibit the illegal sale of all intoxicating liquors, mixtures, and preparations, beer, ale, wine or drinks of like nature; to suppress or prevent the carrying of any dangerous or deadly weapons within said city; to create by ordinances such committees and boards and delegate such authority thereto as may be deemed necessary or advisable; to provide for the annual assessments of taxable persons or property in their city, including dogs kept in said city, and regulate their running at large; and to provide revenues for the city for municipal purposes, and to appropriate such revenues to its expenses; to take, acquire and hold, by condemnation, or purchase or donation, any and all real estate necessary for public purposes within said city, or adjacent thereto; provided, that said city shall at no time hold more than fifty acres without the corporate limits of said city, nor more than ten acres within the limits of said city; nor shall said city authorities have the right to acquire by purchase, condemnation or gifts, any land more than three miles distant from the corporate limits of said city; the common council shall have power and authority to sell and convey any of the property of the said city, either real, personal or mixed, for a proper consideration, except that no part of the water works plant or system owned by said city shall be sold and conveyed until the question of such sale and conveyance shall have first been submitted to the qualified voters of said city, at a special or general city election held at the usual voting places of said city for that purpose, and shall have been approved by at least three-fifths of the legal voters of said city, cast for and against the same, at the said election, notice of which said election shall be published in at least one newspaper of general circulation in the said city for two weeks consecutively, and said
An election shall be held within ten days after the expiration of the publication of said notice aforesaid; and, in such election, the conduct and returns thereof shall be as provided by law for all other elections held within said city for officers and other purposes; said council shall have the power to adopt rules for the transaction of business and for the government and regulation of its own body; to construct and maintain public sewers and laterals and may, in its discretion, assess upon and collect from the property benefited thereby such part of the expenses thereof as shall be deemed equitable and just by the said council; to regulate and control all conveyances for public use and hire in said city; to control the construction and repairs of all houses, bridges, culverts and sewers, the opening and construction of ditches, drains, sewers and gutters, to widen and deepen and clean the same of stagnant water and filth, and to determine at whose expense the same shall be done; to provide for shade trees, and the proper protection of the same; to define the powers, prescribe the duties and fix the term of service and compensation of all officers appointed by said council; to require and take from them bonds, with such sureties and in such penalties as the council may determine for the true and faithful discharge of their duties, and remove them at their pleasure (all bonds taken by the council shall be made payable to the city by its corporate name); to grant and regulate all franchises in, upon, over and under the streets, alleys, and public ways of said city, under such restrictions as shall be provided for by ordinance; but no exclusive franchise shall be granted by said council to any individual or corporation; and generally to take such measures as may be deemed necessary or advisable to protect the property, public and private, within the city; to prescribe and maintain peace, quiet and good order therein, and to preserve and promote the health, safety, comfort and well being of the inhabitants thereof; and for all of which purposes, except that of taxation, the council shall have jurisdiction for one mile beyond the corporate limits of said city.

Sec. 34. The council shall have authority to pass all ordinances (not repugnant to the constitution and laws of the United States and of this state) which shall be necessary or proper to carry into full effect and power any authority, capacity and jurisdiction which is or shall be granted or vested in the said city, or in the council, or in any officer or body of officers of said city, and to enforce any or all ordinances by reasonable fines and penalties,
8 and by imprisoning the offender or offenders, and upon failure to
9 pay any fine or penalty imposed by compelling them to labor with-
10 out compensation on any of the public works or improvements
11 undertaken, or to be undertaken, by said city, or to labor at any
12 work which the city may lawfully employ labor upon, at such rate
13 per diem as the council may fix, but not at a less rate than is fixed
14 by said city council for like labor from other employees of said
15 city, until any fine or fines imposed upon any such offender or
16 offenders by said city shall have been fully paid and discharged,
17 after deducting charges of support while in the custody of the
18 officers of said city; and all ordinances relating to licenses, and the
19 keeping of, or dwelling or loitering in houses of ill fame, and such
20 police regulations as may be ordained of said city, and the right
21 and power to enforce the same shall extend one mile in the state of
22 West Virginia beyond the corporate limits of the said city; pro-
23 vided, however, that no fine shall be imposed exceeding two hun-
24 dred dollars, and that no person shall be imprisoned or compelled
25 to labor, as aforesaid, for more than sixty days for any one offense.
26 In all cases where a fine is imposed for an amount exceeding ten
27 dollars, or a person be imprisoned or compelled to labor as afore-
28 said for a term greater than ten days, an appeal may be taken from
29 any such decision, upon the same terms and conditions that appeals
30 are taken from the judgment of a justice of this state. Such fines
31 and penalties shall be imposed and recovered, and such imprison-
32 ments inflicted and enforced by and under the judgment of the
33 mayor of the city, or in case of his absence or inability to act, by
34 a member of the council, appointed by the council for that purpose,
35 and as required by section twenty-two of this act.
36 In addition to the powers above enumerated, the said city
37 council shall have power to provide, contract for and construct an
38 adequate sewerage system for said city; and have power to improve,
38-a amplify and expand the water works of, and to contract for an
38-b adequate supply of pure, healthful water for said city, and do all
39 things necessary to adequately supply said city with pure, whole-
40 some water; and there is hereby granted to said city the right and
41 privilege, under the direction and supervision of its council, to
42 furnish water to consumers residing in territory contiguous to but
43 outside of the corporate limits of said city, and within one mile
44 thereof; provided, any water so furnished is furnished upon the
45 same terms and conditions that it is furnished to consumers within
46 said city, and through mains and lines connected to the mains and
lines within said city; and the same rights, privileges and powers
are hereby granted to said city to collect water rents and deposits
for all water so furnished to consumers residing without said city
as it now has to collect water rents and deposits within its cor-
porate limits.

Sec. 35. That said city council shall have and is hereby
granted, exclusive control of all licenses required by law, and all
such other licenses it may see fit to impose and require within the
corporate limits of said city, not contrary to the constitution of
the state of West Virginia. And in case of any such license
granted by said city council, it shall not be necessary for the per-
sion or persons, or corporation, holding the same to apply for,
obtain or hold any state license or other additional license from
the county court of Marion county, West Virginia, for the carry-
ing on or conducting the business so licensed by said city council.
But the person, persons or corporations so licensed by said city
council shall not be exempt from paying the usual state license
required by law. When any such license as hereinafter men-
tioned is granted by said city council, said council may impose a
tax thereon for the use of the city in conformity with the re-
quirements of the state law. The said city council shall, upon
granting any such license required by law, within ten days there-
after, furnish to the clerk of the county court, the prosecuting
attorney, and the assessor of Marion county, duly certified copies,
under the corporate seal of the said city, of the order granting
every such license, whereupon such assessor shall cause the sheriff
of Marion county to collect the state tax thereon, in the same
manner as if said license was granted by the county court of
Marion county, West Virginia.

The council shall have, and is hereby granted authority to
license and tax owners of horses, hacks, carts, wagons, drays,
automobiles, bicycles, motorcycles and every description of
wheeled vehicles kept within the said city, and to subject the same
to such regulations as the interest, convenience and public safety
of the inhabitants of said city may require; to require a city
license for the selling and handling of soft drinks of all kinds,
and to impose a tax thereon for the use of the city, but the grant-
ing or refusing such soft-drink license shall be discretionary with
the council; to license and tax owners and keepers of dogs within
the city, and to provide for the killing of dogs, the keeping of
which is not so licensed; to license and tax hawkers, peddlers,
book-agents and canvassers of all kinds within said city, and
persons who temporarily station themselves upon a street to sell
or exhibit articles; and to require a city license for persons con-
ducting and carrying on any business or vocation for which the
state may now or hereafter require a license.

Sec. 36. A book, well bound and indexed, to be denominated
the "docket" shall be kept in the office of the mayor, in which
shall be noted each case brought before or tried by him, together
with the proceedings therein, including a statement of the com-
plaint, the summons, the return, the fact of appearance or non-
appearance, the defense, the hearing, the judgment, the costs, and
in case the judgment be one of conviction, the action taken to en-
force the same. The record of each case shall be signed by the
mayor, and the original papers thereof, if no appeal be taken,
shall be kept together and preserved in his office, and the mayor
shall deliver to his successor the docket and all books pertaining
to his office.

Sec. 37. The council shall cause to be made up annually
and spread upon its minute-book an accurate estimate of all sums
which are or may become lawfully chargeable against the city,
and which ought to be paid within one year, and it shall order a
levy of so much as will in its judgment be necessary to pay the
same. Such levy shall be upon all tithables and upon all real and
personal property therein subject to state and county taxes, in-
cluding a poll tax of not more than one dollar upon each male
resident of said corporation over twenty-one years of age; pro-
vided, that such levy shall not exceed one dollar on each tithable
and one dollar on every one hundred dollars of the ascertained
value of such property. At least once in each year the council
shall cause to be made up and be published in one or more news-
papers of the city a statement of the revenue received from the
different sources, and of the expenditures upon the different ac-
counts for the preceding year or portion of year, as the case may
be.

Sec. 38. It shall be the duty of the assessor to make an
assessment of the property within the city subject to taxation sub-
stantially in the manner and form in which the assessments are
made by the assessor of the county, and return the same to council
on or before the first day of June of each year, and for this pur-
MANNINGTON CHARTER

6 pose he shall have all the powers conferred by law on county
7 assessors. He shall list the number of dogs in the city, and the
8 names of persons owning the same, which list shall be returned to
9 the council (see chapter forty-seven, section forty-one, code of
10 West Virginia). In order to aid the said council in ascertaining
11 the property and tithables subject to taxation by said city, the
12 assessor of said city shall have access to all books and public
13 records of Marion county, without expense to said city, or as-
14 sessor, and he also shall have the same power and be subject to
15 the same penalties in ascertaining and assessing the property
16 and subjects of taxation in said city as are granted and imposed
17 upon the county assessors throughout the state by general law,
18 and the council shall also have authority to prescribe by ordi-
19 nance such other rules and regulations as may be necessary to
20 enable and require such assessor to ascertain and properly assess
21 all property and tithables liable to be taxed by said city, so that
22 such assessment and taxation shall be uniform, and to enforce
23 such ordinance by reasonable fines and penalties. And the said
24 city assessor, in making his valuation for assessments, shall make
25 the same valuation for both real and personal property as the
26 assessor for said county, for the same assessment year, assessed
27 said property.
28
29 The council upon the return of the assessor shall cause the
30 assessor's books to be correctly copied by the clerk into two well-
31 bound books to be provided for the purpose and the taxes ex-
32 tended in each book, one of which shall be delivered to the city
33 collector, taking his receipt therefor, as well as for the taxes
34 therein contained.

Sec. 39. It shall be the duty of the chief of police and ex-
2 officio collector when the extended copies are completed, to re-
3 ceive one copy thereof, receipting to the council for the same,
4 and for the taxes therein extended; and it shall be his duty to
5 collect from the parties the entire amount of the taxes with
6 which they are therein severally charged, from and after the
7 first day of September of each year, until the last day of De-
8 cember of each year; and he shall, in said book, write the word
9 “paid” opposite the name of the person so paying, and shall also
10 receipt to such taxpayer for the tax so paid. He shall also receive
11 such other moneys of the city as he is authorized by this act.
12 giving receipts therefor to the parties paying, and shall keep an.
accurate account of the same; and his books shall at all times be open for inspection to any taxpayer of the city; and he shall produce said books to said council for inspection at any meeting thereof upon order of the council. He shall pay out the moneys in his hands upon the orders of the council signed by the mayor. He shall on or before the tenth day of January of each year present to the council a full, complete and detailed statement of all moneys with which he is chargeable, or that have been received by him up to the first day of January of that year, and shall at the same time, in like manner, furnish a statement of all disbursements made by him during such previous year, with vouchers evidencing the same. He shall, upon the order of the council at any time, submit a statement of the amount with which he is chargeable, and his collections and disbursements. He shall receive all taxes upon licenses, and receipt to the party paying the same, by the indorsement upon the permit granted by order of the council, which permit shall be furnished him by the clerk; and charge himself with the amount so received, and report to the council at its next regular meeting thereafter the amount so received by him.

He shall, upon the expiration of his term of office, turn over to the council all moneys, books and other property in his possession belonging to said city; and shall, before entering upon the duties of his office, execute a bond with good security payable to the city of Mannington, in the penalty of not less than ten thousand dollars, conditioned for the faithful performance of the duties of his office, and for the accounting for and paying as required by law all money which may come into his hands by virtue of his office. He shall be chargeable with all city taxes, levies and assessments and money of the city that may come into his hands, and shall account therefor.

The said chief of police and ex-officio collector shall receive for his services as chief of police and ex-officio collector such salary as may be fixed by council from term to term; but said salary shall for all said services in no event exceed the sum of one hundred dollars per month.

Sec. 40. The council shall prescribe by ordinance the manner in which licenses of all kinds shall be applied for and granted, and it shall require the payment of the tax thereon before delivery to the person applying therefor.
Sec. 41. The provisions of the thirty-ninth section of chapter thirty-two of Barnes' code of West Virginia for one thousand nine hundred and eighteen, relating to state licenses, shall be deemed applicable to licenses of a similar character to those therein mentioned, when granted by or under authority of the council of said city, and all other licenses may be for such time as the council may determine.

Sec. 42. The council shall have the right to institute proceedings in the name of the city for the condemnation of real estate for streets, alleys, drains, market grounds, city prison and other work or purpose of public utility. Such proceedings shall, as nearly as practicable, conform to the provisions of chapter forty-two of the code of West Virginia, and the expenses thereof shall be borne by the city.

Sec. 43. All acts or parts of acts inconsistent with this act are hereby repealed; but this act shall not be construed to repeal, change or modify any previous act not inconsistent with this act authorizing the city of Mannington to contract debts, or to borrow money, or to take away any of the powers conferred upon said city of Mannington, or upon the mayor or council, or any of the officers, conferred by general law, except so far as the same may be inconsistent with the powers hereby conferred.

Sec. 44. The council in being at the time this act shall take effect, shall appoint and provide places for voting in the several wards in said city, as herein prescribed, for the election herein provided for to be held in said city and appoint the election officers thereof; and shall pass all proper ordinances and orders to give this act full force and effect.

Sec. 45. The ordinances in force in the city of Mannington at the time this act takes effect, so far as they are not inconsistent with this act, shall continue in force as the ordinances of the city of Mannington as constituted by this act until amended, repealed or superseded by the council of said city.

Sec. 46. The said city shall succeed to all the rights, powers and responsibilities it has under its present charter, and all officers of said city acting as such at the time this act takes effect shall continue until the first day of April, one thousand nine hundred and nineteen (and until their successors, the officers herein mentioned, are elected, appointed and qualified), to exercise the powers, perform the duties and receive the compensation
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Sec. 47. This act shall not become and be effective until the
same shall have been submitted for adoption or rejection to the
duly qualified voters living within the territory embraced in sec-
tion two hereof, at a special election called for that purpose and
shall have been adopted by a majority of the votes cast at said
election; at which election all persons living within said territory,
but outside of the city of Mannington as it was constituted im-
mediately prior to the passage of this act, shall be entitled to vote
as if they lived within the said city as it was constituted immediate-
ly prior to the passage of this act. Said special election shall be
held as soon as possible after notice of the same has been published
at least twice in some daily newspaper published in the city of
Mannington, to be designated by the common council of the city
of Mannington, the last publication of said notice to be made not
less than ten days immediately preceding the date of the said
election. Said notice shall also give notice to the provisions of
sections two and three of this act by publishing the same in full as
part of said election notice, together with a statement to the
effect that a certified copy of the whole act as passed is on file and
may be inspected by all voters living within the affected territory
at the office of the mayor of the city of Mannington; and it shall
be the duty of the common council of the city of Mannington to
secure one or more certified copies of the act and keep, or cause
the same to be kept, in the said mayor's office for the inspection
of the said voters, from the date of the first publication of the said
notice until the said election shall have been held. Said special
election shall be arranged for, held, and conducted, and the result
thereof ascertained, certified and published in the usual and regular
manner of arranging for, holding and conducting municipal elec-
tions in the city of Mannington and ascertaining, certifying and
publishing the results thereof and the authority of the officials of
the city of Mannington to arrange for, hold and conduct a munici-
pal election therein, and to ascertain, certify and publish the
results thereof, is hereby extended to cover all the territory em-
braced in section two hereof, for all purposes of the special election
hereby provided for. At said special election any person entitled
to vote thereat who lives outside of the city of Mannington, as it
was constituted immediately prior to the passage of this act, shall
vote at his usual voting place in said city, if he has been accustomed to vote at some voting precinct therein at any general election; but if not accustomed to vote at some voting precinct he shall vote at that regular voting precinct in the said city which is nearest his place of residence.

If this act shall be adopted at said special election it shall go into effect the day following its adoption at said election.

The ballot to be voted at said election shall be printed upon plain white paper and in the following form:

CITY OF MANNINGTON.

Charter Election.

Indicate how you desire to vote by a cross in the square.

[ ] "For adoption of new charter."

[ ] "Against adoption of new charter."

Provided, however, that if this act shall fail of adoption at said election, the same may be voted upon at a subsequent election, called by the common council of said city, to be held and conducted in the manner above set forth, and after notice as above set forth; but no such subsequent election shall be held until a period of six months shall have elapsed after any former election held for that purpose; and

Provided, further, that if the common council of said city shall fail or refuse to call a subsequent election for that purpose, then, upon petition signed by the qualified voters of said city, equal in number to at least thirty per centum of the entire vote cast for the candidate for mayor who received the highest number of votes at the last preceding municipal election, said common council shall, by a proper order, call a special election for that purpose. And if this act shall fail of adoption at the first special election held for that purpose as herein provided, then it shall take effect from the day immediately following its adoption at such subsequent election.

Sec. 48. If for any reason this act fails to take effect by the time the common council and their officers are to be nominated in said city under existing laws for the election to be held on the second Monday in March, one thousand nine hundred and nineteen, or any subsequent general election, then the mayor and council in office at the time this act does take effect, shall speedily cause an election to be held in said city to elect the officers provided for in this act, after giving notice at least twenty days, prior
9 to the date fixed for said election, by publishing the same in some
10 newspaper, published in said city, which notice shall state the
11 purpose of said election. If such special election is held, all per-
12 sons holding office under the next preceding election, shall vacate
13 such office immediately, and other officers shall hold office at the
14 pleasure of the common council notwithstanding they were elected
15 and appointed under existing law for specified terms.

Sec. 49. If this act be adopted and for any reason fails to
2 take effect on or before April first, one thousand nine hundred and
3 nineteen, or on the first day of April of any subsequent year, it
4 shall be the duty of the assessor in office at the time this act takes
5 effect, or his successor, to make an assessment as provided in this
6 act of all the property within the city limits as herein constituted.
7 And if this act fails to take effect on or before April first, one
8 thousand nine hundred and nineteen, or on the first day of April of
9 any subsequent year, the council in making its levy, as in this act
10 provided, for the year one thousand nine hundred and nineteen, or
11 any subsequent year thereafter, upon all tithables and upon all
12 real estate and personal property, subject to state and county taxes,
13 within the city limits as in this act constituted, shall reduce its
14 levy upon all tithables and upon all real estate and personal
15 property in the territory included within the corporate limits of
16 said city as in this act constituted, and not included in the corpo-
17 rate limits of said city under existing law, in the proportion that
18 the time of said assessment year elapsed before this act takes effect
19 bears to the whole assessment year.

CHAPTER 9.
(\House Blll No. 177—Mr. McCllntlc.)

AN ACT to amend and re-enact sections three, four, five, nine, ten,
eleven, thirteen, fourteen, fifteen, thirty-five, thirty-six, fifty-one,
seventy-five, eighty-eight and ninety-three of chapter one of the
acts of the legislature of one thousand nine hundred and fifteen
and bound in a volume of municipal charters of such acts and
known as the "Charter of the City of Charleston," and to add
sections ninety-four, ninety-five, ninety-six, ninety-seven and
ninety-eight, ninety-nine, one hundred, one hundred and one and
one hundred and two, all relating to and becoming a part of the
charter of the city of Charleston.
Be it Enacted by the Legislature of West Virginia:

That sections three, four, five, nine, ten, eleven, thirteen, fourteen, fifteen, thirty-five, thirty-six, fifty-one, seventy-five, eighty-eight and ninety-three of chapter one of the acts of the legislature of one thousand and nine hundred and fifteen, known as the "Charter of the City of Charleston" be amended and re-enacted, and sections ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, and one hundred and two be added thereto, so as to read as follows:

**Boundaries of Wards.**

Section 3. The said city shall be divided into fifteen (15) wards, the boundaries of which shall be as follows:

3 First Ward: The first ward shall include the following territory; beginning at low water mark on the Kanawha river at the end of Florida street; thence with Florida street to Charleston street, and in a continuous straight line to the corporation line on the north; thence with the corporation line to Patric street, and with Patric street to the Kanawha river, and with the Kanawha river to the end of Florida street, the place of beginning.

10 Second Ward: The second ward shall include the following territory; beginning at the low water mark at the end of Florida street; thence with the Kanawha river to the end of Park avenue extended; thence with Park avenue to the corporation line; thence...
with the corporation line to the northeastern corner of the first
ward; thence with the eastern line of ward one in a straight
line with Florida street; to the low water mark in Kanawha
river to place of beginning.

18-19 Third Ward: The third ward shall include the following ter-
ritory: beginning at the low water mark in the Kanawha river at
the end of Park avenue extended; thence with the Kanawha river
to Delaware avenue; thence with Delaware avenue to the Kanawha
& Michigan railway; thence with the Kanawha & Michigan rail-
way to Charleston street; thence with Charleston street to Carr
street; thence with Carr street to the corporation lines on the
north; thence with the corporation lines to the northeastern cor-
ner of ward two; thence following the eastern line of ward
two to low water mark in Kanawha river, the place of beginning.

Fourth Ward: The fourth ward shall include the follow-
ing territory: Beginning at the low water mark in Kanawha
river at the end of Delaware avenue; thence with Kanawha river
to the mouth of Elk river, and up Elk river to Lovell street bridge
and Charleston street; thence with Charleston street to Penn-
sylvania avenue; thence with Pennsylvania avenue to Roane
street; thence with Roane street to Delaware avenue; thence with
Delaware avenue to the low water mark in Kanawha river, to
place of beginning.

Fifth Ward: The fifth ward shall include the following
territory: Beginning at the low water mark in Elk river at
Lovell street bridge; thence with Elk river to the Kanawha &
Michigan railway; thence with the Kanawha & Michigan railway
to Pine street; thence with Pine street to the corporation line on
the north; thence with the corporation line to the head of Carr
street; thence with Carr street to Charleston street; thence with
Charleston street to the Kanawha & Michigan railway; thence
with the Kanawha & Michigan railway to Delaware avenue;
thence with Delaware avenue to Roane street; thence with Roane
street to Pennsylvania avenue; thence with Pennsylvania avenue
to Charleston street; thence with Charleston street to low water
mark in Elk river, the place of beginning.

Sixth Ward: The sixth ward shall include the following
territory: Beginning at the low water mark in Elk river at the
Kanawha & Michigan bridge; thence with the Elk river to Gill
hollow; thence following the corporation lines to the northeastern
corner of ward five; thence with Pine street to the Kanawha
56 & Michigan railway; thence with the Kanawha & Michigan railway to the low water mark in Elk river at the Kanawha & Michigan railway bridge, the place of beginning.

59 **Seventh Ward:** The seventh ward shall include the following territory: Beginning at the low water mark in Elk river at Lovell street bridge; thence with Lovell street to Truslow street; thence with Truslow street to Margaret street; thence with Margaret street to Donnally street; and the intersection of Young street; thence with Young street in a continuous straight line to the corporation limits on the north; thence with the corporation line to Elk river; thence with Elk river to the low water mark at Lovell street bridge, the place of beginning.

68 **Eighth Ward:** The eighth ward shall include the following territory: Beginning at the intersection of Lovell and Truslow streets; thence with Truslow street to State street; thence with State street to Capitol street; thence with Capitol street to Smith street, and continuing in a straight line to the corporation line on the north; thence with the corporation line to the northeastern corner of ward seven; thence in a straight line with Young street to Donnally street; at its intersection with Margaret street; thence with Margaret street to Truslow street; thence with Truslow street to Lovell street; thence with Lovell street to the low water mark in Elk river, at Lovell street bridge, the place of beginning.

78 **Ninth Ward:** The ninth ward shall include the following territory: Beginning at the low water mark in Elk river and Lovell street bridge; thence with Elk river to the Kanawha river; thence with Kanawha river to the low water mark at the end of Capitol street; thence with Capitol street to State street; thence with State street to Truslow street; thence with Truslow street to Lovell street; thence with Lovell street to the low water mark in Elk river, at Lovell street bridge, the place of beginning.

86 **Tenth Ward:** The tenth ward shall include the following territory: Beginning at the low water mark in Kanawha river at the end of Capitol street; thence with Kanawha river to the low water mark at the end of Ruffner avenue; thence with Ruffner avenue to its intersection with Lee street; thence with Lee street to its intersection with Capitol street; thence with Capitol street to the low water mark in Kanawha river, the place of beginning.

94 **Eleventh Ward:** The eleventh ward shall include the following territory: Beginning at the intersection of Lee street and Capitol street; thence with Capitol street to its intersection
97 with Smith and Dryden streets, and in a continuous straight line
98 in the corporate limits on the north; thence with the corporation
99 limits in an easterly direction, to a point reached by a straight
100 line running with Brooks street; thence in a straight line running
101 to and with Brooks street to the intersection of Brooks and Lee
102 streets; thence with Lee street to Capitol street, the place of be-
103 ginning.

104 **Twelfth Ward:** The twelfth ward shall include the fol-
105 lowing territory: Beginning at the intersection of Lee and
106 Brooks streets; thence with Lee street to Beauregard street;
107 thence with Beauregard street, and in a straight line to the cor-
108 poration limits to the north; thence with the corporation limits to
109 the northeastern corner of ward eleven; thence with the eastern
110 line of ward eleven, in a straight line, and with Brooks street, to
111 the intersection of Lee and Brooks street, the place of beginning.

112 **Thirteenth Ward:** The thirteenth ward shall include the
113 following territory: Beginning at the intersection of Beaure-
114 gard and Lee streets; thence with Lee street to Elizabeth street;
115 thence with Elizabeth street to Piedmont road; and in a contin-
116 uous straight line to the corporation limits on the north; thence
117 with the corporation line to the northeastern corner of ward
118 twelve; thence in a straight line to and running with Beauregard
119 street, to the intersection of Lee and Beauregard streets, the place
120 of beginning.

121 **Fourteenth Ward:** The fourteenth ward shall include the
122 following territory: Beginning at the intersection of Ruffner
123 avenue and Lee street; thence with Ruffner avenue to low water
124 mark in Kanawha river, at the end of Ruffner avenue; thence
125 with Kanawha river to the corporation line on the east at Wilson
126 hollow; thence with Wilson hollow to the corporation line on the
127 north; thence with the northern corporation line to the north-
128 eastern corner of ward thirteen; thence in a straight line to and
129 running with Elizabeth street, to Lee street; thence with Lee
130 street to Ruffner avenue, the place of beginning.

131 **Fifteenth Ward:** The fifteenth ward shall include all of
132 the territory in the limits of the city south of said low water mark
133 on the north side of Kanawha river.

134 **Voting Precincts.**

135 The said city shall be divided into twenty-nine (29) voting
136 precincts, the boundaries of which shall be as follows:
Precinct No. 1. Precinct one shall include all the territory in ward one lying north of the Kanawha and Michigan railway.

Precinct No. 2. Precinct two shall include all the territory in ward one lying south of the Kanawha and Michigan Railway.

Precinct No. 3. Precinct three shall include all the territory in ward two lying north of the Kanawha and Michigan Railway.

Precinct No. 4. Precinct four shall include all the territory in ward two lying south of the Kanawha and Michigan Railway.

Precinct No. 5. Precinct five shall include all the territory in ward three lying north of Virginia street.

Precinct No. 6. Precinct six shall include all the territory in ward three lying south of Virginia street.

Precinct No. 7. Precinct seven shall include all the territory in ward four lying north of Randolph street.

Precinct No. 8. Precinct eight shall include all the territory in ward four lying south of Randolph street.

Precinct No. 9. Precinct nine shall include all the territory in ward five lying south of Birch street and Kanawha and Michigan railway.

Precinct No. 10. Precinct ten shall include all the territory in ward five lying north of Birch street and Kanawha and Michigan railway.

Precinct No. 11. Precinct eleven shall include all the territory in ward six lying east of Magazine branch.

Precinct No. 12. Precinct twelve shall include all the territory in ward six east of Magazine branch.

Precinct No. 13. Precinct thirteen shall include all the territory in ward seven south of North Rand street.

Precinct No. 14. Precinct fourteen shall include all the territory in ward seven lying north of North Rand street.

Precinct No. 15. Precinct fifteen shall include all the territory in ward eight lying south of North Rand street.

Precinct No. 16. Precinct sixteen shall include all the territory in ward eight lying north of North Rand street.

Precinct No. 17. Precinct seventeen shall include all the territory in ward nine lying west of Truslow street.

Precinct No. 18. Precinct eighteen shall include all the territory in ward nine lying east of Truslow street.

Precinct No. 19. Precinct nineteen shall include all the territory in ten lying west of Brooks street.
Precinct No. 20. Precinct twenty shall include all the territory in ward ten lying east of Brooks street.

Precinct No. 21. Precinct twenty-one shall include all the territory in ward eleven lying west of Broad street.

Precinct No. 22. Precinct twenty-two shall include all the territory in ward eleven lying east of Broad street.

Precinct No. 23. Precinct twenty-three shall include all the territory in ward twelve lying west of Morris street.

Precinct No. 24. Precinct twenty-four shall include all the territory in ward twelve lying east of Morris street.

Precinct No. 25. Precinct twenty-five shall include all the territory in ward thirteen lying west of Thompson street and a continuous straight line to corporate line on north.

Precinct No. 26. Precinct twenty-six shall include all the territory in ward thirteen lying east of Thompson street and a continuous straight line from the end thereof to the corporate line on the north.

Precinct No. 27. Precinct twenty-seven shall include all the territory in ward fourteen lying west of Kentucky street.

Precinct No. 28. Precinct twenty-eight shall include all the territory in ward fourteen lying east of Kentucky street.

Precinct No. 29. Precinct twenty-nine shall include all the territory in ward fifteen.

The council shall by resolution entered of record fix the voting places in each of said election precincts.

Sec. 4. The municipal authorities of the city of Charleston shall consist of a mayor, city treasurer, police judge and twenty councilmen, who shall be elected by the qualified voters of such city, and such officers shall, for the assessment year preceding their respective elections as hereinafter provided, have been assessed with and paid taxes in the city of Charleston upon a valuation of at least one hundred dollars worth of real estate or personal property therein, and any person elected to any one of such offices who has not been assessed with and paid taxes on such amount of property shall not qualify or enter upon the performance of the duties thereof, but such office shall thereby become vacant and shall be filled by a qualified person as provided herein for other vacancies.

Sec. 5. In addition to the municipal authorities mentioned in section four of this act, the city shall have a manager, city clerk, city auditor, collector, chief of police, city solicitor,
4 chief of fire department, engineer, health commissioner, 
5 building inspector, lockup keeper, humane officer or officers, and 
6 such number of policemen as council by ordinance may direct. 
7 All the officers named in this and the preceding sections shall be 
8 paid proper salaries which shall be fixed by the council, except as 
9 herein otherwise provided, and such salaries shall be within the 
10 limits provided for by this act.

Sec. 9. For the election to be held hereunder on the third 
2 Monday in April, one thousand nine hundred and nineteen, there 
3 shall be made a registration of all the voters in all the election 
4 precincts in said city as fixed by this act. The city council shall 
5 hold a regular or special session on the first Monday in March, 
6 next, before said election and shall appoint for each voting pre-
7 cinct as fixed by this act two competent persons as registrars, one 
8 each from the two political parties which at the last preceding 
9 election cast the highest number of votes in the city of Charleston, 
10 but the executive committee of such political parties may present 
11 to the council a writing signed by the chairman of the committee 
12 of each party requesting the appointment of a qualified voter of 
13 his political party as registrar with his city address for each pre-
14 cinct in the city and the council shall appoint the person in such 
15 writing as such registrar. No person shall be eligible to appoint-
16 ment as registrar, or in any way act as such, who has been con-
17 victed of a felony, or who holds any elective or appointive office or 
18 is an employee under the laws of the state of West Virginia or of 
19 the United States or who is not a qualified voter in the precinct for 
20 which he is appointed, or who can not read and write the English 
21 language. If such registrar shall fail or refuse to serve, the va-
22 cancy shall be filled either by the city council, or the mayor of the 
23 city in vacation, in the manner hereinbefore provided for the ap-
24 pointment of registrars, and the city clerk shall notify all such 
25 persons of their appointment as registrars. Said registrars shall 
26 before entering upon the discharge of their duties take an oath 
27 to support the constitution of the United States, the constitution 
28 of West Virginia, and to perform the duties of their office to the 
29 best of their ability and that they are legal members of the party 
30 for which they are, respectively, appointed. The said oath shall 
31 be filed in the office of the city clerk.

32 The city clerk shall cause to be prepared suitable books 
33 and blanks for the registration of the voters and such books shall 
34 be so arranged as required by law for the registration of voters
for general elections held in the state of West Virginia and all
the provisions, duties and obligations of chapter_________________
of the acts of the special session of the legislature held in the
month of November, one thousand nine hundred and sixteen, shall
apply to the registration of voters hereunder, except as herein
otherwise set out, and the city council shall perform the duties
required in said chapter of the county court, and the city clerk
shall perform the duties required of the county clerk.

The said registrars shall meet on the Thursday following the
first Monday in March, one thousand nine hundred and nineteen,
and proceed to register the names of all qualified voters in their
respective precincts in the manner required by said chapter_____
of the acts of said special session.

Said registrars shall complete said registration on or before
the fourth Monday in March, one thousand nine hundred and
nineteen, and, for the purpose of amending, correcting and com-
pleting said registration, shall sit together at some convenient
place within the voting precinct for two days, commencing the
first Monday in April, one thousand nine hundred and nineteen,
from nine o'clock A. M. to one o'clock P. M. and from two o'clock
P. M. to nine o'clock P. M., and shall give notice of the time and
place of their sitting for such registration and correction by post-
ing written or printed notices of the time and place of such sitting
for five days prior thereto at not less than three of the most con-
spicuous places in said voting precinct, one of which shall be at
the place of voting in said precinct. At the time of said sitting
the books of registration shall be open for public inspection, and
the said registrars, in the manner hereinbefore provided shall reg-
ister all qualified voters who have not theretofore been so register-
ed by them and complete and finish their registration of the vot-
ers within their said precinct and make out two alphabetical lists
of the registered voters within said precinct entitled to vote at the
ensuing election as registered by them and shall sign and return
the same to the city clerk on or before the second Monday in April,
one thousand nine hundred and nineteen. The registration books
shall be sent to the polling place along with the ballots, and no
person who is not duly registered thereon shall be allowed to vote
at said election.

The commissioners of election shall return said books to the
city clerk with the poll books, and the same shall be carefully pre-
served by the city clerk in his office.
If the county court of Kanawha county shall adopt the lines of the precincts as in this act set out as voting places for state and county officers before another city election is held, then the registration of voters made under the general law concerning registration of voters shall be the registration of voters for all city general elections, with such additions as herein provided for, and it shall not be necessary to have a special registration of voters for any special election, but the preceding registration of voters for the regular municipal election, with such additions herein provided for, shall be the proper registration for such special election.

The voting precincts in the several wards for all city elections shall be the same as to boundaries as those fixed by the county court for all state and county elections so long as they are confined to the boundaries of the wards as they now are. The council shall elect two persons, one being a member of each of the two leading political parties in said city, having all the qualifications of commissioners of election under chapter three of the code of West Virginia, as city registrars. They shall take the same oath as other officers of the city take and shall be paid such compensation as the council may fix by ordinance, and their term of office shall be a period of two years. They shall sit in the office of the city clerk on five separate days, being the last four Saturdays and the last Monday preceding any regular or special election of said city for the purpose of registering voters who shall not have been already registered in the various precincts, and for issuing transfers to any voter who has moved from one precinct to another, and for striking off the name of any voter from the registration books when it shall be shown by the affidavits of two persons that he is no longer a voter in said city, and they shall strike off from such registration books the names of any person known by or proved to them to be dead. It shall be the duty of the city clerk to make or have made copies of the registration books on file in the office of the clerk of the county court of Kanawha county at least sixty days before any regular city election, and such copies, with such additions and changes as may be made by the city registrars, shall be used for all special elections that may be held between said regular elections as well as the regular elections. Notice of the time and place of sittings of said city registrars shall be given by the publication thereof by the city clerk in two newspapers of opposite politics printed and circulated in said city, once a week for six successive weeks before any election, if there is a sufficient space
of time for such purpose, and, if not, then for such time as there
may be before such election.

Before the registrars shall register the name of any person
as a qualified voter they must be satisfied of his qualifications and
shall have the right and power to require of such persons all the
things that may be required of him by the registrars under the
state law, and such registrars shall, as to the qualifications of per-
sons to vote, be governed by the state laws on such subject in ex-
istence at the time of such registration.

The county clerk of Kanawha county shall carefully preserve
his office the registration books of each general election for all
the precincts of the city of Charleston and shall permit copies to
be made of such registration books by any proper officer of the
city of Charleston.

Sec. 10. Candidates to be voted for at any municipal elec-
tion may be nominated by convention, or primary election,
as may be decided by the executive committees of any of the
parties recognized by law in said city, and candidates may be nom-
inated by petition in the manner provided by chapter three of the
code of West Virginia. Each of the political parties having the
right to make a nomination under the election laws of West Vir-
ginia shall give notice of the manner of such nomination by pub-
lication thereof in some daily newspaper printed in the city of
Charleston for ten days prior to the date of such convention or
primary election.

Sec. 11. On the first Monday in April, one thousand nine
city election held under the provisions of this act, the city council
shall appoint two commissioners of election, one from each of the
two political parties which did at the state and county election
held in said city on the fifth day of November, one thousand nine
hundred and eighteen, cast the highest number of votes, and if at
any time during the said session of the city council the city exe-
cutive committee of either political party from which said com-
misioners of election are to be selected or appointed shall present
to said council a writing signed by them, or by the chairman of
said committee in their behalf, requesting the appointment of a
qualified voter of their political party with his city address and
who is otherwise qualified to act as such commissioner of election
under chapter three of the code of West Virginia, it shall be the
duty of such council to appoint the person named in such writing
as such commissioner. The county court of Kanawha county shall hold a regular or special session at the court house of said county on the first Monday in April, one thousand nine hundred and nineteen, and shall appoint one qualified voter as commissioner of election for each precinct in said city, and all city elections shall in all other respects be held in the way and manner prescribed in said chapter three of the code of West Virginia, except that no double election boards shall be appointed for any city election. If the county court of Kanawha county shall at any time arrange the voting precincts in the city of Charleston for state and county elections according to the lines of the city wards hereinbefore provided, then at all subsequent city elections such precincts with the same boundaries and same voting places as provided for such state and county elections shall be the precincts for all city elections.

Sec. 13. The city of Charleston shall have a council, which shall be known and styled as the "Council of the City of Charleston" and shall be composed of twenty members, one from each of the fifteen wards of the city, and five councilmen to be voted for by all the voters of said city, all of whom shall be nominated, voted for and elected in the manner herein provided.

Sec. 14. Only citizens entitled to vote and residents and voters of their respective wards and having the property qualifications hereinbefore provided shall be eligible to be elected to the office of councilmen from their respective wards and at large, and each councilman so elected from a ward shall continue to be a resident of the ward from which he is elected during his entire term of office.

At the election to be held on the third Monday in April, one thousand nine hundred and nineteen, there shall be elected one member of the council from each ward and five members of the council from the city at large. If any person elected to council fails to qualify within twenty days after he is declared elected, or resign as a member of the council, or cease to be a resident of the ward from which he is elected, then his office shall thereby be vacated and the council shall fill such vacancy by the election of some qualified person for such unexpired term. No person shall be declared elected by the council unless he receives the votes of at least eleven members thereof, and the minutes of such meeting shall show that fact.

Sec. 15. The mayor shall be the presiding officer of the coun-
2. The city and be a member thereof, with the right to vote on all questions
3. the same as any other member of said council, and the city clerk
4. shall be ex-officio clerk of the council, and also perform the duties
5. of clerk of the police court, and the mayor and city clerk shall
6. each perform such other duties as the council may require of them.
7. The council shall, at its first meeting after each election, select one
8. of its body as president pro tempore, who shall, in the absence of
9. the mayor, preside as chairman of the meeting of the council, and
10. in the absence of both the mayor and president pro tempore at
11. any meeting of the council, some member of the council shall be
12. elected to preside over such meeting.

Sec. 35. There shall be a mayor, twenty members of council, a police judge and treasurer elected on the third Monday in
2. April, one thousand nine hundred and nineteen, for the term of
3. four years, and their successors shall be elected every four years
4. thereafter, and their terms of office shall begin on the first Mon-
5. day of May after their election. The mayor's salary shall be not
6. less than three thousand nor more than five thousand dollars per
7. annum, and he shall not be eligible to hold said office for more
8. than two terms in succession.
9. The mayor shall appoint the city solicitor, the chief of police
10. and all policemen, humane officer or officers, building inspector,
11. collector, city auditor, engineer, health commissioner, lockup
12. keeper, and the chief of the fire department, and these appoint-
13. ments shall not require any confirmation by the council, but shall
14. be made at the discretion of the mayor, who shall, with like dis-
15. cretion, have the full and complete power of the removal thereof.
16. The mayor shall appoint the manager, by and with the advice and
17. consent of the council, and the mayor shall, at the first meeting of
18. the council on or after the first day of May, one thousand nine
19. hundred and nineteen, send to the council the nomination of some
20. fit and proper person for the office of manager, and the council
21. shall, either at a regular or special meeting called for that purpose
22. in the said month of May, pass upon such nomination and either
23. confirm or reject the same, and if such nomination is rejected,
24. then the mayor shall submit to the council a further nomination
25. of some other person or persons until the nomination is confirmed
26. by council, for said office as manager, but it shall be the duty of
27. the council to pass upon all nominations without any unrea-
28. sonable delay, and in any event within two weeks after the submis-
29. sion of the same, and the failure of members of the council to
pass thereon within such time shall be cause for the removal from
office of such members of the council.

The council shall appoint a city clerk. The manager shall
appoint or employ such persons as the ordinances of the city may
require or the council may authorize by proper resolution. All
such officers shall be appointed for the term of four years and un-
til their successors are appointed and qualified, unless they are
removed in the way and manner in this act provided.

It shall be the duty of the mayor to attend all meetings of the
council and preside over that body.

It shall be the duty of the mayor to see that all of the laws
and ordinances of the city are enforced and he shall have a general
oversight over the peace, health and good order of the city.

The duties of the city solicitor shall be to attend the sessions
of council, and to prosecute all suits in behalf of the city and de-
defend all suits against the city, to advise the council and all of the
departments of the city and in general to look after the interests of
the city when it shall need legal services, for which he shall re-
ceive a salary of twenty-five hundred dollars per annum. All
fees of every kind collected by any officer or employee, including
the police judge when acting as a justice shall be paid to the city
treasurer.

Sec. 36. The manager shall be appointed in the way and
manner hereinbefore provided and shall receive such salary as
council may by ordinance prescribe, provided such amount shall
not be less than three thousand nor more than five thousand dol-
lars per annum, and he shall have the right to employ one clerk
at such salary as council may fix, and such other help as he may
require and as council may from time to time allow.

The manager shall devote his entire time and attention to
the duties of his office, and shall have supervision and control of
the executive work and management of the heads of all depart-
ments under his control as directed by the mayor. He shall make
all contracts for labor and supplies, and generally perform all of
the administrative work of the city, and such other duties as coun-
cil may require of him, and shall possess such other powers and
perform such other duties as council shall prescribe.

Sec. 51. The council shall have authority to levy and col-
lect an annual tax on real estate and personal property in said
city, and to impose a license and assess a tax thereon on wheeled
vehicles for public hire and for all dogs kept within said city, and
5 to impose a tax upon all other subjects of taxation under the sev-
6 eral laws of the state, which shall be uniform with respect to per-
7 sons and property within the jurisdiction of said city, and shall
8 only be levied on such property, real, personal and mixed, on
9 which the state imposes a tax; provided, that no greater levy shall
10 be laid by said council on the taxable property of said city than
11 fifty cents upon each hundred dollars of the assessed valuation of
12 the property of the municipality; and, provided further, that the
13 council shall in making such levy, be subject to all the provi-
14 sions of chapter nine of the acts of the legislature of one thousand
15 nine hundred and eight and any and all amendments thereto, ex-
16 cept as herein provided. There shall be a tax of two dollars an-
17 nually assessed on each and every male inhabitant of said city
18 over the age of twenty-one years who is subject to a capitation
19 tax under the laws of the state of West Virginia. The same shall
20 be set out and included in the personal property book against every
21 such inhabitant, and shall be collected under the authority of the
22 city at the time of collecting other levies and taxes.

Sec. 75. The council may refund the lawful bonded indebted-
2 nes of said city by issuing bonds of the city, payable within
3 twenty years, bearing no greater rate of interest than four per-
4 cent, but the indebtedness of said city shall not thereby be in-
5 creased without the consent of the voters of said city being first
6 had and obtained as provided by law.

7 Such bonds shall not be sold nor exchanged for the evidence
8 of said indebtedness of said city for less than par, and
9 there shall be provided a sinking fund that will discharge
10 said bonds as they shall become due. Said bonds shall
11 express on their face that they may be paid at any time after five
12 years at the pleasure of the city. A record shall be kept of all pro-
13 ceedings hereunder; provided, that nothing herein contained shall
14 be construed to authorize an increase of the bonded indebtedness
15 of said city beyond the amount authorized by law. Notwith-
16 standing the limitations of this and other laws of the state of
17 West Virginia relating to the issue of bonds and other indebted-
18 ness, the city of Charleston is hereby authorized upon the affirm-
19 ative vote of three-fifths of all the votes cast at an election held
20 for said purpose to issue and sell bonds for the purpose of provid-
21 ing the necessary funds for purchasing the ground and erect-
22 ing a new city building and jail, or a separate jail, a new central
23 fire station or fire stations, buying or building bridges, water-
24 works, plants and other public utilities, and a city market or 25 either or any of them.
26 The council of said city shall provide for the building of a city 27 jail, and for that purpose may, if necessary, purchase the necessary 28 land and shall lay such levy for the year one thousand nine hun- 29 dred and nineteen in addition to all other levies authorized by 30 law, as may be necessary for the purpose of constructing said city 31 jail. The said city council shall also construct within the city of 32 Charleston two public comfort stations, one of which shall be 33 built in that part of Charleston lying east of Elk river, and one 34 of which shall be built in that part of Charleston lying west of 35 Elk river, which stations shall be constructed in a modern and 36 sanitary manner, and council is authorized, if necessary, to 37 purchase such real estate as may be needed for such purposes, 38 and the city council shall for the year one thousand nine hun- 39 dred and twenty lay a sufficient levy, in addition to all other levies 40 authorized by law, to build one of said comfort stations, and for 41 the year one thousand nine hundred and twenty-one, in addition 42 to all other levies authorized by law, lay a sufficient levy to build 43 the other of said public comfort stations, and, in each case, do 44 all things necessary and proper to carry out the general purpose 45 hereby commanded; and in the event said council shall fail, neg- 46 lect or refuse to lay said levies for the building of said city jail 47 and public comfort stations as herein required, then any voter of 48 said city may, by mandamus proceeding in any court having juris- 49 diction, compel the council to perform such duty; provided, that 50 the council may, if it so desire, submit to the vote of the people 51 by proper ordinance, the question of issuing bonds for the foregoing 52 purposes, and in the event such bonds shall be authorized, then 53 such levies shall not be made, and, provided, that no such sale 54 of bonds shall be made so as to cause the total indebtedness of 55 said city, for all purposes, to exceed in the aggregate five per 56 centum on the value of the taxable property therein, as ascer- 57 tained by the last assessment for state and county taxes previous 58 to the incurring of such indebtedness.

Sec. 88. In addition to the method provided for paving 2 streets, by section sixty-one of the charter of the city of Charles- 3 ton, the council may order any block, street, avenue or alley to 4 be paved or otherwise permanently improved, and the council 5 may order the mayor and city clerk to issue to the contractor do- 6 ing the paving, or other permanent improvement, a certificate for
each installment of the amount of the assessment to be paid by the owner of any lot or fractional part thereof fronting on such street, avenue or alley, and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof upon the lot or part of a lot fronting on such street, avenue or alley and such certificate shall draw interest from the date of said assessment and the payment may be enforced in the name of the holder of said such certificate by proper suit in equity in any court having proper jurisdiction to enforce such lien, and the council shall fix the amount of such assessment, advertise for bids, and do all other things in connection therewith as is provided for paving or permanently improving any street or alley or any portion thereof in section sixty-one, and such certificates shall be issued in the same number of installments and payable at the same time as other paving or permanent improvements are provided to be paid for and shall be a lien in the hands of the holder thereof upon the particular lot against which they are assessed in the same way and manner that assessments are liens under section sixty-one of said charter.

Such certificates as may be issued pursuant to the foregoing section shall contain a provision to the effect that in the event of default in the payment of any one of said certificates, when due, and said default shall continue for a period of sixty (60) days, then all unpaid certificates shall become due and payable and the holder of said certificates may proceed to collect all of such unpaid certificates in the manner hereinbefore provided.

Provided, that no street, avenue or alley shall be paved or otherwise permanently improved pursuant to this section except and unless two-thirds of all the members elected to council shall concur therein.

Sec. 93. In addition to the method of securing the laying of sidewalks set out in section forty-nine of this chapter, the council of said city may cause any sidewalk to be constructed, laid, relaid, or otherwise permanently improved in the city of Charleston in the following manner and upon the following terms: Notice shall first be given the abutting property owners by publication in two newspapers of opposite politics by giving location, estimated frontage and depth, but no error in said publication shall in any way affect the validity of the certificates hereinafter provided for, or any of them. The contract for same shall, after due advertisement in which council shall reserve the
right to reject any and all bids, be let to the lowest responsible 
bidder and upon completion and acceptance of the work, council 
shall order the mayor and city clerk to issue to the contractor 
doing the work a certificate for the amount of the assessment to be 
paid by the owner of any lot or fractional part thereof fronting 
on such sidewalk, and the amount specified in said assessment 
certificate shall be a lien in the hands of the holder thereof upon 
the lot or part of a lot fronting on such sidewalk and such cer-
tificate shall draw interest from the date of said assessment, and 
the payment may be enforced in the name of the holder of such 
certificate by a proper suit in equity in any court having proper 
jurisdiction to enforce such liens, and council shall fix the 
amount of such assessments, and do all things in connection 
therewith necessary to make them valid and do all other things 
in connection therewith as is provided for paving or improving 
streets and alleys and such certificates shall be issued one for each 
abutting lot or portion thereof payable six months from the date 
of the completion and acceptance of the work and shall be a lien 
in the hands of the holder thereof upon the particular lot against 
which they are assessed in the same way and manner that assess-
ments for street paving are liens under the other provisions of 
the aforesaid act creating and amending the charter of the city 
of Charleston; provided, however, that council shall not order 
any but concrete sidewalks; and provided further, that council 
shall not advertise for bids for any one letting of less than five 
thousand square feet; and further provided, that council shall not 
receive any bids or let any sidewalk contract between the first 
day of October and the first day of March of any years. Nothing 
in this section shall be so construed as to prevent any abutting lot 
owner from having his own sidewalk put in if done before the 
advertising hereinbefore mentioned and provided same is done 
according to the lines, grades and specifications of the city en-
gineer, for which no charge shall be made. The total cost of 
constructing, laying, relaying, or otherwise permanently improv-
ing any sidewalk or walks shall be borne by the owners of the 
land abutting upon said sidewalk or sidewalks according to the 
following plan, that is to say, payment is to be made according 
to the proportion of square feet in front of any lot or portion 
thereof bears to the whole letting. The contract for sidewalks 
referred to in this section does not necessarily have to be one con-
tinuous sidewalk but the five thousand square feet required for a
letting as aforesaid may be made up of or composed of any number of sidewalks in any parts of the city.

Sec. 93-a. The county assessor shall furnish transcript of real and personal property on or about the tenth day of September of each year and his fee for same shall be not less than four hundred nor more than seven hundred dollars for such work.

Sec. 94. The police judge, mayor and city clerk shall each have authority to issue process for all offenses committed within the police jurisdiction of the city of Charleston for all violations of any city ordinances. Any vacancy in the office of police judge shall be filled by appointment by the mayor until the next election.

Sec. 95. No ordinance passed by the city council shall take effect until five days after its final passage and one publication of the caption or title thereof only shall be made during said five days in some daily newspaper printed and circulated in said city, except an ordinance necessary for the immediate preservation of the public health or public safety. Such caption or title shall distinctly state the full purport of the ordinance so passed and printed.

Sec. 96. The health commissioner shall be a physician of good standing in his profession and shall devote his time to city work alone. It shall be his duty to administer to all charity cases that he may, in his discretion, deem deserving. He shall, in conjunction with the city manager, have charge of the general health and sanitation of the city and it shall be his duty to carefully investigate all complaints and make a careful detailed report of all his official acts as health commissioner to the city manager and council at least once every month. He shall be appointed in the way and manner provided in the charter of the city of Charleston and shall receive such salary as council may by ordinance prescribe. Nothing herein, however, shall be construed as in any way affecting the police officers of the city relative to their powers and duties in regard to city sanitation contained and set forth elsewhere in said charter.

Sec. 97. It shall be the duty of the mayor to appoint a reputable woman who shall be known as police matron, and such police matron shall have all the qualifications and be subject to all the provisions of chapter eighteen of the acts of the legislature of one thousand nine hundred and eleven. The council of the city of Charleston shall provide a reasonable salary not to ex-
7ceed twelve hundred dollars therefor and do all of the things
8required by the council under the provisions of said chapter
9eighteen of the acts of the legislature of one thousand nine hun-
10dred and eleven and any amendments thereto.

Sec. 98. The city council shall cause any contract for the
2codifying and indexing of all the ordinances of the city to be
3fully completed, and such ordinances shall include all in force
4and effect up to the last day possible. Before such work is ac-
5cepted by the council, it shall be completed in every respect and
6the council shall then cause it to be properly printed and securely
7bound in a permanent book. The council may by ordinance
8adopt the code to be prepared as a whole and when said ordi-
nance adopting said code shall have been passed by the council, the
10said code shall be and become the law and ordinances of said
11city up to such time according to the tenor and effect thereof,
12and when printed in a book, the same shall be received as evi-
dence as the ordinances of said city, unless errors or omissions
14be affirmatively shown therein, and no other publication thereof
15shall be made or required under the charter, and the council
16shall cause all the ordinances of said city, either by printing a
17 supplement thereof, to be brought up to date within a reasonable
18time after the printing of such ordinances, and in any event such
19supplement shall be printed, or, if necessary, a new copy of the
20ordinances shall be printed within every four years, and the
21council shall cause a sufficient number of said books of the or-
dinances to be printed and to sell such number thereof as it may
23do so at such price as may be reasonable, and the number of
24books printed shall be fixed by the council.

Sec. 99. It shall be the duty of the city of Charleston to
2provide suitable and proper places for the burial of the dead.
3which places may be in or out of the corporate limits of the said
4city. The city shall cause such places to be laid off into cemetery
5lots in a reasonable and proper way and shall sell said lots for a
6reasonable price, but it may take into consideration the location
7of each of such lots in fixing the prices thereof. The city council
8shall have all the powers and rights of condemnation of any real
9estate that it may wish for such purpose in the manner provided
10by law, and it may require by means of condemnation any real
11estate which has already been laid out as a cemetery by any
12person, association or corporation.
13No burials of the bodies of deceased persons shall hereafter
be permitted within the incorporated limits of the city of Charleston or within the space of one mile of such incorporated limits without the permission of said city shall be first had and obtained, and the city of Charleston, through its proper authorities, shall have power to pass all proper ordinances providing suitable penalties to carry out the powers here given said city.

No moneys received from the sale of lots in any cemetery so owned, or hereafter owned, by said city shall be used for any other purpose than the proper care and preparation of the ground, upkeep and expenses of said cemetery, the roads and ways to and through the same and for the purchase of additional property for cemetery purposes. Provided, however, that nothing herein contained shall in anywise effect any person, firm or corporation now lawfully engaged in the sale of cemetery lots, unless such property be acquired by the city through purchase or condemnation.

Sec. 100. The building inspector shall be a competent person for the duties of his office and shall devote all his time to city work. He shall not be engaged or interested in the building business in any way or manner. The council shall by ordinance fix a proper salary for him. He shall see that the ordinances of the city and laws of the state concerning buildings are enforced and perform such other duties as the manager or council may direct.

Sec. 101. The council shall have power to buy, sell or exchange any real estate found necessary or convenient, in the opening, construction, straightening, widening, or otherwise altering of any street, alley or public way within the city, and by resolution and proper deed to convey to any person, firm or corporation any land used, or heretofore or hereafter used, for street or other public purpose, when in the judgment of the council such land shall no longer be needed for such public use.

CHAPTER 10.

(House Bill No. 121—Mr. Brand.)

AN ACT to amend and re-enact sections one, ten, twenty-six, forty-seven, fifty-one, fifty-two and sixty-one of chapter one hundred and thirteen of the acts of one thousand nine hundred and seventeen, creating the city of Morgantown.
SEC. 1. The city of Morgantown; corporate powers.

10. First election under this act.

26. Judicial power of city vested in a municipal court; jurisdiction of offenses specified; municipal judge; duties and powers; appeals from judgment of such court; judges' compensation.

47. Filing of budget with city clerk; levy on real estate and personal property for taxes to meet budget.

51. Construction of curb, sidewalk or gutter.

Be it enacted by the Legislature of West Virginia:

That sections one, ten, twenty-six, forty-seven, fifty-one, fifty-two and sixty-one, of chapter one hundred and thirteen of the acts of one thousand nine hundred and seventeen, entitled an act creating the city of Morgantown, in the county of Monongalia, be amended and reenacted so as to read as follows:

Corporate Powers.

Section 1. That the inhabitants of that portion of Monongalia county, in the state of West Virginia, included within the boundaries described in section two of this act, now a municipality, shall continue to be a body politic and corporate under the same name, and as such shall have perpetual succession; may use a corporate seal; may sue and be sued; plead and be impleaded; contract and be contracted with; acquire property for municipal purposes in fee simple or lesser interest or estate by purchase, gift, devise, appropriation, lease or lease with the privilege to purchase, either within or without the city limits, subject to the rights of other affected municipal corporations; may sell, lease, hold, manage and control such property, and make any and all rules and regulations, by ordinance or resolution, which may be required to carry out fully all provisions of any conveyance, deed or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may grant public franchises to be exercised within the city; may acquire, construct, own, lease and operate light, heat, power, water, garbage and sewage disposal plants and regulate all other public utilities; may assess, levy, and collect taxes for general and special purposes on all the
22 subjects or objects within its boundaries which the city may
23 lawfully tax; may borrow money for refunding bonded and
24 current indebtedness or for permanent improvements and pub-
25 lic works, on the faith and credit of the city by the issue and
26 sale of bonds or notes of the city, and in the issuance and sale
27 of said bonds the said city shall be governed by the restrictions
28 and limitations of the constitution and laws of the state relat-
29 ing to the issuance and sale of bonds, so far as said state laws are
30 not in conflict with the provisions of this act; may perma-
31 nently improve, repair and reconstruct any street, alley or road-
32 way within the city limits and assess the cost thereof, as here-
33 inafter provided, against the owners of the abutting or bene-
34 fited properties in accordance with an ordinance that shall per-
35 mit the payment of said assessments in cash or in annual install-
36 ments, and may in anticipation of the levying of said assess-
37 ments, issue and sell its bonds, as hereinafter provided; may
37-a appropriate the money of the city for all lawful purposes; may
38 create, provide for, construct, regulate and maintain all things
39 of the nature of public works and improvements; may direct
40 the laying out of lots and the opening of streets and roadways;
41 may license and regulate persons, corporations and associations
42 engaged in any business, occupation, profession or trade; may
43 define, prohibit, abate, suppress and prevent all things detri-
44 mental to the health, morals, comfort, safety, convenience and
45 welfare of the inhabitants of the city, and all nuisances and
46 causes thereof; may limit the height and regulate the con-
47 struction and materials used in all buildings and structures of
48 every kind, and the maintenance, occupancy and use thereof;
49 may regulate and control the use, for whatever purpose, of the
50 streets and other public places; may create, establish, organize
51 and abolish offices not specifically provided for by this act, and
52 fix the salaries and compensations of officers and employees when
53 not fixed herein; may make and enforce local police, sanitary and
54 other regulations, and prescribe, impose and enforce reasona-
55 ble fines and penalties, including imprisonment, and with the
56 consent of the county court of Monongalia county, shall have
57 the right to use the jail of said county when necessary; and may
58 pass such ordinances and resolutions as may be expedient or
59 necessary for maintaining and promoting the peace, good gov-
60 ernment and welfare of the city, and for the performance of
61 the functions thereof. The city of Morgantown, as constituted by
this act, shall retain, keep and succeed to all rights, privileges, property, interest claims and demands heretofore acquired by, vested in or transferred to the said city as heretofore constituted and shall have all powers that now are or hereafter may be granted to municipalities by the constitution or laws of West Virginia, or that are herein by implication conferred, or are necessary to or consistent with the purposes of this act; and all such powers, whether expressed or implied, shall be exercised and enforced in the manner prescribed by this act, or when not prescribed herein, in such manner as shall be provided by ordinances or resolutions of the governing body herein provided for.

Sec. 10. The first election under this act shall be held on the fourth Tuesday of April, one thousand nine hundred and nineteen, or at such time as may be fixed by the common council of the city, not less than thirty nor more than ninety days after the adoption of this act as provided in section sixty-one hereof, at the regular voting places within the city, under the supervision of the council and officials of the city as at present constituted, and be conducted, certified, returned and finally determined, in accordance with the provisions of this act and the laws and ordinances, or such parts thereof, as are now in effect and not inconsistent with the provisions of this act.

Sec. 26. The judicial power of the city shall be vested in a municipal court, which shall have the same jurisdiction, in cases arising within the city, as is vested in justices of the peace by the laws of this state, and as is vested in municipal courts by chapter one hundred and fourteen-a of the code of this state, and which shall have exclusive jurisdiction of the following offenses committed within the city (except when prosecuted by indictment or information):

1. All criminal proceedings for the violation of any city ordinance.
2. All actions for the collection of licenses, assessments or taxes imposed under this act or any ordinance of the city.
3. Petit larceny.
4. Assault and battery.
5. Breaches of the peace, rioting, committing willful injury to property, and all misdemeanors punishable by fine or imprisonment in the county jail, or both; proceedings respecting vagrants, lewd or disorderly persons; and of all offenses not properly falling under the jurisdiction of other courts.
6. All cases for desertion or non-support and of dependent,
neglected or delinquent children, where the parties or any of
them reside or the cases arise within the city, subject to appeal
to the circuit court of Monongalia county as provided in chapters
fifty-one and sixty-three of the acts of the legislature of one
thousand nine hundred and seventeen.

The municipal court shall be presided over by a munici-
pal judge, who shall be a citizen of the city of Morgantown.
Until a municipal judge shall have been appointed, the mayor
shall act in that capacity. The municipal judge shall within
the city have, possess and exercise all the powers and perform
all the duties vested by law in a justice of the peace, except that
he shall have no jurisdiction in civil cases or causes of action
arising outside of the corporate limits of the city. He
shall have the same power to issue attachments in civil suits as a
justice of the county has, though the cause of action arose out-
side of the city, but if the cause of action arose outside of the
city, said attachment shall be returnable to and be heard before
some justice of the county. Any warrant or other process is-
issued by him may be executed at any place in the county. He
shall have the power to issue executions for all fines, penalties
and costs imposed by him, or he may require the immediate pay-
ment thereof, and in default of such payment he may commit the
party in default to the jail of the county or municipality until
the fine or penalty and costs shall be paid, but the term of im-
prisonment in such cases shall not exceed thirty days. The ex-
 pense of maintaining any person committed to the county jail by
him, shall be borne by the city, except it be to answer an in-
dictment or be under the provisions of section two hundred and
twenty-seven and two hundred and twenty-eight of chapter fifty
of the code of this state.

He shall not receive any money belonging to the state or
individuals unless he give such bond and security as is re-
quired of a justice of the peace, and all provisions of the said
chapter fifty of the said code relating to moneys received by
justices shall apply in like manner to the municipal judge.

He shall have authority to sentence an offender to labor,
upon the streets or at other public work of the city, for a pe-
riod not exceeding thirty days, and the compensation for said
labor shall be paid to said offender's dependents, if any, in con-
formity with such regulations as the board of commissioners may by ordinance provide.

Appeals shall lie from the judgment of the municipal court to the circuit court of Monongalia county, in accordance with law.

The municipal judge may, in lieu of a salary fixed by ordinance, receive as compensation, such fees as are provided by law for justices of the peace, but the city shall assume no liability for the collection of said fees.

Sec. 47. Upon receipt of said budget the board of commissioners shall cause a copy of same to be placed on file in the office of the city clerk for public inspection and shall give public notice of a meeting to be held not less than ten days thereafter, at which meeting objections to the budget may be stated.

The board of commissioners shall then make such changes in the said budget as they may deem advisable, but shall not increase the amount thereof, and shall order a levy of so much on the real estate and personal property in the city as in their opinion shall be necessary to pay the same; provided, that such annual budget shall be made and such levy laid in the manner prescribed by general law of this state relating thereto; and provided that the levy for general purposes shall not exceed fifty cents on each one hundred dollars of the valuation of the taxable property in the city for the year in which said levy is laid, unless a higher rate shall be hereafter authorized by general law of the state; and, provided, further, that they may, for the purpose of paying the present current indebtedness of the city, lay an additional special levy not to exceed ten cents on each one hundred dollars of such valuation, but the same shall not be continued after the taxes accruing from such special levy are sufficient to pay the present current indebtedness of the city.

Property shall be valued for the purpose of taxation in the manner required by the laws of the state. The capitation tax imposed under Sec. 49 hereof shall be collected by the assessor and his assistants at the time of the collection of other capitation taxes as required by section fifty-three of chapter twenty-nine of the code of this state, for which the assessor shall be allowed a compensation of five per cent. upon settlement for all capitation taxes with which he is charged in the city.

Sec. 51. The board of commissioners may order the owner of any real property abutting on any street, roadway or alley
3 to grade the sidewalk adjacent to such property and to con-
4 struct or cause to be constructed a curb, sidewalk or gutter along
5 said property in accordance with such regulations as they may
6 by ordinance provide, and upon failure of said owner so to do,
7 the board of commissioners may cause the same to be done and
8 shall assess the cost thereof, with interest, upon the said property
9 and against the owner thereof.

Sec. 52. The board of commissioners shall have power, witho-
2 ut petition of the owners, to provide for the construction, re-
3 construction, repair and maintenance, of all local improvements
4 including the grading, paving, sewering and otherwise perma-
5 nently improving of streets and alleys of the city, and to provide
6 for the assessment of one-third of the cost thereof, including all
7 incidental expenses and the cost of intersections of streets, with
8 interest payable annually, against the abutting or other specially
9 benefited properties, according to their frontages, on each side of
10 such streets or alleys, and against the owners thereof, upon the
11 following conditions:
12 (a) Plan and resolution. The board of commissioners,
13 when deemed expedient by it, shall cause plans, specifications,
14 profiles and estimates of the proposed improvements by grading,
15 paving, curbing, sewering or otherwise locally improving any
16 streets or alleys, to be made and filed in the city clerk’s office,
17 and shall by ordinance and resolution prescribe generally the lo-
18 cation and character of the proposed improvement and refer to
19 such plans, specifications, profiles and estimates.
20 (b) Notice and hearing. The board of commissioners
21 shall then cause notice thereof to be published once in two
22 newspapers published in said city, fixing the date for a hearing
23 thereon not less than one week after the adoption of such reso-
24 lution. At the date stated in such resolution and notice, or at any
25 adjourned meeting, the board of commissioners shall hear ob-
26 jections to the proposed improvement and may correct, amend
27 or modify such plans, specifications, profiles and estimates, not
28 extending such improvement to any other street or part of street,
29 and may pass or adopt a resolution or ordinance providing for such
30 improvement by direct employment of labor or by contract with
31 the lowest responsible bidder, and for the assessment of one-third of
31-a the cost thereof against the abutting or specially benefited proper-
31-a ties on each side of such street or alley.
32 (c) Assessment, docketing and payment. The board of
33 commissioners shall, by resolution or ordinance, levy the as-
34 sessment of one-third of the approved estimate of the cost of
35 such improvement, including incidental expenses and intersec-
36 tions, upon the abutting or other specially benefited properties
37 and against the owners thereof, in proportion to the frontages of
38 such properties, designating the same by numbers, names of
39 owners or other convenient description; and shall also assess
40 against any street car or other railway company the cost of the
41 improvement of the space between the rails of its track or tracks
42 and two feet additional outside each rail (unless otherwise pro-
43 vided in the franchise therefor); which assessments shall be liens
44 upon the respective properties, and upon the tracks and fran-
45 chises of such company for the distance of the improvement
46 thereon, and said liens shall have priority over all other liens
47 except taxes due the state. The said assessment shall be paya-
48 ble fifteen days after the levying thereof, unless the owners of
49 such properties elect to pay the same in ten annual installments as
50 hereinafter provided; and, within thirty days after the levying
51 thereof, the city clerk shall cause a memorandum of all unpaid
52 assessments to be made, showing the names of the owners of such
53 properties, descriptions of the properties, and the amounts of
54 the assessments, respectively, and shall file the same in the office
55 of the clerk of the county court of Monongalia county for re-
56 cord in the deed of trust books therein; such assessments, after
57 said period of thirty days, and before recordation of such mem-
58 orandum, shall not be liens as against purchasers of such property
59 for value and without notice. Upon payment thereof, releases
60 shall be executed and recorded in the manner provided by law.
61 (d) Collateral bonds. The board of commissioners shall,
62 at the option of the owner or owners of such properties, permit
63 payment of one-tenth of the amount assessed against them,
64 respectively, within said fifteen days, and issue and sell its notes
65 or bonds, without vote of the electors of the city, in anticipa-
66 tion of the payment of such special assessments in annual install-
67 ments as follows: One-tenth of such amount with interest on said
68 one-tenth, at six per cent per annum, payable annually, in one year
69 from the date of levying of such assessment, and a like one-tenth,
70 with interest as aforesaid, at the expiration of each succeeding year
71 until the whole amount shall have been paid.
72 (e) Method of improvement. The board of commis-
73 sioners shall, after levying and collecting assessments and issu-
ing its notes and bonds as aforesaid, proceed with such local improvements according to the said approved plans, specifications and profiles, and shall pay two-thirds of the cost thereof out of the special assessment fund accruing from such payment and the sale of its notes or bonds and shall pay the remaining one-third out of any public funds not otherwise appropriated. Provided, that the assessment against any such street car or other railway company shall be deducted from the one-third of the cost to be paid by the city.

(f) Rebates or further assessments. Upon the completion of any improvement, any excess above the actual cost of the improvement shall be refunded to the owners of properties on the basis on which assessed, and in the event of a deficit in the assessment fund, the commissioners may by ordinance lay a supplementary assessment on the basis of the actual cost, which shall be made and collected as provided in the case of the original assessments for the improvement.

(g) Gas and water lines. The board of commissioners before making any such local improvements, shall compel any person, firm or corporation having gas, water, telephone, street car or other public utility equipment on, in or under such street or alley under franchise therefor, to be removed, renewed, lowered or raised, and the gas or water lines or connections to be extended from the mains to the abutting properties, as directed within ten days after notice so to do; and shall also cause the owners of properties abutting on said street or alley to install sewer connections at their expense, within ten days after notice so to do; and if the same be not done within said time, the work may be done by the city, and the cost thereof, with a penalty of ten per cent. of the cost, assessed against the owners of such franchises and against the said properties respectively, for which such connections are made, which assessments shall be liens and may be collected as other taxes.

(h) Damages to improvements. Whenever any street or alley of the city, or any part thereof, shall have been graded, severed, or otherwise permanently improved by order of the board of commissioners, pursuant to the authority conferred on them by this section, by providing for an assessment of a part of the cost thereof, as provided by this section, against abutting property and the owners thereof, it shall not be within the power of the said board of commissioners to thus charge the said property...
114 or the owners thereof, with any part of the cost of regrading 115 re-paving, re-sewering or against permanently improving such 116 street or alley until after fifteen years from the completion of 117 such grading, paving, sewering or otherwise permanently im- 118 proving thereof. The board of commissioners shall, by ordi- 119 nance provide for the protection, preservation and use of any 120 such local improvements and shall prescribe fines and penal- 121 ties for damages or injuries thereto, for which the person or 122 company causing such injury shall be liable; and no owner or 123 owners of abutting properties shall be compelled to pay subse- 124 quent special assessments for the reconstruction, repair and 125 maintenance of any curb, pavement, sewer or other local im- 126 provement, so injured or damaged by any other person or cor- 127 poration in violation of such ordinance.

128 (i) The board of commissioners shall have power to pass 129 and adopt ordinances not inconsistent with the constitution and 130 laws of this state, for the purpose of carrying out the provis- 131 ions of this section.

Ratification by Voters.

Sec. 61. The said act of the legislature of one thousand 2 nine hundred and seventeen, as hereby amended, shall not be 3 effective until the same shall first be submitted to the voters of 4 said city, at a special election called for that purpose, and adopted 5 by a majority of the votes cast at said election. Said special 6 election shall be held on the fourth Tuesday in March, one 7 thousand nine hundred and nineteen, after publication of the 8 act one time not less than ten days immediately preceding said 9 special election, in two daily papers published in said city. 10 Said special election shall be conducted in the regular manner 11 of holding municipal elections in said city. If this act is 12 adopted at said election it shall become effective at the time 13 and in the manner provided in section sixty hereof. 14 The ballot to be voted at said election shall be printed 15 in the following form:

CITY OF MORGANTOWN.
CHARTER ELECTION.
Indicate how you desire to vote by a cross in the square.

[ ] "For adoption of new charter."
[ ] "Against adoption of new charter."
Provided, however, that if this act shall fail of adoption at such election, the same may be voted upon at a subsequent election, called by the council of said city, and held in the same manner; but no such subsequent election shall be held until a period of six months shall have elapsed after any former election held for that purpose; and provided, further, that if the council of said city shall fail or refuse to call a subsequent election for that purpose, then upon petition signed by the qualified voters of said city, equal in number to at least thirty per centum of the entire vote cast for the candidate for mayor, who received the highest number of votes at the last preceding municipal election, said council shall, by a proper order, call a special election for that purpose. And if this act shall fail of adoption, at the first election held for that purpose as herein provided, then it shall take effect from the date of its adoption, at such subsequent election, for the purpose of nominating and electing officers and all purposes in connection therewith, and for all other purposes shall take effect on the first day of July following its ratification and adoption in the manner herein provided.

CHAPTER 11.

(Proposed Bill No. 01—Mr. Weiss.)

SEC. 52. Limit on indebtedness that may be incurred.

SEC. 83. Limit on levy for all purposes; amounts that may be raised by levy; for what purposes.

[Passed February 7, 1910. In effect from passage. Became a law without the Governor’s approval.]

AN ACT to amend and re-enact sections fifty-two, seventy-six, eighty-three and eighty-four of the part entitled, “Greater Wheeling Charter,” of an act of the legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled: “An act to amend, revise and consolidate into one act an act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven, entitled: “An act to amend, revise and consolidate into one act an act of the general assembly of Virginia, passed March eleventh,
one thousand eight hundred and thirty-six, entitled: "An act to incorporate the city of Wheeling, in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling;" chapter eleven of the acts of said legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legislature at the regular session in the year one thousand nine hundred and thirteen; and all other acts of the said legislature passed since the passage of said act of February eleventh, one thousand nine hundred and seven, and which form a part of the charter of the city of Wheeling; and providing that the charter of said city shall be one of two forms of charters in this act set forth, according to the decision of the voters of said city at the general election to be held on the fourth Thursday in May, one thousand nine hundred and fifteen.

Be it enacted by the Legislature of West Virginia:

That sections fifty-two, seventy-six, eighty-three and eighty-four of chapter twenty-one of the acts of one thousand nine hundred and fifteen (greater Wheeling charter), and approved by a majority of the voters of the city of Wheeling at an election held on the fourth Thursday of May in the year one thousand nine hundred and fifteen be amended and re-enacted so as to read as follows:

Section 52. The council may cause any street or alley to be paved, between the sidewalks, with cobble, asphalt, stone, brick, or other suitable materials, under such regulations as shall be fixed by ordinance, upon the lowest and best terms to be obtained by advertisement for bids or proposals therefor by the council as herein provided; or the council may have such work done without the intervention of contractors or middlemen; and two-thirds of the cost of such paving shall be assessed against the owners of the lots or fractional parts of lots abutting or bounding on that part of the street or alley so paved in proportion to the distance of the frontage owned by each, except in the case of a street whereon a railway of any kind is being operated, the railway company, or owner of such railway, shall, upon thirty days’ notice in writing from the city, pave with like material and in a like manner as the city paves the residue of the streets, or pay for the new paving if done by the city, between
17 the rails and a foot outside of the rails, and the residue of the space between the tracks where more than one are on the street, and the remainder of the cost to be borne in the proportion of one-third by the city and the remaining two-thirds by the owners of the abutting property on both sides of said street or alley on which said railway is being operated, the intersections of two streets, or of a street and alley, or of two alleys, to be paved at the expense of the city. But where the intersection is crossed by a railway track or tracks of any kind, the railway company or owner of such tracks shall pay for the paving of so much of such intersection as is between its rails and one foot outside of such rails, as well as the residue of the space between double tracks. In case two street railway tracks belonging to different owners are on a street, the cost of paving between such tracks on such street shall be paid one-half by the owner or owners of each of such tracks.

33. The sum or sums of money thus assessed for paving shall be a lien on the lots or fractional parts of lots upon which they are assessed, which lien may be enforced by a suit in equity in the name of the city, in the circuit court of Ohio county, West Virginia, or the same, or any installment thereof, may be collected by a suit at law before such court, or before any justice of the peace of said county, if the amount involved does not exceed three hundred dollars, exclusive of interest and costs.

41 Immediately upon the completion and acceptance of any such paving, the council shall direct the city clerk to cause to be published a notice, which shall name and describe the location of the portion of the street or alley upon which said paving shall have been constructed; give the name or names of the owners of each lot abutting or bounding upon such portion of the street or alley, if known, and if the name or names of the owner of any lot or fractional part of a lot are unknown, such lot shall be described with reasonable certainty in order that the same may be identified; and the number of feet that each lot or fractional part of a lot abuts upon such paved portion, as well as the amount assessed against each lot or fractional part of a lot, for the cost of the paving. Said notice shall cite all owners of lots or fractional parts of lots, abutting upon the portion of the street or alley which has been paved, to appear before the council at a regular meeting thereof, within thirty days from the first publication of the notice, and show cause, if they can,
why the assessment aforesaid should not become final, which
notice shall be published once a week for two successive weeks
in one or more newspapers of general circulation published in
said city. The council shall, upon the request of any one or
more of the owners of said lots or fractional parts of lots, ap-
point a day to hear the grievances of said owner or owners, and
may alter or amend any assessment made against any one or
more of said owners for good cause shown. The city clerk shall
give notice to all persons claiming to be injured by said assess-
ment, of the time and place of holding the meeting of the
council to hear such grievances, which meeting shall be held
within ten days after the clerk shall have given the last men-
tioned notice. The council may adjourn the hearing from time
to time. In case any owner or owners of abutting property fail
within such thirty days to complain to the council of any griev-
ance or injury they may have suffered, by reason of the assess-
ment aforesaid, or to appear before the council for the purpose
of having the same corrected on the day appointed by the council
for the hearing of such grievances as have been complained of,
the assessment as laid shall be final. The findings of said council
shall be subject to correction by said circuit court, upon appeal,
which must be taken and perfected within thirty days from the
finding and be heard and determined by such court without de-
lay, having precedence of other cases on the court’s docket. The
rights conferred by this section are cumulative and shall not be
exhausted as to any particular street or alley by reason of having
been once exercised.

One-tenth of the amount assessed against the property
owner of the cost of the paving shall be paid within one year
after the completion and acceptance of the work, and the remain-
ing nine-tenths thereof shall be paid in nine equal annual install-
ments, with interest, payable annually, payable at such times as
the city shall collect taxes for other purposes.

Where the city does the paving which is required to be
done by the traction companies under their franchise rights
of this charter upon completion and acceptance of the work by
the city, the amount of the cost thereof shall be due and payable,
and the city may recover the same by an action at law.

But lien upon any real estate created by virtue of this sec-
tion shall be void as to any purchasers of any such real estate
unless the city shall, within sixty days after the completion and
acceptance of the paving by the city, cause to be recorded in the 
office of the clerk of the county court an abstract of such assess-
ment, giving the location of the real estate affected, the name of 
the owner and the date and amount of the assessment, which 
recording shall be in a well-bound book to be furnished by 
the city and be preserved in said clerk's office.

And it is hereby made the duty of said county clerk to 
record said abstracts; for the recording of each of which said 
clerk shall receive a fee of twenty-five cents to be paid by the 
city.

All moneys appropriated for the paving, repaving or re-
pairing of streets or alleys shall be used for that purpose only,
and the revenue received by the city from assessments against 
any and all property or property owners shall be placed in a 
"street paving" fund and shall be considered and treated the 
same as moneys appropriated for that purpose.

Sec. 76. The city shall not levy any aggregate for all city 
purposes, including interest and sinking fund on its bonded in-
debtedness, more than seventy cents on each one hundred dollars 
of assessed valuation of the property of the municipality accord-
ing to the last assessment thereof for state and county purposes;
the council shall annually cause to be levied and raised by a gen-
eral tax upon all taxable property in the city:

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

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

Third: An amount sufficient to pay the salaries of all officers of the city, and the wages of all employees of the city, other than those engaged upon revenue-producing works, and all necessary, ordinary and contingent expenses of the city, not otherwise provided for, which, with all other moneys received by the city, not belonging to any other fund specified by this act, shall be kept as a separate fund, to be called the general city fund.

Provided, however, that this section shall not become effective and operative until it, section seventy-six, as herein above amended, shall have been submitted to the voters of the city of Wheeling at an election held for that purpose. The city council shall provide by ordinance for such election, and shall appoint judges and clerks for each precinct within the city. Notice of such election shall be published in two daily newspapers of opposite politics in said city of Wheeling once a week for two successive weeks, the last publication to be not more than ten days before the day of election. The ballots used when voting upon this amendment to said section seventy-six shall contain the words, "for ratification" and "for rejection." If a majority of the votes cast at such election shall be for ratification, then section seventy-six as herein amended and re-enacted, shall thereupon become valid and binding law; if, however, the majority of votes cast at such election shall be for rejection, then and in that event this amendment to said section seventy-six shall be null and void and of no effect. The persons qualified to vote at any general municipal election shall be qualified to vote at such election, and no registration of voters shall be required for such election.

Sec. 83. No debt shall be incurred by said city even with the consent of the voters, in an amount, including existing indebtedness, in the aggregate exceeding five percentum on the value of the taxable property therein, as shown by the assessment for state and county taxes next preceding the incurring of such debt.

Sec. 84. Said city of Wheeling is hereby authorized to issue and sell its bonds. Provided, that the said city shall not by such
issue and sale of bonds cause the aggregate of its debts of every kind whatsoever to exceed five percentum of the valuation of the taxable property therein, which value shall be ascertained by the last assessment for state and county taxes previous to the issue of said bonds, nor shall said city make such issue and sale without at the same time providing for the collection of a direct annual tax of an amount sufficient to pay the annual interest of such debt and the principal thereof within and not exceeding thirty-four years. Said city shall never impose or exact from the inhabitants thereof a greater amount annually than seventy cents on each one hundred dollars on the assessed value of property for state and county purposes.

No bonds shall be issued by said city unless all questions connected with the same shall have been first submitted to the qualified voters of said city and have received three-fifths of all the votes cast for and against same.

When the council shall deem it expedient to issue bonds, an ordinance specifying the purpose and amount for which such bonds are to be issued shall be adopted by them at regular meeting and it shall then be the duty of the mayor of the city to issue a proclamation reciting said ordinance and appointing a day at which an election shall be held by the qualified voters of the city to decide whether they will ratify or reject said ordinance. Any bond ordinance may be voted on at the time of holding any general municipal election or a special election may be held for the purpose of submitting said ordinance to a vote of the people. If a bond ordinance is submitted to a vote at the time of a general municipal election, separate ballots shall be provided therefor. Such proclamation shall be published in two newspapers of opposite politics published in the city once a week for two weeks previous to the day of election.

Such election shall be conducted in all things according to the laws governing elections in force at the time said election is being held and according to the provisions of the charter of the city. All persons qualified to vote at other municipal elections in the city shall vote at such elections as are herein authorized.

The person voting for the ratification of any such ordinance shall have written or printed on his ballot "for ratification," and the person voting against ratification shall have written or printed on his ballot the words "for rejection."

More than one ordinance may be submitted at any election, but
each ordinance shall be separately voted upon; any ordinance may
specify more than one purpose for which said bonds are to be is-
sued, provided, however, that the amount to be appropriated for
each purpose is also specified therein. The proclamation issued
by the mayor, as hereinbefore provided, shall specify the aggregate
amount of indebtedness, outstanding and authorized, of the city
existing at the date of the proclamation.

Bonds issued by the city shall be of the denomination of one
hundred dollars or multiples thereof not exceeding one thousand
dollars. They shall be payable not less than one nor more than
thirty-four years after date. They shall bear not more than six
per cent. interest and the interest shall be payable either annually or
semi-annually. No debt shall be created by the city as a bonded
debt except when issued under the provisions of this charter.

It shall be unlawful for the officers of the city to privately
issue or sell directly or indirectly any bond or bonds to be used in
payment for work or materials to be furnished, but all such bonds
shall be publicly sold to the highest bidder in writing to be ap-
proved by the officers conducting the sale for cash or its equivalent
in bonds previously issued by the city, and the money arising
therefrom shall be used for the purpose specified in the ordinance
providing for the issuing of same; before any sale of such bonds,
said sale shall be advertised in some newspapers, not exceeding
four, in or out of said city, for once a week for four weeks pre-
vious to said sale.

The treasurer and his sureties shall be liable for the sinking
fund and the amount levied for may be levied for a sinking fund
and to pay interest on the bonded debt, and it shall be applied to
the purposes for which it was levied or for investment in United
States bonds or bonds of the city, as the council may direct, to be
used for the payment of principal and interest of any bonded debt
of the city.

Bonds of the city shall be sold at not less than their par value.
The council shall provide in its ordinance that bonds of the
city be signed by the mayor and city clerk and sealed with the
seal of the city.

Should any of the fund derived from the issuance and sale of
bonds of the city be diverted by the council or any officer or officers
of the city for the purpose for which said bonds were issued and
sold, such councilman or city officer using same or consenting to
or aiding in the use thereof for such other purpose shall be guilty
of a misdemeanor and be punished by a fine of not less than one
hundred dollars and not more than five hundred dollars, or by im-
prisonment not less than thirty days nor more than one year, or
both.

The city may issue and sell its bonds for any of the purposes
authorized in sections twenty-nine, forty-eight, fifty and fifty-two
of chapter twenty-one of the acts of one thousand nine hundred
and fifteen (greater Wheeling charter), passed by the legislature
of the state of West Virginia on February thirteenth, one thou-
sand nine hundred and fifteen.

All parts of chapter twenty-one, acts of one thousand nine
hundred and fifteen, inconsistent with this amendment to said
chapter are hereby repealed.

CHAPTER 12.

(House Bill No. 272—Mr. Moore.)

AN ACT to amend and re-enact sections three, four-a, thirty, forty-
one, forty-seven and forty-eight of chapter eighteen of the acts of
the legislature of one thousand nine hundred and fifteen, re-
ating to the charter of the city of Cameron, Marshall county,
West Virginia.

(Passed February 20, 1919. In effect ninety days from passage. Became a law
without the Governor's approval.)

SEC. 3. Officers, city of Cameron.
SEC. 4-a. Act effective when; fixing date of
election; method of election.
SEC. 30. Duties of the clerk; compensation.

SEC. 41. Chief of police; duties.
SEC. 47. Sidewalks; method of providing
for construction of; collection of assessment; street paving.

Be it enacted by the Legislature of West Virginia:

That sections three, four-a, thirty, forty-one, forty-seven and forty-
eight of chapter eighteen of the acts of the legislature of one thou-
sand nine hundred and fifteen be amended and re-enacted as fol-
lows:

Officers.

Section 3. The officers of said city shall be a mayor, clerk,
chief of police, and five councilmen. The clerk shall be ex-
officio assessor, and the chief of police shall be ex-officio collector
and street commissioner thereof. The said officers shall be
elected by the qualified voters of said city. The mayor, clerk,
and five councilmen shall constitute the common council of said
city, which common council may, at its discretion appoint a super-
8 intendent of water works, city solicitor and such other officers
9 as may be deemed necessary from time to time, and fix the term,
10 duties and compensation thereof. No person shall be eligible to
11 any elective office in said city unless he is a qualified voter thereof,
12 nor unless he has resided therein for at least one year next pre-
13 ceding his election, nor who shall have not been assessed for tax-
14 ation with real estate or personal property of the value of at least
15 one hundred dollars.

Sec. 4-a. This act shall take effect on the first Thursday in
2 January, one thousand nine hundred and twenty, at which time the
3 first election for city officers shall be held. Said election shall
4 be held and conducted, and the results thereof be ascertained, re-
5 turned and determined, under such rules and regulations as may be
6 prescribed by the council of the town of Cameron, the same being
7 consistent with the general laws of the state governing municipal
8 elections, and shall conform as nearly as may be thereto; but the
9 proclamation calling said election, shall, in addition to the usual
10 matters in such proclamations contained, call attention to this act,
11 and state fully the boundaries of the city of Cameron herein before
12 contained. On the said last named day, there shall be elected a
13 mayor, clerk, chief of police and five councilmen, who shall be elect-
14 ed for a term of two years beginning on the first day of February
15 next succeeding their election.

Sec. 30. The clerk shall prepare bills for all license taxes
2 due said city, whenever the same shall become due and payable,
3 and turn said bills over to the chief of police for collection, charg-
4 ing him therefor. The said chief of police shall proceed at once
5 to collect all such taxes on licenses, and account to the treasurer
6 therefor, as required herein for other collections. The said clerk
7 shall keep his office at the office of the mayor, unless otherwise
8 ordered by council, and shall keep his office open for the transac-
9 tion of business during such business hours as may be necessary
10 for the proper performance of his several duties. It shall be his
11 duty to prepare the annual financial statement of said city, and
12 when approved by the committee on finance, cause the same to be
13 published in some newspaper published in said city; and if there
14 be no newspaper so published, then in some newspaper published
15 in Marshall county, West Virginia.
16 The said clerk shall receive such compensation as may be
fixed by council from term to term, which shall not be more than six hundred dollars per annum.

Street Commissioner.

Sec. 41. The chief of police shall be ex-officio street commissioner for said city, who shall perform all such duties as may now or hereafter, by ordinances, be imposed upon him.

Sidewalks.

Sec. 47. The council may lay out and establish sidewalks or footways on the streets, avenues or alleys of the said city and may require the same to be paved with brick, stone or other suitable material as the council may determine, under the direction of the chief of police, by the owners respectively of the lots or fractional parts of lots, facing or abutting on such sidewalks or footways, and if the owners of any such sidewalk or footway, or of the real property next adjacent thereto, shall fail or refuse to pave the same in the manner or within the time required by the council, it shall be the duty of the council to cause the same to be done at the expense of the city, and to assess the amount of such expense upon such owner, and the said assessment be not paid within thirty days from the date of said notice the clerk shall turn the same over to the city collector for collection; which collection may be made in the same manner as is now provided for the collection of city taxes, or by an action in the circuit court of Marshall county, West Virginia, or before any justice of the peace of said county having jurisdiction in the matter, and a judgment obtained before said court or justice may be recorded in the office of the clerk of the county court of Marshall county, West Virginia, in the judgment lien docket and may be enforced in the same manner as other judgments against real estate are now enforced.

The provisions of this section shall also be applicable to needed repairs to any of the pavements of the city, and to the substitution of new pavements for any which may have been heretofore, or which may be hereafter laid and completed, and which may be deemed insufficient.

Provided, further, that in the instance where there is a long stretch of sidewalk on any one street in the city, the common council may require one sidewalk and may decide upon which
side of the street the walk shall be constructed, and in lieu of the
property owner on the opposite side of said street being required
to construct a sidewalk upon their own side, such owners may
be exonerated from building a sidewalk in front of their own
property contributing to the costs of the construction of such
sidewalk adopted by the council; such contribution shall be in
such amounts proportionate to the costs of the work of building
such sidewalk as the council may determine.

40 Street Paving.

41 The council shall have the right when in its opinion it is
necessary and proper to do so to pave and properly sewer, or pave
or sewer any street or alley of the said city and to charge one-
third of the total costs thereof of preparing and paving and
sewering, or paving or sewer ing, of the said street or alley to the
property owners on each side of each respective streets or alleys,
and pay one-third thereof out of such funds as the council may
provide for such paving and sewering which they have done, and
such assessments and charges made against the property owners
as is provided by the general laws of the state of West Virginia.

51 The provisions of this section shall be applicable to the re-
paving and sewering of any street or alley in said town which
has heretofore been paved or sewer ed and which may need to
be taken up and relaid and properly sewer ed.

CHAPTER 13.

(House Bill No. 280—Mr. Parsons.)

AN ACT to amend and re-enact section three of chapter nineteen of
municipal charters of the acts of the legislature of West Virginia
of one thousand nine hundred and fifteen, granting a charter to
the city of Point Pleasant in the county of Mason.

[Passed February 20, 1919. In effect from passage. Became a law without the
Governor’s approval.]

Sec. 3. Fixing wards of the city of Point
Pleasant, Mason county.

Be it enacted by the Legislature of West Virginia:

That section three of chapter nineteen of municipal charters of the
acts of the legislature of one thousand nine hundred and fifteen be
amended and re-enacted so as to read as follows:
Section 3. The territory of said city is hereby divided into two five wards, as follows: That part thereof lying south of Second street, and the same produced and extended as a line from the intersection thereof with Walnut street to the east corporation line by the shortest distance, shall constitute the first ward; that part thereof lying north of the north line of the first ward hereinbefore described, and south of Eighth street, produced and extended as a line from the east end thereof to the east corporation line, shall constitute the second ward; that part thereof lying north of Eighth street produced and extended as aforesaid as a line to a point on the Ohio river due west of the plant of the Point Pleasant water and light company, and running due east to a point on the east corporation line by the shortest distance shall constitute the third ward; that part thereof lying north of said last named division line extended as aforesaid as a line on the south side of Twenty-second street extending east to the corporation line and west to Oak street, and south on Oak street to the first street running due west to the Ohio river shall constitute the fourth ward; and all that part lying north of the south side of Twenty-second street produced and extended as aforesaid shall constitute the fifth ward.

CHAPTER 14.

(House Bill No. 152—Mr. Weiss.)

AN ACT to amend and re-enact section two of the part entitled "Greater Wheeling Charter" of an act of the legislature of West Virginia, passed on the twentieth day of February, one thousand nine hundred and fifteen, entitled: "An act to amend, revise and consolidate into one act an act of the legislature of West Virginia, passed February eleventh, one thousand nine hundred and seven," entitled: "An act to amend, revise and consolidate into one act an act of the general assembly of Virginia, passed March eleventh, one thousand eight hundred and thirty-six," entitled: "An act to incorporate the city of Wheeling, in Ohio county, and all subsequent acts, both of the general assembly of Virginia and of the legislature of West Virginia, which form a part of the charter of the city of Wheeling"; chapter eleven of the acts of said legislature of West Virginia of one thousand nine hundred and nine; chapter two of the acts of said legislature of one thousand nine hundred and eight, extra session; and chapter ninety-one of the acts of said legis-
lature at the regular session in the year one thousand nine
hundred and thirteen; and all other acts of the said legislature
passed since the passage of said act of February eleventh, one
thousand nine hundred and seven, and which form a part of the
charter of the city of Wheeling; and providing that the charter
of said city shall be one of two forms of charters in this act set
forth, according to the decision of the voters of said city at the
general election held on the fourth Thursday in May, one
thousand nine hundred and fifteen.

[Passed February 18, 1919. In effect ninety days from passage. Became a law
without the Governor's approval.]

Sec. Extending boundaries of the city of Wheeling; repealing acts and

Sec. parts of acts inconsistent.

Be it enacted by the Legislature of West Virginia:

That section two of chapter twenty-one of the acts of one thousand
nine hundred and fifteen (Greater Wheeling Charter) and approved
by a majority of the voters of the city of Wheeling at an election
held on the first Thursday of May, in the year one thousand nine
hundred and fifteen, be and the same is hereby repealed and a new
section be and is hereby in lieu thereof, to be known as section two,
as follows:

Section 2. The city of Wheeling may extend its boundaries
so as to include all of the lands, grounds, waters, water courses,
territory contained with the following boundaries (all of
which is within Ohio county, West Virginia) in addition to the:
lands, grounds, waters, water courses and territory included with-
in the city of Wheeling as at present bounded:

Commencing for the same at a point in the south line of the
Jacob Zilles property, said point being also located at the north-
est corner of the present corporate limits of the town of War-
wood, in Richland district of said county and state; thence with
the easterly corporate boundaries of said town as the same are
recorded in the office of the clerk of the circuit court of said
county in law order book number thirty-one, at page four hundred
and sixty-eight; south fourteen degrees east nine hundred and
sixty-eight feet to the northeast corner of the sub-division known
as Glenova, a plat of said sub-division being recorded in the office
of the clerk of the county court of said county in plat book
number one, at page seventy-one; said corner being located at a
distance of three hundred and eighty-eight feet east of the River
county road; thence with the easterly lines of Wilston avenue of
said sub-division south five degrees east five hundred and
sixty-five and nine-tenths feet; south three degrees thirty
minutes west two hundred and seventy feet; south five
degrees thirty minutes east four hundred and eighty
feet; south three degrees thirty minutes east two hundred
and ten feet; south five degrees thirty minutes east five hundred
and ninety-one feet to the southeast corner of said sub-division;
thence leaving the lines of the said sub-division and crossing
Glenns run south thirty minutes east eight hundred one and
eight-tenths feet to a point in the north side of Cherry Hill road,
said point being located three hundred and fifty-three feet cast
of the said River road; thence with the west line of Orchard
avenue of the subdivisions known as Warwood south five degrees
fifteen minutes east two thousand five hundred and seventy feet
to a point in the south line of said subdivision located three
hundred and fifty feet east of the aforesaid River road; thence
through the property of George and Casper Dorsch south six
degrees fifteen minutes west eight hundred eighteen and five-
tenths feet to a point in the south line of said subdivision located two hun-
dred and forty-five feet east of the aforesaid River road, said
point being located at the northeast corner of a subdivision known
as South Warwood, a plat of said sub-division being recorded
in said county clerk's office in plat book number one, at page
one hundred and sixty-six; thence with the east line of said sub-
division south thirty degrees fifteen minutes west seven hundred
seventy-seven eight-tenths feet to a point at the southeast corner
of said subdivision, said point being located two hundred and
twenty-five feet east of the said River road; thence south seven-
degrees fifteen minutes west two hundred seventy-five and
eight-tenths feet; thence south twenty degrees forty-five minutes
west one thousand twelve and five-tenths feet to a point in a
north line of the subdivision known as Loveland, a plat of said
subdivision being recorded in the said county clerk's office in
plat book number one, at page one hundred and thirteen; said
line being also the southerly line of the property owned by
Conrad Lasch heirs; thence with said line south sixty-six degrees
forty-five minutes east four hundred and five feet to a point at
the northeast corner of said last mentioned subdivision; thence
leaving the corporate boundaries of said town of Warwood and
with the easterly extension of the last described line south sixty-
six degrees forty-five minutes east eight hundred twenty-nine
and four-tenths feet to a post at the northeast corner of the
Loveland improvement company's property, said post being also
in a line of the farm owned by the J. W. Nichols estate; thence
with a line of the same south twenty-seven degrees thirty-six
minutes west three hundred twelve and nine-tenths feet to a
post, corner to a farm owned by Lydia E. Marshall; thence with
the westerly lines of same south thirty-four degrees thirty-five
minutes west one thousand six hundred and thirty-five feet to a
point at the southeast corner of the said improvement company's
property, said point being also located at the northeast corner of a
tract of land owned by the Richland coal company and being part
of lot number seven of the sub-division of the A. P. Woods home
farm, a plat of said subdivision being recorded in the said county
clerk's office in deed book number forty-eight, at page three
hundred and eighty-nine; thence with the easterly line of same
south thirty degrees west eighty-one and twenty-four one hun-
dreths poles to a stake; formerly a hickory stump, corner to
subdivision "A", "C" and "G" of the Walter Marshall farm;
thence in a northeasterly direction with the road through said
farm nine and sixteen-one hundredths poles to a stake, corner
to subdivision "C" and "D" of said farm; thence with the lines
between the last mentioned subdivisions south fifty-one degrees
east fifty-one and one-half poles; south thirty-nine and three
fourths degrees east one hundred one and twenty-four nine hun-
dreths poles to a corner of a tract of land owned by Agra Mc-
Kinley; thence with the southerly lines of the lands of L. Mar-
shall, Frederick Schaefer and George Landmyer and with the
northerly lines of Agra McKinley, D. M. Alexander and another
tract owned by George Landmyer north eighty-three degrees fifty
minutes east two thousand six hundred and twenty-eight feet
to a point in a line of the farm owned by J. W. Nichols estate
thence with said line and with the line between the farm owned
by the J. C. Campbell estate and the tract owned by D. M. Alex-
der and its extension south forty-two degrees fifteen minutes
east three thousand two hundred and ninety feet to a point in
the Waddells run county road; thence crossing the lands of
Frederick Fisher, Peter Storch, Sisters of Our Lady of Charity
and J. E. Green south fifteen degrees sixty-six min-
utes east four thousand eight hundred and ninety-
two feet to the most northerly corner of a nineteen
100-a and six-tenths acre tract that was conveyed to George Rentch by J. E. Green and wife by deed recorded in said county clerk's office in deed book number one hundred and thirty-five, at page five hundred and seventy-three; thence crossing said tract south twenty-five degrees fifteen minutes east eight hundred and seventy-six feet to the most easterly corner of said tract; thence crossing the lands of the Goshorn estate south thirty-eight degrees thirty minutes east two thousand feet to an oak, corner to the lands of the Goshorn estate and the Baird farm; thence with a line between said last mentioned farms south thirty-two degrees forty-five minutes east three hundred and forty-two feet to a corner of the W. F. Krieger farm; thence crossing the same south thirty-four degrees forty-five minutes east ninety-three and seventy-seven one hundredths poles to a corner of Wheeling Park; thence with an easterly line of same south thirty-four degrees thirty minutes east seventy-two poles to a line of a tract owned by J. Deickman thence with a line of same north seventy-six degrees east thirty-five feet to its northeast corner; thence south thirty-three degrees east one thousand nine hundred and ninety feet to a point in an original line of the Cruger estate; thence with the same north fifty-nine degrees twenty-five minutes east one thousand and seventy-five feet; thence up the northerly bank of Little Wheeling creek; thence up said creek in an easterly direction following along to top of the northerly bank of same one thousand and fifty feet, more or less, to its intersection with the northwesterly extension of the centerline of Hervey lane as the same is shown on the subdivision known as Sigma Pons, a plat of said subdivision being recorded in said county clerk's office in plat book number one, at page one hundred and forty-three; thence with said extension and with said centerline and its southeasterly extension, crossing said 135-a creek, south eighteen degrees thirty minutes east one thousand two hundred and ninety feet; thence south eighty degrees west one thousand seven hundred and fifty feet to a point in an original line of the Shepherd estate, said point being also located at the most easterly corner of the present corporate limits of
the town of Elm Grove in Triadelphia district, said county and
state; thence with the corporate boundaries of said town south
twenty-six degrees forty-five minutes west one thousand five
hundred feet to a point on the east side of the Stone church road;
thence south fifty-six degrees forty-five minutes west two hundred
and ninety-six feet; thence south seventy degrees fifteen minutes
west four hundred and fifty feet to the northeast corner of the
present corporate limits of the town of Patterson, in Triadelphia
district, said county and state; thence with the corporate bound-
daries of said last named town south sixteen degrees thirty-
three minutes west nine hundred and eighty-seven feet to a white
oak; thence south eleven degrees thirty-two minutes west one
thousand two hundred ninety-seven feet to a stake; thence north
fifty-seven degrees fifty minutes west five hundred fifty-five feet
to a point in Monument and Big Wheeling creek county road;
thence crossing said creek south fifty degrees ten minutes west
nine hundred and seventy-feet and five-tenths feet to a fence post;
thence south thirty-three degrees forty-three minutes west one
hundred and ninety-six feet to a post; thence north fifty-two
degrees nine minutes west one thousand seven hundred and
sixty feet to a large locust; thence north nineteen degrees
twenty-five minutes east seven hundred and eighty-six feet to a
stake; thence north twenty-five degrees two minutes east fifty
feet to a point in the public road leading from the Wheeling and
Elm Grove county road to the George H. P. Schmidt farm;
thence leaving the corporate boundaries of the said town of Pat-
terson and with the center line of said public road north forty-
five minutes east five hundred feet; north thirty degrees east
nine hundred and thirty feet to a point in the present corporate
limits of said town of Elm Grove; thence with the corporate
boundaries of said last mentioned town north sixty degrees
west seven hundred twenty-six feet to a point between two wal-
nuts; thence north fifteen degrees fifteen minutes west one thou-
sand five hundred twenty-five feet to a stake; thence north eight
degrees forty-five minutes west seven hundred and seventy-
foe feet to a stake; thence forty-five degrees fifteen
minutes east nine hundred feet to an elm on top of the west
bank of Wheeling creek; thence leaving the corporate boundary
lines of the said town of Elm Grove down said creek follow-
ing the top of the westerly bank of same seven thousand seven
hundred feet, more or less, to a point at the intersection of the
top of the westerly bank of said creek with the westerly extension
of the present northerly line of Greenwood cemetery; thence leaving the top of the westerly bank of said creek and running in a due west direction six thousand five hundred feet; more or less, crossing the lands of Hugh Clare estate, J. Flynn and W. P. Hubbard and A. Reymann to a point in the present corporate boundary lines of the city of Wheeling; thence with the present corporate boundary lines of the city of Wheeling as described by an act of the legislature passed February third, one thousand eight hundred and seventy-one, entitled "An act to amend the charter and extend and prescribe the limits of the city of Wheeling," and in a northerly and then westerly direction, crossing the Ohio river, to the line between the state of West Virginia and Ohio, said last mentioned point being at the north side of Hanover street in the town of Martins Ferry, Belmont county, Ohio, and also the most northerly corner of the present corporate limits of the city of Wheeling; thence leaving the present corporate boundary lines of Wheeling and continuing in a northerly and then westerly direction with the line between the states of Ohio and West Virginia, which is low water mark along the westerly shore of said river to a point at the intersection of the westerly extension of the present northerly corporate boundary line of the said town of Warwood; thence with said extension crossing the river north eighty-six degrees thirty minutes east to the north-west corner of the present corporate limits of said town of Warwood; thence with the north boundary line of said town of Warwood and with the south line of Jacob Zilles' property north thirty-eight degrees thirty minutes east eleven hundred feet to the place of beginning, containing seventy-six hundred acres, more or less.

Embraced within the above boundaries are the incorporated towns of Warwood in Richland district, Fulton in Washington and Triadelphia districts and Woodsdale, Leatherwood, Edge-wood, Pleasant Valley, Elm Grove and Patterson in Triadelphia district, said county and state.

Such extension of boundaries shall be proposed by a resolution of the city council of the city of Wheeling, which resolution shall

(a) accurately define the boundary lines of the territory proposed to be annexed as herein set forth,

(b) fix a time for holding a special election at which the
proposed change of boundaries shall be submitted to the qualified voters of the city of Wheeling, and of the territory proposed to be annexed, for approval or rejection,

direct that notice of such election be published in each of the daily and weekly newspapers in the city of Wheeling, once a week for four successive weeks, the last publication to be not more than ten days before the day of the election,

(d) prescribe the form of ballot to be used at such election.

The city council of the city of Wheeling, through the city solicitor, shall notify the mayor of each municipality within the territory herein described, of the proposed extension of boundaries at least six weeks before the time fixed for the election herein provided for, whereupon, it shall be the duty of the city council of such municipality to provide for such election by appointing judges and clerks for each precinct within such municipality and certify the names of such appointees to the city council of Wheeling within three weeks from the service of notice upon the mayor thereof. If such certificate is not so filed, the city council of Wheeling shall appoint such judges and clerks of election. Qualified voters residing in any portion of the described territory which is not within the limits of the municipal corporation, may vote at such election at a precinct convenient to their respective places of residence. So far as they are applicable, and except as specific provision is made in this charter, such election shall be governed by the general election laws of the state of West Virginia.

When the result of such election is ascertained and certified, the mayor of the city of Wheeling shall issue his proclamation of such result and cause the same to be published in each daily and weekly newspaper in the city of Wheeling within five days of such certification, and if a majority of the votes cast at such election shall be in favor of such extension, then all of the territory within the boundaries herein described shall be and become a part of the city of Wheeling, on the first day of January, one thousand nine hundred and twenty, and beginning on that date, the city of Wheeling shall include all of the territory within the boundaries herein set forth in addition to the territory constituting the city of Wheeling as at present bounded, and the corporate existence of any municipality included within the
boundaries herein described shall thereupon cease and deter-
mine; except that no moneys in the treasuries of the separate
municipalities affected shall be turned over to the treasurer of
the city of Wheeling, and no tax shall be levied upon the tax-
able property within the boundaries of the territory annexed
nor upon the inhabitants thereof until proper representation
of the said annexed territory in the council of the city of
Wheeling is provided according to law; and if a majority of the
votes cast at such election shall not be in favor of such extension,
then the boundaries of the city of Wheeling shall remain as they
now are and the territory within the boundaries herein stated
shall be in no way affected by such election. All expenses of
holding such election, the payment whereof is not now provided
by law, shall be paid by the city of Wheeling.

The failure, neglect or refusal of the publisher of any
newspaper in Wheeling to publish either the notice or procla-
mation herein provided for, shall not effect the validity of the
proceedings to extend the boundaries of the city of Wheeling
if such publication shall appear in two of such papers.

If at the time of the extension of its boundaries the city
of Wheeling shall have a bonded indebtedness, the taxes there-
after levied to provide for such indebtedness, principal and in-
terest, shall be levied upon the taxable property within the cor-
porate limits of the city of Wheeling as they existed before
the extension of its boundaries. If any municipal corporation
within the boundaries herein described at the time of such ex-
tension shall have a bonded indebtedness, then the taxes there-
after levied to provide for such bonded indebtedness, principal
and interest, shall be levied upon the taxable property within
the corporate limits of such other municipality as they existed
before such extension of boundaries.

Should the territory herein described be annexed to the
city of Wheeling in the manner herein set forth, then from and
after the time of such annexation all of the debts and obliga-
tions of any municipality included within the boundaries herein
set forth shall become and be the debts and obligations of the
city of Wheeling, and shall be enforceable against the city of
Wheeling to the same extent as they might have been enforced
against the municipality creating them.

Nothing in this act contained shall be construed as ren-
dering the city of Wheeling responsible for the up-keep, care, repair or maintenance of any part of the National or Cumberland road except in like manner as the city of Wheeling is now responsible for the up-keep, care, repair and maintenance of the part of such road now lying within the corporate limits of said city; and the rights, powers and duties of the city of Wheeling and the county of Ohio over said National or Cumberland road as said road lies within the new corporate limits as herein set forth, shall, in the event of annexation, be the same as they are now established by law over the part of such road within the present corporate limits of the city of Wheeling.

It shall be the duty of the city of Wheeling to furnish, in the event of annexation, to the territory so annexed full and complete fire and police protection, in quality equal to that furnished to the territory within the corporate limits of the city of Wheeling as such corporate limits existed before such annexation, and such police protection shall be furnished immediately upon such annexation and such fire protection as soon thereafter as the same may reasonably be provided. It shall further be the duty of the city of Wheeling properly to light such annexed territory and to furnish water to the inhabitants thereof at a rate not to exceed the rate charged to the inhabitants of the city of Wheeling as such limit existed before such annexation; but nothing herein contained shall be construed as in any way interfering with any franchise, contract, agreement, right or privilege held by any public service corporation from any municipality in said annexed territory included.

No franchise, right or privilege, as provided in section twenty-four of this charter shall be granted by the council of the city of Wheeling after the election herein above provided for, nor shall any ordinance except a necessary appropriation ordinance be passed by said council unless and until proper representation of the said annexed territory in the council of the city of Wheeling is lawfully provided; and the privileges of initiative and referendum as provided in sections twenty and twenty-one hereof are held and enjoyed by the voters of said territory.

In the event of annexation, the territory so annexed shall, until otherwise changed by ordinance as provided in section three of this charter, constitute two wards of the city of Wheel-
ing and within a period of thirty days after the election herein
provided for shall have been held, the councils of the various
municipalities within such annexed territory shall appoint two
representatives who shall be residents of the annexed territory
and who shall, by virtue of such appointment, be members of
the council of the city of Wheeling and entitled to all the privi-
leges of members of said council until the members of council
elected at the next succeeding general municipal election shall
have qualified.

The extension of the boundaries of the city of Wheeling
shall not effect the boundaries or the organization of any school
district theretofore existing.

Provided, however, that the said election for the annexation
of the territory within the boundaries herein set forth, shall be
held not before October first, one thousand nine hundred and
nineteen, and not later than December first, one thousand nine
hundred and nineteen; and should the vote at such election be
in favor of such annexation then the territory included within
the boundaries herein set forth shall be and become a part of
the city of Wheeling on January first, one thousand nine hun-
dred and twenty.

This act shall take effect one hundred and twenty days
from its passage.

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

CHAPTER 15.

(Senate Bill No. 104—Mr. Arnold.)

AN ACT to create and incorporate the municipal corporation of the
city of Buckhannon, in the county of Upshur and state of West
Virginia, and to grant a charter thereto, and defining the powers
of said city, and fixing the corporate limits of said city, and
defining the powers and duties of the said city, and the officers
thereof.

[Passed February 8, 1919. In effect from passage. Became a law without the
Governor’s approval.]

Sec. 1. City if Buckhannon.
2. Corporate limits and boundaries
described.
4. Division of city wards.

Sec. 5. Elective officers: terms: annual
elections.
6. Eligibility to elective office.
7. Salaries and compensation.
8. Oath of office.
Be it enacted by the Legislature of West Virginia:

Section 1. That the inhabitants of so much of the county 2 of Upshur as lies within the boundary prescribed by section two 3 of this act shall be and remain, and they are hereby made, a body 4 politic and corporate by the name and style of the city of Buck- 5 hannon, and as such, and by that name, may contract and be 6 contracted with, sue and be sued, plead and be impleaded, answer 7 and be answered unto, and may purchase, take, receive, hold and 8 use goods and chattels, lands and tenements, and choses in action, 9 or any interest, right or estate therein, either for the proper use 10 of said city, or in trust for the benefit of any person, association 11 or corporation therein, and the same may grant, sell, convey and 12 assign, let, pledge, mortgage, charge and encumber, in any case 13 and in any manner in which it would be lawful for a private in- 14 dividual so to do, except where such power may be limited by
law; and may have and use a common seal, and alter and renew
the same at pleasure; and generally shall have all the rights,
franchises, capacities and powers conferred herein, and by the
laws of this state upon municipal corporations not inconsistent
with the provisions of this act.

Sec. 2. The corporate limits and boundaries of said city
shall be as follows: Beginning at a stake, where a white oak
formerly stood in a field of P. F. Pinnell's heirs and running
thence south 26 degrees ten minutes east four thousand one hun-
dred and ninety-three feet to a white oak, corner to lands of
Montreville Reger's heirs; thence south thirty-seven degrees fifty
minutes east one thousand six hundred and sixty-four feet to a
stake on the east side of Kanawha street extended, the southwest
corner to the Buckhannon Improvement company's addition to
the town of Buckhannon; thence with the south line of the same
south sixty-seven degrees east one thousand one hundred and
forty-nine feet to the west bank of the Buckhannon river; thence
down said river north thirty-five degrees east seven hundred and
eighty-two feet to the corporation line of South Buckhannon;
thence south fifty-six degrees sixty-four feet to a stake; one hundred
and eighty-nine feet crossing the river to a stake thirty feet east
of the bank thereof; thence with the lines of the South Buck-
hannon corporation, as surveyed in one thousand nine hundred
and eleven, north thirty-six and one-half degrees east four hun-
dred and four feet to a stake on the bank of the river; north
fifty-three and one-half degrees east four hundred and twenty-
five feet from the forks of the road leading to Little Sand run;
north twenty-seven and one-half degrees east eight hundred and
ninety-one feet to a stake; north sixteen degrees west five hundred and
ninety-five feet to a stake; north thirty-nine degrees east two hun-
dred and sixty-four feet to a stake; north thirty-two and one-half degrees west two hundred and sixty-four feet
crossing the river to a stake on the west bank thereof; thence
37 down the river ten and one-half degrees east one thousand four
38 hundred and nineteen feet to a stake; thence north seventeen
39 degrees west one hundred and sixty-five feet to a stake; thence
40 north sixty-seven and three-fourths degrees west one thousand
41 one hundred and seventy-five and one-half feet to a stake on the
42 west bank of the river, a corner to the corporations of Buck-
43 hannon and South Buckhannon, where a sycamore was formerly
44 called for; thence with the lines of the corporation of the town
45 of Buckhannon, as surveyed in the year one thousand eight hun-
46 dred and eighty-three, and by the bearings of that date east nine
47 hundred and fifty-seven feet crossing the river to a sycamore at
48 the forks of the Staunton and Parkersburg turnpike and the old
49 Crites mill road; thence north thirty-seven degrees west one thousand
50 east seven hundred and twenty-six feet to a spruce on the bank of
51 the river; thence, by December, one thousand nine hundred and
52 eighteen, magnetic bearing, north sixty-nine and one-half degrees
53 west five hundred and eight feet crossing the river to a stake;
54 being the southeast corner to the Hudkins addition to the town
55 of Buckhannon, as surveyed and platted by W. G. L. Totten, said
56 stake being in the line extended with the east side of Seventh
57 street; thence with Seventh street, eastern boundary, north seven-
58 teen and three-fourths degrees east one thousand and fifty-three
59 feet to a stake; thence north one and one-half degrees east six
60 hundred and twelve feet to a stake at the southeast corner of
61 Seventh street and Morton avenue; thence with the south side of
62 Morton avenue north seventy-one degrees west two thousand eight
63 hundred and twenty-eight feet to the southwest corner of Morton
64 avenue and First street; thence north eighty-nine and one-half
65 degrees west with the south side of the county road four hundred
66 and ninety-one feet; thence with the south side of said road as
67 follows: South seventy-four degrees twenty-five minutes west six
68 hundred and seventy-six feet; south forty-two and one-half de-
69 grees west three hundred and two feet; south forty-eight and one-
70 fourth degrees west two hundred and thirty-three feet; south
71 seventy-five and one-fourth degrees west eighty feet; north
72 seventy-five and three-fourths west five hundred and fifty-eight
73 feet to the east side of the Buckhannon and Clarksburg turnpike;
74 thence with the south side of the same south zero degree fifteen
75 minutes west eight hundred and thirty feet to the south side of
76 Fink’s run at the bridge; thence general direction of Fink’s run
76 south seventy-two and one-fourth degrees west eight hundred and
77 forty-one minutes to the northeast corner of the railroad bridge
78 across Finks' run; thence south fourteen and three-fourths de-
79 grees west two thousand two hundred feet to the beginning.

Sec. 3. The said city and the board of commissioners
2 hereinafter provided for, shall have and are hereby granted
3 power to have the said city surveyed; to open, vacate, broaden,
4 change grade of, grade and pave streets, sidewalks and gutters
5 for public use, and to alter, improve, embellish and ornament and
6 light the same, and to construct and maintain public sewers and
7 laterals, and shall in all cases except as to lighting have power
8 and authority to assess upon and collect from the property
9 benefited thereby all, or such part of the expense thereof, as shall
10 be fixed by ordinance; to have control of all streets, avenues,
11 roads, alleys and grounds for public use in said city, and to
12 regulate the use thereof and driving thereon, and to have the
13 same kept in good order and free from obstruction, pollution or
14 litter on or over them, but the said county shall be chargeable
15 with the construction and maintenance of all bridges within the
16 said city; to change the name of any street, avenue or road
17 within said city, and to cause the numbering of houses on any
18 street, avenue or road therein; to regulate and determine the
19 width of streets, sidewalks, roads and alleys; to order and direct
20 the curbing and paving of sidewalks and footways for public
21 use in said city to be done and kept clean and in good order by
22 the owners of adjacent property; to prohibit and punish the
23 abuse of animals; to restrain and punish vagrants, mendicants,
24 beggars, tramps, prostitutes, drunken or disorderly persons
25 within the city, and to provide for their arrest and manner of
26 punishment; to prohibit by ordinance the bringing into the city
27 of any person or animal afflicted with contagious or infectious
28 disease, and to punish any violator of said ordinance who knows
29 or has reason to believe such person or animal to be so afflicted;
30 to control and suppress disorderly houses of prostitution or ill-
31 fame, houses of assignation, and gaming houses or any part
32 thereof, and to punish gaming; to prohibit within said city or
33 within three miles thereof slaughter houses, soap or glue fac-
34 tories and houses of like kind; to control the construction and
35 repair of all houses, basements, walls, culverts and sewers, and
36 to prescribe and enforce all reasonable regulations affecting the
construction of the same, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to the city council or board of commissioners; to control the opening and construction of ditches, drains, sewers, cesspools and gutters, and to deepen, widen and clear the same of stagnant water or filth, and to prevent obstructions therein, and to determine at whose expense the same shall be done; and to build and maintain fire station houses, police stations and police courts, and to regulate the management thereof; to acquire, lay off, appropriate and control public grounds, squares and parks, either within or without the city limits as herein defined; to purchase, sell, lease or contract for and take care of all public buildings, and structures and real estate, including libraries and hospitals, deemed proper for use of such city; and, for the protection of the public, to cause the removal of unsafe walls or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive or unwholesome; to define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city, and all nuisances and causes thereof, and to that end and thereabout to summon witnesses and hear testimony; to declare and enforce quarantine against the introduction of any contagious or infectious disease prevailing in any other state, county or place, and of any and all persons and things likely to spread such contagion or infection; to regulate the keeping of gunpowder and other combustible or dangerous articles; to regulate, restrain or prohibit the use of firecrackers, or other explosives, or fireworks, and all noises or performances which may be dangerous, annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences; to make proper regulation for guarding against danger or damage from fires; to provide for the poor of the city, and to that end may contract with the proper authorities of Upshur county to keep and maintain the poor, or any number thereof, upon terms to be agreed
upon; but until the said city shall assume the maintenance and
support of such poor by proper ordinance or resolution of the
board of commissioners, the poor of said city are to be main-
tained and supported by the said county of Upshur under the
general provisions of law relating thereto; to make suitable and
proper regulations in regard to the use of the streets and alleys
for street cars, railroad engines and cars, and to regulate the
running and operation of the same as to prevent injury, in-
convenience or annoyance to the public; to prohibit prize fight-
ing, cock and dog fighting; to license, tax, regulate or prohibit
theaters, circuses, the exhibition of showmen and shows of any
kind and the exhibition of natural or artificial curiosities,
caravans, menageries, pictures, motion pictures and musical ex-
hibitions and performances; to regulate the construction, height
material used in all buildings, and the maintenance and occu-
pancy thereof; to regulate and control the use for whatever pur-
pose, of the streets and other public places; to create, establish,
abolish and organize employments and fix the compensation of
all employees; to organize and maintain fire companies and to
provide necessary apparatus, engines and implements for the
same; to regulate and control the kind and manner of plum-
ing and electric wiring for the protection of the health and
safety of said city; to levy taxes on persons, property and li-
censes; to license and tax dogs and other animals, and regulate,
restrain and prohibit them and all other animals and fowls
from running at large; to assess, levy and collect taxes for general
and special purposes upon all the subjects or objects which the
city may lawfully tax; to levy and collect assessments for local
improvements; to borrow money on the faith and credit of the
city by the issue and sale of bonds in the manner prescribed by
law; to appropriate the money of the city for all lawful pur-
poses; to create, provide for, regulate and maintain all things
in the nature of public works and improvements; to adopt rules
for the transaction of business and for its own regulation and
government; to promote the general welfare of the city and to
protect the persons and property of citizens therein; to regulate
and provide for the weighing of produce and other articles sold
in said city and to regulate the transportation thereof, and other
things through the streets; to have the sole and exclusive right
to grant, refuse or revoke any and all licenses for the carrying
on of any business within said city on which the state exacts a
license tax; to establish and regulate markets and to prescribe
the time for holding the same, and what shall be sold in such
market, and to acquire and hold property for market purposes;
to regulate the sale and distribution of foodstuffs; to regulate
or prohibit the placing of signs, billboards, posters and adver-
tisements in, on or over the streets, alleys, sidewalks and public
grounds of said city; to preserve and protect the peace, order
and safety and health of the city and its inhabitants, including
the right to regulate the sale and use of cocaine, morphine,
opium and poisonous drugs; to make, enforce and provide local
police, sanitary and other regulations, and fully exercise all
lawful police powers; to appoint and fix the places of holding
city elections; to erect, own, lease, authorize or prohibit the
erecture of gas works, telephone plant or electric light works in
or near the city, and to operate the same and sell the products
or services thereof, and to do any and all things necessary and
incidental to the conduct of such business; to provide for the
purity of milk, meats and provisions offered for sale in said
city, and to that end provide for a system of inspecting the
sale and making and enforcing rules for the regulation of their
sale, and to prohibit the sale of any unwholesome or tainted
milk, meats, fish, fruits, vegetables, or the sale of milk contain-
ing water or other things not constituting a part of pure milk;
to provide for inspecting dairies and slaughter houses, whether
in or outside of the city, where the milk and meat therefrom are
offered for sale within said city; to prescribe and enforce ordi-
nances and rules for the purpose of protecting the health, prop-
erty, lives, decency, morality and good order of the city and its
inhabitants, and to protect places of divine worship in and about
the premises where held, and to punish violations of such ordi-
nances even if the offense under and against the same shall con-
stitute offenses under the law of the state of West Virginia or
the common law; to provide for the employment and safe keep-
ing of persons who may be committed in default of the payment
of fines, penalties, or costs under this act, who are otherwise
unable or fail to discharge the same, by putting them to work
for the benefit of the city upon the streets or other places pro-
vided by said city, and to use such means to prevent their escape
while at work as the council may deem expedient; and the-
the council may fix a reasonable rate per day as wages to be
allowed such person until the fine and costs against him are
thereby discharged; to compel the attendance at public meetings
of the members of the council; to prevent any person, associa-
tion or corporation from polluting in any manner any pond, lake,
basin, reservoir, stream, spring, creek, or other body of water
from which the city shall take water to be used for domestic
purposes by the inhabitants thereof, or from casting into any
such body of water, or on the bank thereof or in such proximity
thereof that the same may enter therein, any filthy, unwhole-
some, or obnoxious substance, object, or liquid, or anything
whatsoever, injurious to the health of the people of the city, or
which impairs its value for the ordinary purposes of life, or
which shall render the water offensive to taste or smell, or that
is naturally calculated to excite disgust in those using such
water for the ordinary purposes of life; to exercise all other
powers that now are or hereafter may be granted to municipali-
ties by the constitution or the laws of the state of West Virginia;
and all such powers, whether expressed or implied, shall be
exercised and enforced in the manner prescribed by this charter,
or when not prescribed herein, in such manner as shall be pro-
vided by the ordinances or resolutions of the council.

The city of Buckhannon shall have power and authority,
within and without its territorial limits, to construct, condemn
and purchase, acquire, lease, improve, and make additions
thereto, maintain and conduct and operate water works, light
plants, power plants, heating plants, and incinerating plants,
and do everything required therefor, for the use of the said city
and the inhabitants thereof, and may enforce such purchases by
proceedings at law or in equity by the right of eminent domain,
and by condemnation; but the moneys necessary for the pur-
chase and construction of such works, plants, or system of works
and plants shall be derived from the issuance and sale of the
bonds of said city approved by three-fifths of the qualified
voters of the said city voting for and against the same, at any
special election called and held for the purpose. The ordinance
of the said city submitting such bond issue to a vote shall
specify the purpose and amount for which said bonds are to be
issued and sold, said amount being limited only by the consti-
tution and laws of the state of West Virginia, and the other
provisions of this charter. *Provided,* That the power to con-
demn may be exercised for the purpose of acquiring such
utilities now existing and operating under franchises granted
by the said town of Buckhannon, or the said town of South
Buckhannon, under the terms of the franchises, or under the
rights of eminent domain, at the election of the city. *Provided,
further,* That such utilities now existing shall not be acquired or
purchased by said city except on ordinance of the said city sub-
mitted at a special election and approved by three-fifths of the
qualified voters of the said city voting for and against the
same, authorizing such purchase and the issuance and sale of
bonds in payment of same, and such ordinance shall specify in
detail the property and rights to be acquired and the price to be
paid for the same.

The enumeration of particular powers of this charter shall
not be held or deemed to be exclusive, but in addition to the
powers enumerated herein, impliedly thereby, or appropriate
to the exercise thereof, the council shall have and exercise all
other powers, which, under the constitution and laws of the
state of West Virginia it would be competent for this charter
specifically to enumerate.

The council shall provide for the enforcement of all ordi-
nances by reasonable and proper penalties, consisting of fines or
imprisonment, or fines and imprisonment, with suitable rules
and regulations for the enforcement of such penalties. For all
such purposes the jurisdiction of the city shall, when necessary,
extend for one mile beyond the corporate limits of said city.
In order to prevent the pollution of the waters from which the
people of the city take water for domestic uses, the jurisdiction
of the city shall be co-extensive with the location and extent of
the waters from which such supply is taken, and each day such
act of pollution of the water continues may be deemed a separate
offense; *provided, however,* That in no event shall imprison-
ment for a longer period than sixty days or a greater fine than
one hundred dollars, or both, be imposed for any one offense.
The word "council" where used in this act shall be deemed to
mean "board of commissioners" where also used herein.

Sec. 4. The city shall be divided into three wards, as
follows:

*First Ward*—All that part of the city lying southward of a
line drawn from the Buckhannon river by way of College avenue, and said line projected straight therefrom and therewith to its intersection with the southwestern exterior boundary line.

Second Ward—All that part of the remainder of the said city lying northward of a line beginning at the intersection of Main street with the western exterior line of said city, and running thence with Main street and Florida street to College avenue.

Third Ward—All the remainder of said city.

Sec. 5. The elective officers of this city shall be three commissioners, namely, the mayor, who is commissioner of public affairs; the police judge, who is commissioner of public justice, and the city clerk, who is commissioner of public accounts and finances, who shall be nominated and elected at large by the qualified electors of the city of Buckhannon, for a term of three years and until their successors are elected and qualified; provided, that the commissioners elected at the first election under this charter shall assume the duties of their respective offices on the first day of July, after their election, and their terms of office shall expire as follows: The term of office of the mayor and commissioner of public affairs first elected under this charter shall expire in one year from the beginning of his term; the term of the office of the police judge and commissioner of public justice first elected under this charter shall expire in two years from the commencement of his term; and the term of office of the city clerk and commissioner of public accounts and finances, first elected under this charter, shall expire in three years from the commencement of his term. The annual election of commissioners shall be held on the second Tuesday of May. Each person elected or appointed to an office in the city shall within thirty days after his election or appointment and before entering upon the duties of his office, take and subscribe the oath of office prescribed by law for county officers, which shall be done before a notary public, and the certificate of the officer administering the oath shall be filed with the city clerk.

The term of office of a commissioner elected and qualified shall begin with the first day of July next following the day of his election. A vacancy in the office of commissioner shall be filled by appointment by the remaining commissioners until the said vacancy shall be filled at the next municipal election for the part of the term then unexpired. If the remaining commissioners
Sec. 6. Each commissioner must be at least twenty-two years of age, an elector of the city, not in litigation with the city nor in arrears for city taxes when elected, and not the owner of stock or bonds of any public service corporation doing business in the city, and must for one year next preceding the date of his election have been a bona fide resident and taxpayer of the city of Buckhannon; provided, that at the first election held under this charter this provision as to residence shall be construed so as to make qualified to hold the office of commissioner any person possessing the qualifications required by this section who shall have been a bona fide resident and taxpayer for one year next preceding his election within the boundaries set out in section two of this act.

Sec. 7. The compensation of the mayor and commissioner of public affairs shall be fifty dollars per month, and the compensation of each of the other commissioners shall be twenty-five dollars per month, payable monthly; provided, that a larger or smaller salary may be paid when the amount shall first be fixed by a majority vote of all the votes of the city of Buckhannon cast at a regular annual general election held in said city; provided, a board of commissioners may, by proper ordinance or resolution, allow to the city clerk and commissioner of public accounts and finances, a commission not to exceed two and one-half per centum upon all taxes collected by him, as additional compensation, and in addition to his salary aforesaid, or such commission may be paid to any employee acting under said commissioner of accounts and finances in collecting such taxes.

Sec. 8. Each commissioner and all other officers of the city, before entering upon the discharge of their duties, shall take and subscribe the oath of office prescribed for county officers in this state, and in addition thereto shall also take an oath that he is not under direct or indirect obligation or promise to appoint any person to office, position or employment under the city government.

Sec. 9. Each commissioner, as such, shall give a good and sufficient bond for the faithful performance of the duties of his
office, the mayor and commissioner of public affairs and the commis-
missioner of public justice each in the sum of three thousand five
hundred dollars, and the city clerk and commissioner of public
accounts and finances in the penalty twenty thousand dollars,
payable to the city of Buckhannon, for the use and benefit of said
city, and to be executed by some surety company duly licensed to
do business in this state, or by not fewer than two good and suffi-
cient sureties, in such form as the board of commissioners may
require, and to be approved by the other two commissioners; and
each of said commissioners shall give such additional bond as the
board of commissioners may by ordinance require, the cost of
such additional bond to be paid by the city; and all other officers
and employees shall give such bond as may by ordinance be re-
quired.

Sec. 10. The mayor, as such, shall be the chief executive
officer of the city, and chairman of the board of commissioners,
and when present shall preside at all meetings of the board; and,
in addition to all other duties imposed upon him by state and
municipal laws and the board of commissioners, shall sign the
commissions of all appointive officers, shall indorse the approval
of all official bonds when same shall be approved by the com-
missioners, sign all warrants and orders drawn upon the com-
missioner of public accounts and finances for money, sign all
bonds, contracts, conveyances and other written obligations of
the city and all ordinances passed by the board of commissioners,
and shall cause each of the above enumerated writings to be
attested by the commissioner of public accounts and finances as
the clerk of the board, under the seal of the city.

Sec. 11. The mayor, as commissioner of public affairs,
shall have supervision of the health department and department
of sanitation; he shall also have charge and be superintendent of
the department of public affairs, which shall include water works,
parks, libraries, cemeteries, public service corporations operating
under city franchise; the opening, grading, paving, lighting,
cleaning, repairing and sprinkling of streets, sewer and viaduct
construction, sidewalks and crossings, and the city engineering
department, and shall have charge of all other city property not
delegated to other departments. He shall perform such other
duties, not inconsistent herewith, as the board of commissioners
may from time to time prescribe, and in case of absence from
the city, sickness or inability of the police judge to perform the
duties of his office the mayor shall temporarily act as judge of the
police court.

Sec. 12. The police judge, as commissioner of public justice,
shall be the head of the department of peace and safety, and he
shall have supervision of the fire department, and police depart-
ment. He shall see, except as may be herein otherwise provided,
that the laws and ordinances of the city and the resolutions and
orders of the board of commissioners are enforced; that the peace
and good order of the city are preserved; and that the persons
and property therein are protected. In case of absence, sickness
or inability of the mayor to perform the duties of his office he
shall act as mayor. He shall also perform such other duties, not
inconsistent herewith, as may be hereinafter prescribed, or by
the board of commissioners from time to time imposed.

Sec. 13. The city clerk, as commissioner of public accounts
and finances, shall have charge of the department of accounting
and finance, which shall include the collection of all city taxes,
reents, licenses, fees, and all revenues of the city from whatever
source derived. He shall have charge of all bond issues, assess-
ments, printing, and city fiscal affairs generally. He shall be the
purchasing agent for the city, and, subject to the directions of
the board of commissioners and the provisions of this charter,
shall purchase all supplies and make all contracts for city print-
ing. He shall be clerk of the board of commissioners, and as
such, perform such duties as usually devolve upon a city clerk,
and shall perform such other duties, not inconsistent herewith, as
the board of commissioners may, from time to time, prescribe.
He shall also be the city treasurer and have custody of the funds
of the city, and shall pay out the same only upon the order of the
board of commissioners, duly signed and attested. He shall in-
vest the funds of the city only in such securities as are provided
by the constitution and laws of the state of West Virginia in
such cases made and provided, and such investments, if any, shall
be made only upon the direction of the board of commissioners,
and all uninvested funds shall be deposited in the city depositories
in the city of Buckhannon, and in the name of the city. The
Traders National bank of Buckhannon, the Peoples bank of West
Virginia, and the Buckhannon bank, all located within the said
city of Buckhannon, are here made depositories of the said city;
26 and the board of commissioners may prescribe such bonds for
27 such depositories, to be given by them to the city, as the board
28 may deem proper.

Sec. 14. Each of the commissioners provided for in this
2 charter shall be required to engage in the actual work of his
3 office to the extent his services may be necessary for the full and
4 proper discharge of his duties thereunder. At all times each
5 commissioner shall have actual management and control of the
6 affairs of his department and shall be responsible directly to the
7 people therefor, and he shall also be held directly responsible by
8 the people of the city for his vote upon any action taken by the
9 board.

Sec. 15. The board of commissioners shall fix the number
2 and salary of all officers and employees in each department, but
3 every officer and employee of the city shall be appointed and
4 employed by the commissioner in whose department their re-
5 spective duties mainly fall and their services are required, and
6 such commissioner shall be responsible to the people therefor;
7 and all officers and employees shall hold their respective positions
8 at the will and pleasure of the power appointing and employing
9 them.

Sec. 16. All appointive officers and employees of the city
2 shall be selected with reference to their qualification and fitness
3 and for the good of the public service; but no person who is a
4 near relative by blood or marriage of any of the commissioners
5 or any of the heads of any of the departments of the city, shall
6 be appointed to any office or employment under the city, unless
7 such appointment be approved of record by the whole commission;
8 otherwise any such appointment or employment shall be void.

**Legislative Department.**

Sec. 17. The legislative powers of the city are hereby
2 vested in a board composed of the three commissioners herein
3 provided for, sitting as a board of commissioners. Said board
4 shall have the power to enact all ordinances for the city, not in
5 conflict with this charter or the constitution and laws of this
6 state, the intention being that the said board shall be vested with
7 the power and charged with the duty of enacting and adopting
8 all laws and ordinances not inconsistent with this charter, the
9 statutes of this state and the constitution thereof, touch-
10 ing every subject and matter of local or general application
11 within the boundaries of the city or within one mile thereof;
12 within the purview of the local government instituted by this
13 charter and within the powers granted and conferred by the con-
14 stitution and laws of the state of West Virginia.

Sec. 18. In case of the death, resignation, removal from
2 office, or removal from the corporate limits of the city of any
3 commissioner, or when from any cause the office of any member
4 of the board may become vacant, the remaining members or
5 member shall elect a successor or successors to fill the vacancy,
6 who shall hold office and perform the duties pertaining thereto
7 until the next regular annual city election, and until a successor
8 is elected by the people of the city to fill the unexpired term of
9 said commissioner.

Sec. 19. The board of commissioners shall determine its
2 own rules of procedure, may punish its members for disorderly
3 conduct and compel their attendance at its meetings; provided,
4 that any commissioner who shall fail to attend at least one meet­
5 ing in any month of the board of commissioners shall forfeit his
6 salary as such commissioner for said month unless said commis­
7 sioner shall be excused from said attendance by unanimous vote
8 of the board of commissioners on account of sickness, physical
9 disability or other cause; and provided further, that any com­
10 missioner who shall from any cause, fail or refuse to perform the
11 duties of his position including attendance at the meetings of the
12 board for a period of three months shall lose his office and the
13 same shall be declared vacant by the remaining commissioner or
14 commissioners and said vacancy filled as herein provided.

Sec. 20. The regular meetings of the board of commis-
2 sioners shall be held on the first Monday after the election of the
3 commissioners and thereafter at least twice a month, and on such
4 day and at such hour as shall be designated by ordinance or
5 resolution of the board. Adjourned meetings may be held and
6 special meetings called at any time by the mayor or by two com­
7 missioners as circumstances may demand.

Sec. 21. Two members of the board shall constitute a
2 quorum and the affirmative vote of two members shall be necessary
3 to adopt any motion, resolution or ordinance, or pass any measure,
4 unless a greater number is provided for by this charter. Upon
5 every motion involving the expenditure of money and for the
6 letting of any public contract, and on all ordinances, the ayes
and nays shall be taken and recorded, and every ordinance shall be reduced to writing and read before a vote is taken thereon. The chairman of the board shall have a vote on all questions, but shall have no veto power. Every resolution or ordinance passed by the board shall be signed by the chairman or acting chairman, attested by the clerk, or acting clerk, and recorded before the same shall be in force.

Sec. 22. Every ordinance shall embrace but one subject, which shall be clearly expressed in the title. Provided, that if subject matter be embraced in any ordinance contrary to the provisions of this section, such ordinance shall be void only as to so much of the ordinance as may not be clearly expressed in the title thereof. Such subject may be omitted when ordinances are published in book form.

Sec. 23. All ordinances passed by the board of commissioners, except emergency ordinances, shall take effect and become valid and binding at the expiration of thirty days from the date of their passage, unless otherwise provided in this charter.

Sec. 24. The board of commissioners, by unanimous vote, may pass an emergency ordinance when the public peace, public health or public safety shall, in the judgment of the board, demand it. Every emergency ordinance must as a part of the title, contain the words: “And declaring an emergency,” and every such ordinance shall provide that such ordinance shall take effect and be in full force immediately upon its passage.

Sec. 25. The first board of commissioners elected under the provisions of this act shall have authority to compile and adopt such of the ordinances of the present towns of Buckhannon as may be applicable to the changed form of government under this charter, change the penalties fixed by said ordinances, and adopt the same together with such other proper ordinances as may be necessary to preserve the public peace and insure the general welfare of the said city, and to carry into effect the provisions and purposes of this charter; and it shall be their duty to so compile, adopt and enact such ordinances and publish all of said ordinances in one book or pamphlet, and the said ordinances, when so compiled, shall be, in effect, in the form compiled, after the tenor thereof, immediately from the date of said adoption and compilation, and all ordinances of the towns of Buckhannon and South Buckhannon, not included in such com-
pilation shall then cease to be effective in the said city, but until such adoption and compilation shall have been completed, the said ordinances of the towns of Buckhannon and South Buckhannon, to the extent that they are not in conflict with the provisions of this charter, shall be deemed the ordinances of the said city and enforceable as such.

Judicial Department.

Sec. 26. The judicial power of the city of Buckhannon shall be vested in a police court, which court is hereby created, and the police judge and commissioner of public justice shall be ex-officio the judge of said court. All trials shall be before said judge without any jury.

Sec. 27. The police court shall have original and exclusive jurisdiction to hear and determine all offenses against the ordinances or the charter of the city of Buckhannon; and for the collection of all licenses, fees, rents or other revenues required by ordinances except such actions and proceedings as fall within the exclusive jurisdiction of other courts under the provisions of the constitution and laws of this state.

Sec. 28. The ordinances of the city of Buckhannon shall be enforced by the imposition of fines, forfeitures or penalties against any person violating such ordinances, or any of them; and the commissioners shall prescribe in each particular ordinance made for that purpose, the minimum and maximum fine for the infraction thereof, which maximum shall not exceed one hundred dollars, exclusive of costs, for any one specific offense. The same costs shall be taxed in each criminal case tried in the police court as is provided by law to be taxed by justices of the peace in the trial of misdemeanor cases coming under the jurisdiction of justices of the peace, except that in every contested criminal case, the police judge may also tax an attorney fee of not exceeding five dollars, to be paid to the city prosecutor for his services in said case, if a conviction be had in said case.

Sec. 29. The police court may provide in all judgments of conviction for the violation of any ordinance of the city a fine, and that the person against whom said fine is assessed shall be imprisoned until the fine and costs of prosecution shall be paid, but not to exceed thirty days. And any person committed for the nonpayment of fine and costs, while in custody, may be compelled
7 to work on the streets, alleys, public grounds or works until such
8 fine and costs are paid, allowing one dollar per day for the work
9 of said prisoner to apply on said fine and costs.

Sec. 30. All fines, penalties, forfeitures and collections of
every kind made by the police judge shall be the property of the
3 city and shall be deposited with the commissioner of public ac-
counts and finances, within ten days after the collection thereof,
5 to be by him applied to the proper fund of the city as may by
6 ordinance be required.

Sec. 31. The style of all process of the police court shall
2 run in the name of the city of Buckhannon.

Sec. 32. Appeals from the police court shall lie to the cir-
circuit or criminal court of Upshur county, as is now or may be
3 provided by the statutes of this state governing appeals from
4 police courts to circuit or criminal courts.

Elections.

Sec. 33. The board of commissioners may by ordinance ap-
proved at a referendum election called for the purpose, and held
3 not less than sixty days before any regular municipal election,
4 change the boundaries of the city, the number of the commission-
ers, the length of their term and the manner of their election,
6 except that municipal elections shall always be without political
7 party designation and non-partisan. When an election is held for
8 the purpose of annexing additional territory to the city, the
9 qualified voters of the territory that it is sought to annex, shall
10 also vote upon the proposition and it shall be necessary that a
11 majority of the total vote cast within or without the city, be cast
12 for the proposition. In the absence of other municipal authority
13 to act for the residents outside of the city of Buckhannon the
14 county court shall appoint the necessary election officers, cause all
15 necessary arrangements to be made for the holding of said elec-
tions and the return of the results of same to the board of com-
missioners of the city of Buckhannon, who shall act as a canvassing
18 board to ascertain the aggregate results of the said election both
19 within and without the city. The cost of the election shall be
20 borne by the city of Buckhannon, except that where another
21 municipal corporation participates in the election, it shall bear
22 such part of the total cost as shall have been incurred within its
23 boundaries.

Sec. 34. The first election under this act shall be held on
2 the second Tuesday of May, one thousand nine hundred and nine-
3 teen, at the regular voting places within the city, under the super-
4 vision of the council and officials of the town of Buckhannon as
5 at present constituted, and be conducted, certified, returned and
6 finally determined, in accordance with the provisions of this act
7 and the laws and ordinances, or such parts thereof, as are now in
8 effect and not inconsistent with the provisions of this act, and
9 the nominations of candidates for such first election shall be
10 certified to the clerk of said town and said clerk shall prepare
11 the ballots therefor.

Sec. 35. Municipal elections under this act shall be con-
2 ducted as follows:
3 (a) Every person who has been a bona fide resident of the
4 city for six months next preceding a city election therein, and
5 who is a qualified voter under the constitution and laws of this
6 state, shall be entitled to vote at said city election in the election
7 precinct in which he actually resides; but no person shall be
8 deemed a bona fide resident who is residing within the city
9 limits for any temporary purpose and expects to remove from
10 the city after said purpose shall have been accomplished. The
11 board of commissioners shall by ordinance provide for such
12 regulations for the registration of voters as may be rendered
13 necessary by state laws.
14 (b) Any person eligible to the office of commissioner may
15 be a candidate and have his name placed upon the ballot by
16 filing with the city clerk a declaration of his candidacy, stating
17 specifically the particular commissionership for which he is a
18 candidate, and a certificate of his eligibility signed not less
19 than thirty days next preceding the day of the election by not
20 less than one hundred qualified voters of the city, not less than
21 one-third of whom shall reside in the same ward with the can-
22 didate. Said declaration and certificate shall be filed with the
23 city clerk not less than fifteen days prior to the day of election.
24 The names of all candidates for the several offices of commis-
25 sioner shall appear on one ballot, having three columns, those
26 for commissioner of accounts and finances in the second column
27 and those for commissioner for public justice in the third column,
28 and said ballot shall be without party emblem or designation.
29 The whole number of ballots to be printed for the election of
30 commissioners shall be divided by the number of candidates ap-
31 pearing in the first column, and the quotient so obtained shall
be the number of ballots in each series of ballots to be printed.

(c) The names of the candidates shall be arranged in alphabetical order in each column, and the first series of ballots printed. The first name in the first column shall be placed last therein and the next series of ballots printed, and this process shall be repeated until each name in the first column shall have been first, and for each series the same changes, so far as may be, shall likewise be made in each of the other columns. These ballots shall then be combined into tablets in the order of the series with no two of the same series together.

(d) The ballot to be used for the election of commissioners shall be in the form as follows:

Candidates for Election to the Several Offices of Commissioner,
City of Buckhannon, W. Va...

<table>
<thead>
<tr>
<th>Commissioner of Public Affairs</th>
<th>Commissioner of Accounts and Finances</th>
<th>Commissioner of Public Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

Direction to Voter.

Vote for only one candidate in each column by putting a cross mark in the square opposite the name of the candidate for whom you desire to vote. Do not mark for more than one candidate in each column. If you spoil this ballot, tear it across once and hand to the election officer in charge and he will give you another.

(e) A valid ballot shall be one on which the voter has clearly expressed his choice of one or more candidates. If a voter express the same choice for more than one candidate in any column his vote as to that column shall be void.
(f) The candidate in each column receiving the highest number of votes cast for the office of commissioner indicated by such column shall be declared elected. During the counting of the votes all ballots or votes not counted shall be marked by the election commissioners of each precinct with the words "not counted" written upon the ballot or opposite the vote not counted, together with a statement with the reasons for not counted, and the total number of invalid ballots marked thus and not counted shall be ascertained by them at the conclusion of the counting, and be shown upon the precinct return certificate and subtracted from the total number of ballots taken from the ballot box.

(g) If at any election there be no candidates for the office of commissioner as indicated by the first column, then in making up the series of ballots as herein provided, the second column shall be used, and if there be no candidates as indicated for the office of commissioner under neither the first nor the second, then the third column shall be so used. If there be a tie in the votes for the candidates for the office of either of said commissioners, then selections shall be made by lot by the commissioners of election by placing within a hat the names of those candidates who are so tied and drawing therefrom one name, and the candidate whose name is thus drawn shall be declared elected for that particular office.

Sec. 36. Commissioners only shall be elected by popular vote. All other officials and employees shall be appointed by the commissioners in such manner as is provided by this act or as they may by ordinance properly prescribed.

Sec. 37. At least four weeks before the day of an election the city clerk and one of the said commissioners, acting as ballot commissioners, shall prepare the ballots for such election, and the board of commissioners shall select the commissioners of election and poll clerks from the two leading political parties with the qualifications provided by the general laws of the state. The board of commissioners shall, by ordinance, provide such additional regulations in conformity with the provisions of this act and the general law of the state as are necessary for the proper conduct of election. Elections under this act shall be conducted, returned and the results thereof ascertained and declared in the manner prescribed by the constitution and laws of the state, in so far as said laws are not inconsistent with this act, and all penalties
prescribed by said laws of the state in so far as consistent, shall be applicable unto this act.

The duties required by the clerk of the circuit and county courts under the election laws of West Virginia, shall be performed by the city clerk of said city. The duties required of the commissioners of the county court under the provisions of said laws shall be performed by the board of commissioners of said city. The duties required of the sheriff under the provisions of said laws shall be performed by the chief of police of said city. And the duties required of any constable under the provision of said laws shall be performed by any member of the police force of said city.

Whenever the word "county" appears in said laws, the same shall be taken to refer to the city of Buckhannon, and whenever the words "election precinct" or "precincts" appear in said laws, they shall be taken to refer to the election precinct or precincts for the municipal election, and wherever the word "court-house" shall appear in said laws as designating the place of meeting of election officers, the same shall be taken to refer to the municipal building.

Sec. 38. The commissioner of accounts and finances shall, on or before the first day of August, of each year, prepare and submit to the board of commissioners an estimate of the amount of money necessary and advisable to be expended by the city for the current fiscal year next ensuing, and to be provided for by the tax levy as herein provided for each current year, in which estimate said commissioner shall ascertain and present a detailed and itemized account or estimate of the money necessary to pay interest on the bonded indebtedness of the city, the amount required for the several sinking funds for the reduction of the principal thereof, the amount to be expended severally by the department of public affairs, the department of public accounts and finances, (the amounts to be expended by each of the other two departments to be furnished said commissioner of public accounts and finances by the commissioner having charge of each of such other departments,) together with statements of the probable contingent expenses and miscellaneous expenses, and including in said estimate an itemized statement of the estimated receipts, other than to be derived from the annual levy, and after receiving such estimate, and before making the levy, the board of commissioners shall apportion the rate thereof, including estimated receipts from licenses and all other sources, among the several funds so ascertained and provided for, which said apportionment when
24 adopted, shall be spread upon the records of the board of com-
25 missioners. Upon the estimate of such expenses, the board of
26 commissioners shall thereupon, by an ordinance, lay a levy for
27 the ensuing year of a sum not to exceed fifty cents on each
28 one hundred dollars assessed valuation of all taxable property,
29 real and personal, subject to taxation in said city, as well as capi-
30 tation tax not to exceed two dollars upon every male inhabitant of
31 said city over the age of twenty-one years who is subject to a
32 capitation tax under the laws of the state of West Virginia, and
33 said board of commissioners is authorized to levy to such maximum
34 of fifty-five cents on each one hundred dollars of valuation, not-
35 withstanding any general laws now in force, or which may be
36 enacted, restricting the powers of municipal corporations to levy
37 taxes.

Sec. 39. Whenever anything for which a state license is re-
2 quired, is to be done within said city, or within one mile of the
3 corporate limits thereof, the board of commissioners, as herein
4 provided, may require a city license to be had for doing the same,
5 except that no license taxes shall be levied by said city under
6 paragraph "r" and "s" of section two of chapter thirty-two of the
7 code and may, in any case require from any person licensed a bond
8 with sureties, and in such penalty and with such conditions as it
9 may deem proper, and the board of commissioners may on notice
10 revoke such license if the conditions of such bond are broken, or
11 for any other good cause. The city authorities may prescribe,
12 impose and enforce a fine, under order of the police judge of said
13 city upon any person carrying on or attempting to carry on any
14 business or doing anything for which a city license may by ordi-
15 nance be required, without first obtaining a city license therefor
16 and paying the city license tax assessed thereon. All licenses
17 shall be paid to the commissioner of public accounts and finances.
18 For the purpose of enforcing the provisions of this section the
19 city shall have police jurisdiction for one mile beyond the cor-
20 porate limits of the city.

Revenues.

Sec. 40. The city taxes annually levied by the board of com-
2 missioners shall be collected as follows: Immediately after the
3 annual levy for city taxes is laid, the city clerk shall extend the
4 same on the property books made out by him, including thereon
5 the proper capitation taxes. He shall make out proper tax tickets
in the following manner, that is to say: There shall be a single
ticket for the whole amount charged to any person, firm or cor-
poration, and after the tickets have been examined and compared
and found to be correct by the board of commissioners, they shall be
turned over to the city clerk and commissioner of public accounts
and finances, and said city clerk shall then give notice, by publica-
tion or posting for at least ten days, stating that the tax tickets
are in his hands for collection, the penalty for the non-payment
thereof, and the time and place where the same may be paid;
provided, however, that the tax payer shall have the right to
anticipate the payment of the whole or any part of the taxes as
assessed. Immediately upon the payment of said taxes, or any
part thereof, the said amount shall be deposited by the commis-
sioner of public accounts and finances in the city depository to
the credit of the city of Buckhannon. All taxes shall be due and
payable within thirty days after the expiration of the notice posted
by the city clerk, as hereinbefore set forth, and in case the same
are not paid within said time, he may distraint and sell therefor,
in like manner as the officer collecting the state taxes may distraint
therefor, and he shall have in all other respects the same power
to enforce the payment and collection thereof. On all tickets
remaining uncollected in the hands of the commissioner of public
accounts and finances, thirty days after the date of the expiration
of the notice posted by him, there shall be added and collectable,
ten per cent interest until paid; provided, however, that the board
of commissioners shall have the power any year, by resolution, to
extend the time that such tax tickets may remain in the city
clerk’s hands and to be paid to him, before adding the interest, for
a period not to exceed ninety days. The board of commissioners
may by ordinance allow a discount not to exceed two and one-half
per cent for prompt payment of taxes. The city clerk and com-
mmissioner of public accounts and finances shall have the power
to collect said taxes so placed in his hands together with the in-
terest thereon, heretofore provided, to be added thereto. The
commissioner of public accounts and finances shall be charged with
the gross amount of all tax tickets delivered to him for collection,
and no deduction therefrom shall be allowed, unless on or before
the first day of June of each year he makes out and publishes at
least once in two newspapers of opposite politics in said city, and
returns to the board of commissioners a delinquent list of the
taxes uncollected for the year previous, with his oath attached
Sec. 41. There shall be a lien upon all real estate within
said city for the city taxes assessed thereon, including such penal-
ties and interest added thereto for non-payment thereof as pre-
scribed by this act, from the first day of January of the year in
which said taxes are assessed. Said liens may be enforced in any
court of record in Upshur county by appropriate suit; provided,
such suit be entered within five years from the time said liens
attached as herein provided, and such suit may be either by and in
the name of the said city of Buckhannon as plaintiff, or said city
may intervene by petition in any suit pending to sell or enforce
liens against real estate which is subject to such liens for taxes.
Said liens for city taxes and attendant penalties, as well as for
improvement assessments, may also be enforced by certifying the
same to the clerk of the county court of Upshur county for cer-
tification to the state auditor, and the same may be certified down
by the state auditor and sold for taxes, interest and penalties and
commissions thereon, in the same manner, at the same time and
by the same officer as real estate is sold for taxes, interest, dam-
age, costs and commissions due the state thereon, which officer
shall account therefor on settlement with the board of commis-
sioners and pay the same over to the commissioners of public
accounts and finances of the city of Buckhannon.

Sewerage and Paving.

Sec. 42. All the provisions of sections forty-nine-c (1),
forty-nine-c (2), forty-nine-c (3), forty-nine-c (4), forty-nine-c
(5), forty-nine-c (6), forty-nine-c (7), forty-nine-c (8), forty-
ine-c (9), forty-nine-c (10), forty-nine-c (11), forty-nine-c
(12), forty-nine-c (13), forty-nine-c (14), forty-nine-c (15),
forty-nine-c (16), forty-nine-c (17) and forty-nine-c (18) of
chapter forty-seven of the Barnes' code of West Virginia, of one
thousand nine hundred and sixteen, not inconsistent herewith, are
9 hereby made parts of this chapter as though set forth therein in
detail, and the board of commissioners, by a majority vote of their
members, shall have power to enforce the same in said city, and
they shall adopt all such ordinances and resolutions as may be
necessary to put said provisions into effect; and the adoption of this
charter by a vote of the people of the said city as hereinafter pro-
vided, shall be taken and deemed an adoption of all said pro-
visions of said sections without the vote thereon required by sec-
Sec. 43. The sewers heretofore constructed in any of the
streets or alleys of said city at the expense of the property owners
abutting thereon, and by the authority of the council of the town
of Buckhannon, or council of the town of South Buckhannon,
may be taken for public use by the said city, and the same may
be used subject to the provisions of the preceding section; but
before such sewer is so occupied by the city, compensation shall
be made to the persons having paid for the same or entitled
thereo. Such compensation shall be determined by the award
of three arbitrators, one selected by the board of commissioners,
one selected by the person or persons having paid for the construc-
tion of the said sewer, or his assigns, and the two selected shall
choose a third arbitrator, and the said arbitrators shall, after hear-
ing all evidence as to what would be a just compensation for such
sewer, make their award in writing, which award shall be final,
and entered of record by said commissioners. The arbitrators so
selected and chosen, shall not be interested in the matters sub-
mitted to them other than as tax payers of said city. And the
owners of any real estate abutting on any such street or alley, in
which any such private sewer has been constructed by authority of
said councils, or either of them, and at their own expense, shall
be required to pay any assessment levied or assessed against
the same for the construction of a sewer in a street or alley, in
which such private sewer has been so constructed, until said private
sewer is taken by said city and compensation made therefor as
herein provided; and any private sewer so taken by said city
shall be held, used and occupied as provided in the next preceding
section, and the property abutting thereon subject to the assess-
ments as therein provided.

General Provisions.

Sec. 44. All contracts pertaining to public improvements,
2 maintenance of public property, public printing, purchase of sup-
3 plies, and all other contracts of whatsoever character, involving an
4 outlay of as much as five hundred dollars, shall be made by the
5 board of commissioners and shall be based upon specifications
6 provided for the said board. Such contracts shall be entered into
7 only after inviting competitive bids. Such competitive bids shall
8 be sealed and one copy of each bid shall be filed with the clerk
9 of the board. Each bidder shall accompany his bid with a sworn
10 statement, in writing, that the bidder has not directly, nor in-
10-a directly, entered into any agreement, express or implied, with
10-b any other bidder or bidders, having for its object the control or
10-c amount of such bids, or limiting of the bids or bidders, parceling
10-d or farming out to any bidder or bidders or other persons, of any
10-e part of the contract or any part of the subject matter of the bid or
10-f the parts thereof. No bidder shall divulge said sealed bid to any
10-g person whatever except those having a partnership or other finan-
10-h cial interest with him in said bid, until after said sealed bids are
10-i opened. The violation of any of the foregoing provisions on the
10-j part of the bidder shall, at the election of the board of commis-
11 sioners, make void any contract made by him with said city based
12 upon such bid. The awarding of a contract upon a successful bid
13 shall give the bidder no right of action or claim against the city
14 upon such contract until the same shall have been reduced to
15 writing and duly signed by the contracting parties. All bids filed
16 with the clerk of the board shall be opened in the presence of the
17 board of commissioners two days before the contract shall be
18 entered into based upon any such bids. The board of commis-
19 sioners shall consider the bids and may reject any and all bids and
20 ask other bids, or may enter into a contract with the party offer-
21 ing the lowest and best bid, or may have such work done under
22 the supervision of the proper department and keep account of the
23 expenses thereof. Pending acceptance of bids, the plans and
24 specifications and profiles shall remain on file in the office of the
25 clerk of the board subject to the inspection of any person. For
26 safeguarding the interests of the city, the board of commissioners
27 shall make such regulations providing for the filing of the esti-
28 mates furnished them by the city engineer, or other persons making
29 such estimates of cost, as they may deem best. The board of com-
30 missioners shall have power to require all bidders to make such
31 bonds or cash deposits as they may deem proper to secure the
32 performance of the contract awarded.
Sec. 45. All printed ordinances or codes of ordinances published by the authority of the board of commissioners shall, in all judicial proceedings in all courts, be admitted as prima facie evidence, and in any such proceedings it shall not be necessary to plead the entire ordinance or section but only such parts thereof as are admitted in evidence.

Sec. 46. Every claim against the city must be approved by the commissioner in whose department it originated, and be filed with the clerk of the board in writing, with a full account of all items thereof, and must be subscribed by the claimant or his agent or attorney, who, on oath, shall declare that the same is correct, just, due and unpaid, and no claim or demand shall be allowed or suit filed thereon unless so prepared and filed, and unless suit shall be filed upon such claim within twelve months after the same shall have been so filed with the clerk of the board in writing, as above provided, such claims shall be forever barred, and upon all suits filed to enforce such claims such bar shall be pleaded.

Sec. 47. Every officer who shall knowingly approve or allow or pay any demand upon the treasury of the city not authorized by law, ordinance or this act, shall be liable to the city individually and on his official bond for the amount of the demand so illegally approved, allowed or paid.

Sec. 48. Each commissioner of the city of Buckhannon shall be a public conservator of the peace, shall have power to administer oaths, and said commissioners and each member of the police department, in addition to the power of enforcing ordinances of the city and in aid of such powers, shall have the same police powers as are given to a constable in making arrests and in preserving the peace and safety within the city; provided, that such officer shall have power over territory outside of the city, but under its control, as may be conferred by the laws of the state and the provisions of this act; and, provided, further, that all regular officers of the city of Buckhannon, except extra policemen serving less than one week at a time, appointed under the provisions of this act shall give bond payable to the city of Buckhannon for the faithful performance of their duties in such amount as may be fixed by the board of commissioners; provided, that said bond shall be in a penalty of not less than one thousand dollars.

Sec. 49. Any commissioner shall be subject to removal from office in the manner and for the same cause or causes as provided
Sec. 50. The fiscal year of the city shall commence on the first day of July each year and shall end on the thirtieth day of June next following.

Sec. 51. The offices of mayor, recorder and councilmen of the town of Buckhannon and of the town of South Buckhannon shall be terminated and be and become vacant upon the election and qualification of the commissioners provided by this act. All other officers and employees of the present corporations of Buckhannon and South Buckhannon shall continue in office and to perform their duties until their successors are appointed, or until their services are dispensed with by the commissioner having charge of the department in which they are employed.

Sec. 52. The board of commissioners shall appoint a city solicitor who shall be an attorney at law admitted to practice in the state of West Virginia, and a citizen of the said city of Buckhannon. He shall be the legal advisor of and attorney and counsel for the municipality and for all officers thereof in matters relating to their official duties. He shall prepare all contracts, bonds and other instruments in writing in which the city is concerned, and shall certify thereon to the correctness thereof; and no such contract with the city shall take effect until so certified by him, or some attorney at law temporarily appointed by the board of commissioners to act in his place and stead in his absence, or during his sickness or other inability to attend to the duties of his office. He or assistant, if any be provided, shall be the prosecuting attorney of the municipal court, and he shall perform such other duties as the board of commissioners shall require. In all criminal proceedings, before the department of justice of the said city in which there is conviction, and wherein a fine of twenty-five dollars or more, or imprisonment, or both, are imposed, an attorney’s fee of $5.00 shall be added thereto which, when collected, shall be received by the said city solicitor as a part of his compensation, and the board of commissioners shall otherwise provide for the compensation of the said city solicitor.

Sec. 53. The present municipal corporations of the towns of Buckhannon and South Buckhannon, the territories of which are embraced in the corporate limits of the proposed city, shall, for the purpose of raising revenue to liquidate respectively their existing indebtedness, bonded and otherwise, and for the purpose
of collecting all outstanding taxes and other claims and demands
due, said respective towns, be taken and deemed separate assess-
dment districts, and the said board of commissioners shall, in ad-
dition to the levy of taxes herein provided for the city of Buck-
annon, have power to levy and collect, and shall levy and collect
in like manner as herein provided for levying and collecting taxes
for the said city of Buckhannon, each year until such respective in-
debtedness of the said towns of Buckhannon and South Buck-
annon shall have been fully paid, a special assessment of not to
exceed twenty cents on each one hundred dollars of the assessed
valuation, to be levied upon the property, real and personal, within
the present respective corporate limits of the said towns, and upon
none other, and the money so raised in said towns shall be applied
to the liquidation of their respective said indebtedness, and to
none other, and as soon as such respective indebtedness shall have
been paid such special levies shall respectively cease, and said
special assessment districts shall likewise respectively cease to
exist. It is the intention by this provision to authorize said com-
missioners, in the manner aforesaid, to raise funds and pay off all
existing indebtedness of the said respective towns of Buckhannon
and South Buckhannon by taxes so assessed and levied upon the
property, real and personal, located within the respective cor-
porate limits of said towns, without rendering any other property
situate within the corporate limits of the said proposed city and
outside the present respective corporate limits of the said towns
liable for any part thereof, and without making the property
located in either such towns liable to assessment and levy to pay
the indebtedness of the other; and the said commissioners shall
have no power or authority to create any other debt, or liability,
for, in the name or on behalf of the said towns or either of them.

For the purpose of levying and collecting such taxes and out-
standing claims and indebtedness in favor of said respective towns
now unpaid, and for the purpose of levying and collecting said
special tax and of enforcing against the said respective towns of
Buckhannon and South Buckhannon the collection of their re-
spective said indebtedness, the said towns of Buckhannon and
South Buckhannon shall be deemed continuing corporations and
may sue and be sued in their corporate name of the town of Buck-
annon and the town of South Buckhannon, and process upon
them may be had by service upon the said mayor and commissioner
of public affairs of the city of Buckhannon. The said commis-
sioners, if found necessary, shall have power to refund the bonded indebtedness of the said town of Buckhannon, but only for the period within which a special levy of twenty cents upon the one hundred dollars of the assessed valuation annually applied shall pay the same; and as soon as all of said claims and taxes so due or to become due the respective towns shall have been collected and all of said respective indebtedness shall have been paid the said towns of Buckhannon and South Buckhannon shall cease respectively to have such corporate existence.

Sec. 54. The city of Buckhannon shall succeed to and be invested with all the rights preserved to the said municipalities of the towns of Buckhannon and South Buckhannon, and each of them, in franchises heretofore granted by them, and in all contracts made by them respectively through, to and with all public service corporations, including especially, the reserved rights to purchase and take over the plant and holdings of the Buckhannon Light and Water Company contained in the contracts and franchises under which the said company is operating in the said towns.

Sec. 55. The city of Buckhannon shall succeed to and be invested with all right, title and interest in and to all of the property, real and personal, owned and held for public use by the said towns of Buckhannon and South Buckhannon, except the taxes, claims and other demands due and to become due to the said towns and each of them; provided, that when the indebtedness or other liabilities of said towns, respectively, shall have been paid, as in this act provided, then any cash, funds, claims or demands in the hands of, or belonging to, said respective towns, shall be turned over to said city and it shall succeed thereto and shall have the right to collect and use the same for its public purposes.

Change in Form of Government.

Sec. 56. At any time after the expiration of three years from the date of the election and installation of the first officers under this charter, upon a petition in writing signed by not less than twenty per cent of the legal voters of said city, praying for a change from the commission form of city government, the board of commissioners shall call a special election to be held within a majority of the votes cast at such special election be in favor of such change, then at the next succeeding general city election submit the question of such change to a vote of the people, and if there shall be elected, in lieu of said commissioners, a mayor, a
city recorder and five councilmen, who shall have the same qualifications as said commissioners, and who shall be nominated by two hundred voters of said city and by notice thereof published at least two successive weeks in two public newspapers of opposite political parties published in said city, such published notice to be signed by a committee of not fewer than five, reciting the filing of said petition or petitions, with the city clerk. Such election shall be held in manner and form as herein prescribed and as prescribed by general laws. Upon such change in the form of city government being made and the election and qualification of such mayor, city recorder and councilmen, and their induction into office, the terms of office of all the commissioners shall expire, and likewise the terms of office of all appointive officers and employees under said commissioners shall expire.

Upon the filing of the petition aforesaid, it shall be the duty of said board of commissioners then in office immediately to divide the city into five wards, make such division fair and equitable, having respect to a fair and equitable apportionment of the population in each ward, and the selection and nomination of such councilmen shall be made with respect to such wards, one councilman to be nominated from each ward upon each ticket; provided, that a failure to nominate or elect with respect to such wards shall not invalidate any election or the right of any officer elected to hold his office. Notwithstanding such conventions, any person may be nominated for any office under this section by petition duly signed by not fewer than fifty voters of the city, and in any event by not less than one per centum of the legal voters of the ward in which he resides, in manner and form as provided by general law, such petition to be filed with the city clerk not less than fifteen days before such general election.

In case such change be made, the mayor shall be the chief executive officer of the city, and shall perform all the duties required of the mayor by sections ten, twelve, twenty-six, twenty-nine and thirty of this act, and shall perform such other duties not inconsistent herewith as are required by general law, and as are required by all other provisions of this act. He shall also be the police judge of the city and shall perform such duties as are herein required of the police judge with respect to the ad-
ministration of the law and the enforcement thereof in the city, and also such other duties as may be prescribed by the city council from time to time by ordinances and resolutions not inconsistent herewith.

The city recorder shall perform such duties as are usually incident to the office of city clerk, and shall keep a record of all meetings of the council, ordinances, resolutions, orders and judgments of the police court and shall perform such other duties as are herein required of the city recorder and commissioner of accounts and finances, except the collection of taxes and accounts, claims and fines. He shall also perform such other duties as the city council may from time to time require by ordinances and resolutions not inconsistent with the provisions of this charter or the general law.

The mayor and city recorder shall be members of the city council and as such shall have a right to vote on all questions therein, and in the absence of the mayor, or in case of his sickness or other inability to attend to the duties of his office the city recorder shall act as mayor.

The city council shall do and perform all other duties required of the board of commissioners and the members thereof in the various sections of this act, and such other duties as come within the purview of this charter to carry into effect its provisions in the interest of the city and the inhabitants thereof, and especially the duties provided in sections seventeen, eighteen, nineteen, twenty, twenty-one, twenty-four, thirty-three, thirty-eight and forty-nine, but the enumeration of said special sections shall not be construed to exclude any other sections or provisions hereof respecting the duties of the said city council. No bond shall be required of the members of the council, but the mayor and city recorder shall be required to give bond as hereinbefore provided in such penalties as may be prescribed by ordinance.

The city council shall have power to appoint a city collector and fix his compensation, who shall be city treasurer and collector of all taxes and other claims and demands of the city, and who shall give bond as herein required of the city clerk and commissioner of public accounts and finances, and all funds of the city shall, immediately upon receipt thereof, or any part thereof, by him, be deposited by him in one or more of the city depositories in the name of the city of Buckhannon. The city council shall fix the salaries of the mayor, city recorder, and
93 councilmen, and of all appointive officers and employees, and
94 shall select one of their own members, or some other person, to
95 be a street commissioner who shall perform the duties with re-
96 spect thereto required of the mayor as commissioner of public
97 affairs by the provisions of this charter hereinbefore contained.
98 The council shall have power to give to said collector, as com-
99 pensation in whole or in part, a commission not to exceed two
100 and one-half per centum upon all taxes collected by him, and the
101 said city collector and the said street commissioner shall per-
102 form such other duties as the council may from time to time
103 prescribe by appropriate ordinances and resolutions.
104 The term of office of the said mayor, city recorder, and
105 councilmen shall be one year.
106 Should the people of said city desire at any time to re-
107 adopt the commission form of government as herein provided,
108 they may do so by filing with the recorder a petition in writing
109 as hereinbefore described praying therefor, and upon the filing
110 of the same the city council shall call a special election therefor
111 in manner and form as in this section provided to be held not
112 less than sixty days before the next general city election, and if
113 at such special election a majority of the votes cast be in favor
114 of returning to said commission form of government, then
115 the form thereof as prescribed by this charter shall be readopted
116 at the next general city election, and the commissioners shall be
117 nominated and three of them elected as hereinbefore provided,
118 and thereafter the commission form of city government as here-
119 inbefore provided shall be in effect subject to all the provisions of
120 this charter.

Sec. 57 This act shall not be effective unless the same shall
2 first be submitted to the voters of said city at a special election
3 jointly called for the purpose by the common councils of the towns
4 of Buckhannon and South Buckhannon, and adopted by a majority
5 of the votes cast at said election. Said special election shall be
6 held on the first Tuesday in April, one thousand nine hundred and
7 nineteen, after publication of the act one time not less than ten
8 days immediately preceding said special election in two weekly
9 papers of opposite politics published in said city. Said special
10 election shall be conducted in the regular manner of holding
11 municipal elections in said towns. If this act is adopted at said
12 election it shall go into effect in the manner provided in this
13 charter and at the time therein fixed.
The ballot to be voted at said election shall be printed upon plain white paper and in the following form:

CITY OF BUCKHANNON.

Charter Election.

Indicate how you desire to vote by a cross in the square.

For adoption of new charter.  □

Against adoption of new charter.  □

CHAPTER 16.

(Senate Bill No. 162—Mr. Hough.)

AN ACT to amend and re-enact sections three and fourteen of chapter fourteen of the acts of the legislature of West Virginia of one thousand eight hundred and eighty-seven, in reference to the charter of the city of Wellsburg, as amended by chapter sixty-five of the acts one thousand eight hundred and ninety-five, chapter one hundred and forty-nine of the acts of one thousand nine hundred and one; chapter ten of the acts of one thousand nine hundred and seven; and chapter four of the acts of one thousand nine hundred and fifteen; and chapter one hundred and sixteen of the acts of one thousand nine hundred and seventeen.

[Passed February 17, 1910. In effect ninety days from passage. Became a law without the Governor's approval.]

Sec. 3. Officers of city of Wellsburg.

Be it enacted by the Legislature of West Virginia:

That sections three and fourteen of the charter of the city of Wellsburg be amended and re-enacted so as to read as follows:

Officers.

Section 3. The officers of said city shall be a mayor, two councilmen from each ward, collector and treasurer, solicitor, clerk, street commissioner and chief of police. The mayor, members of council, collector and treasurer and clerk of said city shall be elected by the voters of said city as hereinafter provided; the other officers shall be appointed by the council.
Sec. 14. At the election of officers to be held upon the second Tuesday in April, one thousand nine hundred and nineteen, there shall be elected a mayor, collector and treasurer and one councilman from each ward; and thereafter the mayor and collector and treasurer shall be elected every two years and shall hold their respective offices for the term of two years and until their successors shall be elected and qualified.

The clerk elected in said city at the election held therein on the second Tuesday in April, one thousand nine hundred and eighteen, shall hold his office for the term of two years from the first Monday in May, one thousand nine hundred and eighteen, and thereafter a clerk shall be elected every two years, who shall hold his office for the term of two years and until his successor is elected and qualified.

CHAPTER 17.

(Senate Bill No. 195—Mr. Staats.)

AN ACT to amend and re-enact sub-section (e) of section nineteen of chapter eighty-eight of the acts of one thousand nine hundred and thirteen of the legislature of West Virginia, entitled "An act to amend and re-enact section nineteen of chapter eighty-three of the acts of one thousand nine hundred and eleven of the legislature of West Virginia, entitled 'An act to amend and re-enact chapter sixty-six of the acts of one thousand nine hundred and three, and chapter four of the acts of one thousand nine hundred and seven, extraordinary session of the legislature incorporating the city of Parkersburg in the county of Wood as amended by chapter one hundred and nineteen of the acts of the legislature of one thousand nine hundred and seventeen and repealing all acts and parts of acts inconsistent or in conflict therewith, and to amend and re-enact sub-section (f) of section nineteen of chapter eighty-eight of the acts of one thousand nine hundred and thirteen of the legislature of West Virginia.

[Passed February 18, 1919. In effect from passage. Became a law without the Governor's approval.]

Sec. Sub-section (e). City of Parkersburg authorized to issue bonds for paving, laying sidewalks, curbing streets and alleys and constructing sewers for drainage.

Sec. Sub-section (f). Question of issuing bonds to be submitted to qualified voters of the city; provisions of chapter 47-a of the code to apply.
Be it enacted by the Legislature of West Virginia:

That sub-sections (e) and (f) of section nineteen of chapter eighty-eight of the acts of one thousand nine hundred and thirteen be amended and re-enacted so as to read as follows:

Sub-section (e). Whenever it is deemed expedient by the council to provide for paving, sidewalks, curbing or sewers in or upon any of the streets or alleys of the city by the issue and sale of bonds of the city, it shall, by resolution entered of record on the minutes of its proceedings, so declare and thereupon the city shall be and is hereby empowered and authorized to issue its bonds for the purpose of providing for paving, laying sidewalks, curbing the streets and alleys of the city and of constructing sewers for the proper drainage of said city, in anticipation of special assessments to be made upon the property abutting upon the streets and alleys so improved, and upon street car and other railway companies occupying the said streets or alleys with tracks, and such bonds may be in such amount as shall be sufficient to pay the entire cost and expense of said improvements for which such special assessments are levied; and said city is also authorized to sell said bonds; provided, that the price for which they are sold shall not be below par value of said bonds; said bonds shall be payable not to exceed fifteen years from the date of the issue thereof, and shall bear interest not to exceed six per centum per annum, payable semi-annually; and in the issuance or sale of said bonds the city shall be governed by all the restrictions and limitations of the constitution of this state, and so far as not in conflict with the provisions of this section by the restrictions and limitations of this state with respect to the issuance and sale of other bonds; and said bonds may be either straight sinking fund bonds all of which shall bear the same date of maturity not to exceed fifteen years from the date of their issuance, or serial bonds, any number of which may be made to mature at such times not to exceed fifteen years from the date of issuance, as may be provided in the ordinance providing for the issue and sale of said bonds and in the event that the bonds so issued and sold are straight sinking fund bonds, as hereinbefore provided, the assessments as paid and provided for in this section shall be applied to the liquidation of said bonds and the interest thereon, and to that end paid to the trustees of the sinking funds of the city, to be by them invested to the best advantage of the said city, anything in any general or special statute of the state not-
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36 withstanding to the contrary, and in the event that the bonds so
37 issued and sold are serial bonds, the assessments as provided
38 for in this section shall be deposited as collected by the city
39 with the city treasurer in a fund to be known as—fund for the
40 redemption of the principal and interest of the bonds so issued
41 and sold, from which fund the council of the city shall cause
42 the interest and principal of said bonds to be paid as the same
43 mature and said fund shall be issued for no other purpose; and
44 if by reason of penalties collected with the delinquent installments,
45 there may be any balance after the payment of said bonds and all
46 accrued interest and costs said balance shall be turned into the
47 city treasury to the credit of a fund for street improvements
48 for said city and used for no other purpose; provided, that the city
49 shall not by the sale or issue of such bonds cause the aggregate
50 of its debts of every kind whatsoever to exceed five per centum
51 of the value of the taxable property therein; nor shall the city
52 make such issue and sale without at the same time providing for
53 the collection of a direct annual tax sufficient to pay annually the
54 interest on such debt and principal thereof within and not ex-
55 ceeding fifteen years.

56 Provided, further, that nothing herein contained shall be
57 construed to prohibit said city from becoming indebted; but
58 said city is hereby authorized to become indebted, in any lawful
59 manner or for any lawful purpose, other than the purpose men-
60 tioned in this section, to an amount including existing indebtedness
61 (and in determining the amount of “existing indebtedness bonds
62 issued for the purposes provided in this section, shall not be includ-
63 ed) in the aggregate not exceeding two and one-half per cent on a
64 value of the taxable property therein to be ascertained by the last
65 assessment, for state and county taxes previous to the incurring of
66 said indebtedness.

67 All of the assessments, interest and penalties thereon, col-
68 lected from the abutting property owners on account of the grad-
69 ing, paving, sewering or otherwise improving the streets and alleys
70 of the city, under the provisions of this section, shall annually be
71 applied to the annual tax required to pay the interest on such
72 debt, and such principal within and not exceeding fifteen years;
73 and in the event that the assessments, interest and penalties so col-
74 lected should not amount to a sum sufficient to pay annually the
75 interest on such debt and the principal thereof, within and not ex-
76 ceeding fifteen years, then the council shall collect so much of said
levy as will pay annually the interest on such debt and the principal thereof within and not exceeding fifteen years.

Sub-Sec. (f). It is especially provided that no bonds shall be issued under the provisions of this section, unless and until the question of issuing said bonds shall have first been submitted to a vote of the people of the city and shall have received three-fifths of all votes cast at said election for or against the same. The council may provide by ordinance for an election every year, at which the question shall be submitted to the people as to whether the city shall be authorized to issue bonds for the purpose and under the provisions of this section, to an amount not to exceed in the ensuing year the amount recommended by said ordinance for said ensuing year; but the ordinance providing for said election need not specify in detail the location of the improvements contemplated to be paid for during the ensuing year out of said aggregate issue authorized for said year, and not withstanding the provisions of section two, three and six of chapter forty-seven-a of the code, it shall be sufficient description of the purpose for which said election is held if the ordinance calling the same shall cite that it authorizes the council to issue bonds for the purpose of paving, curbing, laying side walks or sewering the street and alleys of said city, at such times as to the council may seem fit during the ensuing year ending on the ....... day of ........., issue bonds for the said purpose and to a sum not to exceed the year the sum of $................., and the council may provide in said ordinance that said bonds may be either serial or sinking fund bonds and that bids may be received for either or both kinds of said bonds and at different rates of interest, none of which shall exceed six per cent per annum and upon receipt of said bids, council shall by resolution entered upon its minutes and without further ordinance determine the kind of said bonds and the rate of interest which they shall bear; and when the council shall have once been authorized by vote of the people to issue bonds for the said purpose and to a sum not to exceed the amount set forth in the ordinance calling the said election, no further election shall be necessary for the issuing of bonds during said ensuing year up to the amount stipulated in said ordinance calling said election, but the council shall from time to time during said ensuing year by ordinance authorize the issue of said
CHAPTER 18.

(Senate Bill No. 180—Mr. Harmer.)

AN ACT to amend and re-enact sections six and fifteen of chapter two of the acts of the legislature of West Virginia, regular session, one thousand nine hundred and fifteen, as codified under municipal charters relating to the charter of the city of Shinnston.

[Passed February 14, 1919. Effective from passage. Became a law without the Governor's approval.]

Sec. 6. Eligibility to office in city of Shinnston.

Sec. 15. Councilman entitled to vote; mayor entitled to vote in case of acts and parts of acts inconsistent herewith repealed.

Be it enacted by the Legislature of West Virginia:

That sections six and fifteen of chapter two of the acts of the legislature of one thousand nine hundred and fifteen, regular session, as codified under municipal charters, be amended and re-enacted so as to read as follows:

Section 6. No person shall be a candidate for the office of mayor, recorder, or councilman at any city election, unless he shall have filed with the recorder of said city, at least fifteen days prior to the election day, a statement in writing showing his name and the designation of the office to which he aspires, and such statement shall be filed with the records of said office and open to public inspection. And no person shall be eligible to the office of mayor, recorder or councilman, unless at the time of his election he is legally entitled to vote in the city election for city officers and was in the preceding year assessed with taxes upon real or
11 personal property within said city of an assessed value at least
12 two hundred dollars and shall have actually paid the taxes so
13 assessed. And the council of said city shall fix and determine
14 such rules and regulations as to the eligibility and employment of
15 subordinate officers of said city as to them may seem best.

Sec. 15. Each councilman present at any meeting of coun-
2 cil shall be entitled to a vote upon any matter or question prop-
3 erly pending before council, and the mayor shall have a vote
4 only in case of a tie, and in no case shall the presiding officer
5 have two votes; and no member of the council shall vote or take
6 part in the consideration of any proposition or measure in which
7 he may be interested otherwise than a resident of the city.
8 All acts or parts of acts in conflict or inconsistent with this
9 act are hereby repealed.

CHAPTER 19.

(Senate Bill No. 251—Mr. Kump.)

AN ACT to amend and re-enact sections forty-nine and fifty of chap-
ter six of the acts of the legislature of West Virginia of the reg-
ular session of nineteen hundred and fifteen, relating to the char-
ter of the city of Martinsburg.

[Passed February 21, 1919. In effect ninety days from passage. Became a law
without the Governor’s approval.]

Sec. 49. Contracts for permanent paving of streets and alleys of city of
Martinsburg; paying for same.

Sec. 50. Construction of sewers; conditions and rules governing.

Be it enacted by the Legislature of West Virginia:

That sections forty-nine and fifty of chapter six of the Acts of the
Legislature of West Virginia of the regular session of one thousand
nine hundred and fifteen be amended and re-enacted so as to read as
follows:

Section 49. Whenever the council may deem it expedient to
2 cause any street or alley in said city, or portion thereof, to be
3 paved in a permanent manner, it shall order the work done in the
4 following manner and upon the following terms: The contract
5 for such paving shall, after due advertisement in which the coun-
6 cil shall reserve the right to reject any and all bids, be let, if let,
7 to the lowest and best bidder. The contractor shall look only to
8 the city for payment for the work and in no sense to the abutting
9 land owners. The total cost of grading and paving any such
10 street or alley, (except when streets are occupied by street car or
11 tracks, for the distance between the rails and two additional feet
12 outside of each rail, which portion shall be borne and paid en-
13 tirely by the street car company owning or operating such railway
14 and tracks,) shall be borne by the city and the abutting property
15 owner, at the option of the council, which plan is to be deter-
16 mined by it, before beginning the work, in the proportions of
17 one-third by the city and one-third each by the abutting prop-
18 erty owner, or by charging the entire cost to the abutting prop-
19 erty owner on each side of the block or street on which said pav-
20 ing shall be constructed, apportioned according to the respective
21 frontage of each owner thereon. The cost of such paving charge-
22 able to the abutting property is not to include any portion or
23 amount paid for paving of squares at intersections of streets,
24 which shall in all cases be borne and paid by the city.
25 When the paving of any street or alley or portion thereof
26 shall have been let to contract and the work done as hereinbefore
27 provided, it shall be the duty of the commissioner of streets to
28 cause the several frontages abutting thereon to be measured, to
29 calculate the assessment upon each and every land owner so abut-
30 ting, and to certify the same to the council, showing the proper
31 amount to be determined as provided in the foregoing plan. It
32 shall be the duty of the council to examine and compare such as-
33 sessments, amounts and names so certified to it. Thereupon the
34 council shall give notice by publication for two successive weeks
35 in some newspaper published in said city that an assessment,
36 under this act, is about to be made against abutting property for
37 paving done on said streets or alleys, describing the location of
38 such paving. Any owner or owners of abutting property shall
39 have the right to appear before said council, within three weeks
40 from the first publication thereof, and move such council to cor-
41 rect any apportionment or assessments improperly made; which
42 corrections said council shall have the power to make. If found
43 to be correct, or when rectified, the council shall cause the same
44 to be entered, together with the description as to the location,
45 frontage, depth and ownership of the land, so far as the same
46 may be ascertained, upon its record, and to enter in its record,
47 that such owners and lots be assessed and chargeable with the
48 amounts so ascertained to be borne by them respectively. When
49 so approved, certified and entered of record, the same shall be
and constitute an assessment against said owners and lots for such respective amounts. It shall be the duty of the council to immediately certify such assessment to sergeant for collection as hereinbefore provided. A copy of such orders shall be certified by the recorder to the clerk of the county court of Berkeley county, who shall be required to record and index the same in the proper deed book in the name of each person against whose property assessments appear therein. The amount so assessed against any land owners, as aforesaid, shall be paid in ten installments as follows; that is to say: One-tenth thereof within sixty days from the date the same is certified to the sergeant; one-tenth thereof, with interest from day of entry, on the first day of October next ensuing, and one-tenth thereof, with interest from the date of entry payable October first of each year, on the first day of October in each year thereafter until the whole thereof shall have been paid; provided, however, that any owner or owners so liable for any part of the costs of such paving shall have the right at any time after certification as aforesaid to anticipate the payment of such installment, or any of them, and to discount the same for cash on the basis of two and one-half per cent. To each of such installments of assessments remaining unpaid in the sergeant’s hands at the time specified for such payment, a penalty of five per cent, together with six per cent per annum interest until paid, shall be added; and payment thereof enforced in all respects as hereinbefore provided for the collection of any other taxes due the city and such shall be a lien upon the property liable therefor, the same as for other taxes, and the lien may be enforced in the same manner as provided for the taxes.

The liens hereinbefore provided for shall have priority over all other liens, except those for taxes due the state and county, and shall be on a parity with other taxes and assessments due the city. Upon the payment of any assessment to the sergeant, he shall deliver to the parties paying the same a lease of the lien therefor, which may be recorded in the county clerk’s office as other releases of liens. Should such assessment not be in his hands, or have not by him been turned over to the treasurer, if the same shall have been shown to the satisfaction of the council to have been paid in full to any officer entitled to receive the same as designated by it, the council may direct the recorder and auditor to execute a release of such lien, which release may in like manner be recorded.
Sec. 50. Whenever the council shall deem it expedient to construct a public sewer in any one or more city blocks, or any part thereof, or in any street or alley, or any part of a street or alley, or to provide at once an adequate sanitary sewerage system, inclusive of all necessary or convenient incinerating and disposal plants, or any part thereof, for said city, it shall so order and the improvement thus ordered shall be made in accordance with the following conditions, to-wit:

First: The council shall adopt a general, comprehensive plan for sewerage, and sewage disposal, inclusive of incinerating and disposal plants, approved by some competent sewerage engineer, and of sufficient capacity to serve the whole territory within the city limits.

Second: Upon the adoption of such plan, the council shall fix by order, the time when and place where the work upon such improvement shall be begun, and whether the same shall be begun, and whether the same shall be undertaken as a whole, or, for the time being, confined to certain designated sections, blocks, squares and streets; and if less than the whole improvement be authorized, the construction of such part or parts as shall be so ordered shall be executed in accordance with the specifications therefor embraced in said general plan so that when completed the whole shall form a properly co-ordinated sewerage system conforming to said general plan.

Third: The contract for such work, whether for the whole or for parts of said system shall be submitted to competitors bidding, after an advertisement of not less than once a week for two successive weeks in two newspapers published in said city, and awarded to the lowest and responsible bidder. The council, however, shall have the right to reject any and all bids; and no contract shall be made in pursuance of this authority except upon the express condition that, before the same becomes binding upon the city, the contractor, or some one for him, shall enter into and acknowledge bond, with security to be approved by the council, in a penalty double the price named in the contract for the work therein specified, with conditions that he will faithfully perform the duties and promptly and skillfully perform the labor provided for in said contract, and pay all costs and damages that may be sustained by said city or by any
40 citizen, inhabitant, resident or tax payer thereof, in respect to
41 both persons and property, in the execution thereof, and save it
42 and them harmless in the premises.
43
44 Fourth: The contractor shall look alone to the city for pay-
45 ment for the work covered by such contract.
46
47 Fifth: The contractor shall receive payment for his ser-
48 vices, not to exceed the contract price, at such times and in such
49 sums as the council may by said contract prescribe, but ten per
50 centum, at least, of the contract price shall be retained by the
51 council for ninety days after the completion of the work speci-
52 fied in the contract as additional security for the proper execu-
53 tion of the work. The contract may contain all such other safe
54 guards, limitations, provisions and conditions, as are usual and
55 as to the council may seem fair and right.
56
57 Sixth: The total cost of the disposal and incinerating
58 plants, including the acquisition and purchase of the ground,
59 if any, necessary therefor, as well as the acquisition and purchase
60 of any other real estate necessary to the work as a whole, shall
61 be borne by the city.
62
63 Seventh: The total cost of laying sewers in public squares,
64 and in squares formed by the intersection of streets and alleys,
65 (and in front of all city property) shall be borne by the city.
66
67 Eighth: The total cost of all other work incident to laying
68 such sewer or sewers in any city block or blocks, and in the
69 streets and alleys of the city, not herein made a special charge
70 against the city, shall be borne by the city and by the abutting
71 property owners, at the option of the council, which plan is to be
72 determined by it before beginning the work, in the proportion
73 of one-third by the city and one-third each by the abutting prop-
74 erty owner, or by charging the entire cost to the abutting prop-
75 erty owner on each side of the block or street in which such
76 sewer shall be constructed, apportioned according to the respec-
77 tive frontage of each owner thereon, except that corner lots shall
78 be estimated on a basis of not exceeding one hundred and fifty
79 feet in depth.
80
81 Ninth: When said sewer is completed, in whole or in part,
82 and connected up with the disposal plant ready for use, then,
83 as to so much and such part or parts thereof as have been so
84 completed and connected up, the city engineer shall report to
85 the council in writing the total cost, together with a description
86 of the lots and lands abutting thereon, their location, frontage,
depth and ownership, so far as ascertainable, with the amount chargeable against each lot and owner thereof estimated on the basis above named. The council shall verify said report and correct any errors that appear upon the fact thereof, and give notice by publication once a week for two successive weeks in two newspapers of opposite politics published in said city, that on a day named in said notice, an assessment under this contract will be laid against abutting property and the owners thereof in the amounts and against the owners, respectively, appearing in said report, for the sewers constructed in the blocks, streets and alleys in the notice designated. Any owner or owners of abutting property shall have the right to appear before the council on or before the day fixed in said notice and move the review and revision of any such proposed assessment. The council shall have power, in its discretion, to make any proper correction and adjustment of the proposed assessment complained of; provided, the application therefor be made within the time limited by said notice, but not if made afterwards. At the expiration of the time fixed by said notice, if no application for review or revision of any assessment be pending, or, if pending, then upon the determination thereof the council shall proceed to lay an assessment on the basis aforesaid against the lots and lands abutting on such sewer and the respective owners thereof, and cause the same to be entered upon its records, together with a description thereof substantially as reported by said engineer, and from the date of such entry the amount so reported, laid and found, shall constitute an assessment against the lots and lands and the owners thereof and in the amounts therein named respectively.

It is expressly provided, however, that in apportioning said cost the amount assessed against the abutting property owner shall in no case exceed a sum equal to a charge of one dollar per front foot for inside lots and one dollar and fifty cents per front foot (calculated to a depth of not exceeding one hundred and fifty feet) for corner lots.

A copy of the order making such assessments, certified by the city recorder, shall be filed for record with the clerk of the county court of Berkeley county, and be recorded and indexed by him in the proper deed-of-trust book, or judgment lien docket, in the name of each owner against whose property assessments appear therein.
Immediately upon the entry of such assessments the council shall certify the same to the sergeant for collection, and from the time of filing same for record in the office of the clerk of the county court such assessments shall be a lien against the lots and lands in respect to which the assessments was made. The amounts so assessed against said lots and lands and the owners thereof shall be payable in ten installments as follows: One-tenth thereof within sixty days from the date the same is certified to the sergeant for collection; one-tenth thereof, with interest from date of entry, on the first day of October next ensuing; and one-tenth thereof, with interest from the date of entry, payable October first of each year, on the first day of October in each year thereafter until the whole thereof shall have been paid; provided, however, that any owner or owners so liable for any part of the costs of such sewers shall have the right at any time after certification as aforesaid to anticipate the payment of such installments, or any of them, and to discount the same for cash on the basis of two and one-half per cent. To each of said installments remaining unpaid at maturity, or to any part thereof, a penalty of five per cent shall be added, in addition to the interest and payment thereof enforced in all respects as provided for the collection of other city levies; all of which charges, assessments and penalties shall be a lien upon the property liable therefor the same as other city levies and enforced in the same manner. The liens herein provided for shall have priority over all other liens except for state and county levies, and shall be on a parity with other taxes and assessments made for the benefit of the city. Upon payment of any such assessment the sergeant shall deliver to the party making payment a release of the lien therefor substantially in the form and to the effect provided by the statutes of West Virginia for the release of liens created by deeds-of-trust, judgments, or otherwise, or in lieu hereof, the sergeant may endorse satisfaction of such assessment on the margin of the page of the book in which the same is recorded in said clerk’s office and such endorsement shall be deemed a sufficient release of said lien. Should such assessment not be paid to the sergeant, or being paid to him not be turned over by him to the treasurer, and it be made to appear to the satisfaction of the council that the same has been actually paid to any person authorized to receive the same, the council may direct the recorder, auditor, or other person...
specially designed for the purpose, to execute a release of the
lien securing the same or to enter the satisfaction thereof as
provided in case of the sergeant's receipt of same, and in either
case the release or entry of satisfaction shall be held to release
said lien.

Tenth: The owner or owners of any lot abutting upon
any street or alley in said city in which a public sewer is or
may hereafter be laid and constructed on which lot any busi-
ness or residence building is or shall hereafter be erected, and
which building is not otherwise lawfully connected with a pub-
lic sewer, may be required and compelled by the council, or by
the board of health of the city, to connect such building with
such sewer. Notice to so connect shall be deemed sufficient if
given to the owner, lessee, or occupant of such building. Each
day's failure to comply with such notice and to make such con-
nection by such owner or owners, after the lapse of ten days
from the day such notice is given, shall be a misdemeanor and
a separate and new offense under this act, and each such offender
shall be punishable, on conviction, by a fine of not less than
two dollars nor more than twenty-five dollars. Jurisdiction to
hear, try, determine and sentence for violations of this section
is vested in the police court of said city. Notwithstanding any-
thing herein, however, if said owner or owners shall fail to
comply with such notice the council may also, by ordinance, order
such connection to be made at the expense of the city and the
cost thereof to be certified to the clerk of the county court of
Berkeley county for record, and the same shall constitute a lien
upon the lots and lands of said owner or owners abutting on
such sewer from the date of filing said certificate for record
with the same force and effect and with the same penalties and
remedies as in the case of the assessments hereinbefore provided
for.

Eleventh: Whenever the council deems it expedient to
permanently pave or re-surface any street or alley, or any part
thereof, of said city, not then served by a public sewer, and it
is in the interest of economy that a sewer should first be laid
therein in anticipation of being later made a part of the general
sewerage system hereinbefore mentioned, it shall have the power,
and it is hereby authorized to order the construction of such
sewer and to assess against and collect of the abutting property
owners the same proportion of the cost thereof, upon the same
204 terms, with the same rights, remedies and penalties in all re-
205pects, as provided for the construction of the general sewerage
206system hereinbefore set forth, excepting, however, that the right
207to lay such assessments and to collect the same shall not be de-
208pendent upon the connection of such sewer with the disposal
209plant as a matter precedent to the payment therefor.

CHAPTER 20.
(Senate Bill No. 235—Mr. York.)

AN ACT to amend and re-enact sections three, five, six, ten, eleven,
sixteen, thirty, thirty-one, thirty-three, thirty-five, thirty-six,
thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two,
fifty-two and fifty-four of chapter fourteen of the acts of the legislature of one thousand nine hundred
and fifteen amending the charter of the city of Williamson.

(Passed February 17, 1919. In effect ninety days from passage. Became a law
without the Governor's approval.)

SEC. 3. Municipal authorities of the city of
Williamson: method of election.
5. Subordinate officers.
6. Eligibility to office.
10. Elections and appointments.
11. Nominating of candidates by ordi-
nance and otherwise; ballot com-
mis.sioners; contested elections;
right of appeal by candidates; pro-
cedure; vacancies, how filled.
16. Vote of members.
30. Mayor and clerk; their powers and
duties.
31. Clerk of the commission.
33. Directors of departments.

Be it enacted by the Legislature of West Virginia:

That sections three, five, six, ten, eleven, sixteen, thirty, thirty-one,
three-three, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-
nine, forty-one, forty-two, forty-six, forty-seven, fifty-two and fifty-
four of chapter fourteen of the acts of the legislature of one thou-
sand nine hundred and fifteen amending the charter of the city
of Williamson be amended and re-enacted so as to read as follows:

Section 3. The municipal authorities of said city shall con-
2 sist of six commissioners, who together, shall form the board of
3 commissioners and otherwise be known as the commission.
4 Said commissioners shall be elected by the voters thereof
5 except as herein provided.
6 The six commissioners receiving the greatest number of
7 votes cast for the office of commissioner, shall, subject to the
8 provisions mentioned below, be declared elected to that office;
9 provided, nevertheless, that not more than three persons of the
10 same political party may be so elected. One of the said com-
11 missioners shall serve as mayor and one as clerk.

Subordinate Officers.

Sec. 5. The commission shall appoint an attorney, a treas-
2 urer and a chief of police and other officers for the city, except
3 as herein otherwise provided.

Eligibility of Office.

Sec. 6. No person shall be eligible to the office of commis-
2 sioner unless at the time of his election he is legally entitled to
3 vote in the city election for member of the commission, and was
4 for the preceding year assessed with taxes upon real or personal
5 property within the said city of the assessed value of two hun-
6 dred dollars, and shall have actually paid the taxes so as-
7 sed. And no person shall be eligible to any subordinate of-
8 fice under said city, who is not at the time of his election or
9 appointment entitled to vote for members of the commission.
10 No person holding an elective or appointive office under the state
11 or county governments shall be eligible to appointment to any
12 office under the city government.

Elections and Appointments.

Sec. 10. The first election hereunder shall be held on the
2 first Thursday in June, one thousand nine hundred and nine-
3 teen, at which time a full board of commissioners shall be elected.
4 The term of office of the commissioners so elected shall continue
5 for two years thereafter and until their successors are elected
6 and qualified. The term of office of the commissioners elected
7 at the election held on the first Thursday in June, one thousand
8 nine hundred and nineteen, and at all succeeding elections, shall
9 begin on the first day of July next ensuing after such elections
10 and shall be for two years and until their successors are elected
11 and qualified, unless they are sooner removed in the manner
12 provided by law.
13 All appointive officers shall hold their office during the
14 pleasure of the commission.
15 The commission shall hold a meeting at the city hall of said
16 city on the first Monday in May, one thousand nine hundred and
nineteen, at 7:30 o’clock, p. m., at which meeting it shall appoint four qualified persons to act as commissioners of election, two qualified persons to act as clerks of election and two qualified persons to act as challengers of election at each voting precinct of said city, to hold and conduct said election, ascertain and certify the result thereof, in the manner following: Two of said commissioners, a clerk and a challenger for each voting precinct shall be appointed by the commissioners now constituting a majority of the commission and being the representatives of one of the two leading political parties and two of the said commissioners, a clerk and a challenger for each voting precinct shall be appointed by the commissioners constituting the minority of said commission and being the representatives of the other leading political party; provided, however, that if at any time before or during said meeting the chairman of the county executive committee of either political party from which said commissioners of election are to be selected or appointed shall present to the commission a writing, signed by them requesting the appointment of a qualified voter of their political party for commissioner at each voting precinct of said city, it shall be the duty of the commission to appoint the person so named in such writing as one of such commissioners.

At all subsequent elections the commission created by this charter shall meet on the first Monday in the month preceding such election and appoint election officers in the manner herein provided, except that the commissioners representing each political party on the commission created hereby shall select the election officers as herein provided, but the chairman of the executive committees of the two dominant political parties of the city shall have the right to designate a commissioner for each voting precinct to represent each of said parties, and in all other respects said commissioners, clerks and challengers shall be appointed as hereinabove provided.

Sec. 11. The commission may also, by ordinance, make provision as to the manner of nominating candidates for offices to be filled by the voters of the city not in conflict with the laws of the state with reference to the nomination of candidates in city elections and not in conflict with the other provisions of this act.

Any political party may nominate for the office of com-
mission not more than three persons, certificates of such nomi-
nation to be filed with the clerk, at least twenty days prior to the
day of the election.

Two ballot commissioners shall be appointed by the com-
mission to be designated by the membership from the two leading
political parties represented by the commission, respectively. The
mayor shall be ex-officio member of the board of ballot commis-
sioners, and as such the chairman thereof. The duties of the
ballot commissioners shall, in the city election, conform as nearly
as may be to the duties of ballot commissioners acting in a general
election for state and other offices.

The election shall be held, conducted and result thereof as-
certained, certified, returned and determined under the consti-
tution and general laws of the state governing municipal elec-
tions, and shall conform as nearly as practicable to such laws,
except as otherwise provided herein. Contested elections shall
be heard and decided by the commission and the proceedings
thereon shall conform as nearly as may be to similar proceed-
ings in the case of county and district officers. The commission
shall be the judge of the election returns and qualifications of
its own members. Any candidate shall, however, have the right
of appeal to the circuit court of Mingo county from the decision
of the said commission upon a matter of recount or from the
result of a contest in the matter of election heard by said com-
mission. The candidate, in order to secure such appeal, shall
file before the said board a petition praying for such appeal and
a bond conditioned to pay costs in a penalty not to exceed two
hundred dollars. Upon the filing of such petition and bond it
shall be the duty of the commission to grant the appeal. If the
commission shall omit so to do, then the judge of the said circuit
court shall award such appeal upon condition that the applicant
give bond in the penalty of two hundred dollars. When
the appeal is perfected in the circuit court, then the said matter
shall be heard de novo by the judge of the said court, who shall
determine the rights of the parties and award judgment accord-
ingly and an appeal may be taken from the decision of the judge
of the said circuit court to the supreme court of appeals of this
state, if the latter court, or one of the judges thereof in the
vacation of the court, shall be of opinion that there is error in the
judgment of the circuit court.
In event there shall be a vacancy in the office of commissioner, the remaining commissioners shall appoint a suitable and qualified person as commissioner to fill such vacancy and such appointee to be such person as is recommended by the chairman of the county executive committee of the party to which vacating member belonged and to be of the same political party as was the commissioner whose place the said appointee is designated to fill.

**Votes of Members.**

Sec. 16. The mayor shall have a vote as a member of said commission, but in no case shall he have but one vote. No member of the commission shall vote upon or take part in the consideration of any proposition in which he is or may be interested otherwise than as a resident of said city.

**Mayor and Clerk.**

Sec. 30. The commissioner receiving the highest number of votes in the city, shall by reason thereof, be the mayor of said city; and the person receiving the greatest number of votes, of the opposite political party, shall by reason thereof, be the clerk of said commission.

In the event of a vacancy in the office of mayor by death, resignation or removal, the commission shall choose his successor for the unexpired term from their own number, but only by the affirmative vote of at least four members of said commission.

The mayor shall be the presiding officer of the commission except, that in his absence a mayor *pro tem* may be chosen. He shall exercise all such powers as are conferred and perform all duties imposed upon him by this charter, by the ordinance of the city, as well as by the laws of the state, not in conflict herewith. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes; by the government for the purposes of military law, for all ceremonial purposes; and by virtue of his said office, shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments, and it shall also be his duty to

(a) Attend all meetings of the commission.

(b) To recommend to the commission for adoption such measures as he may deem necessary or expedient.
24  (c) To keep the commission fully advised as to the financial condition and needs of the city.
25  (d) To perform such other duties as may be prescribed by this charter or be required of him by ordinance or resolution of the commission.
26  (e) The mayor is hereby authorized and empowered to exercise all the duties and functions of a justice of the peace in the trial of criminal cases, but before doing so, the said mayor shall qualify before the county court and give the bond required of justices of the peace.

Clerk of the Commission.

Sec. 31. The city clerk shall be known as the clerk of the commission and shall keep the records and minutes of the commission, and in addition thereto shall do and perform all and singular the matters and things required of the city assessor by section forty-six of this charter, and do and perform all and singular the matters and things required of the city collector as set forth in section forty-seven of this charter, and no other assessor or collector shall be appointed for said city, and he shall perform such other duties as may be required of him by the commission or by this charter. He is also hereby empowered to certify, under the seal of the city, any copy of the records, papers or documents of the city for use as evidence in any court or other tribunal.

Directors of Departments.

Sec. 33. The commission shall designate the directors of the departments established as above, and the directors of the department assigned as aforesaid shall be subject to the supervision and management of the commission, conduct the affairs of his department in accordance with the rules and regulations promulgated by the commission and shall be responsible for the other officers and members of his department, for the performance of its business and for the custody and preservation of the books, records, papers and property under its control. Subject to the supervisions and control of the said commission in all matters, the directors so designated for each department shall manage the department.
Department of Public Service; General Powers and Duties.

Sec. 35. Subject to the supervision and control of the commission the director of public service, if one there be, shall manage and have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, and other public highways; of sewers, drains, ditches, culverts, canals, streams and water courses; of all public buildings; of boulevards, squares and other public places and grounds belonging to the city or dedicated to public use, except parks and play grounds. He shall manage market houses, sewer disposal plants and all public utilities of the city. He shall have charge of the enforcement of all the obligations of privately owned or operated public utilities enforceable by the city. He shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public works; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, plans, tools, and appliances belonging to the city and pertaining to the department.

Department of Public Welfare; General Powers and Duties.

Sec. 36. Subject to the supervision and control of the commission, the director of public welfare shall manage all charitable, correctional, and reformatory institutions and agencies belonging to the city; the use of all recreational facilities of the city including parks and play grounds. He shall have charge of the inspection and supervision of all public amusements. He shall enforce all laws, ordinances and regulations relative to the preservation and promotion of the public health; the prevention and restriction of disease; the prevention, abatement and suppression of nuisances, and the sanitary inspection and supervision of productions, transportation, storage and sale of food and food-stuffs. In time of epidemic, or threatened epidemic, he may enforce such quarantine and isolation regulations as are appropriate to the emergency.

Health Officer.

Sec. 37. The health officer of the city shall be under the direction and control of the commission and shall enforce all ordinances and laws relating to health and shall perform all duties and have all powers provided by general law relative to public health to be exercised in municipalities by health officers;
provided, that regulations affecting the public health additional to those established by general law and for the violation of which penalties are imposed, shall be enacted by the commission and enforced as provided herein.

Department of Public Safety; General Powers and Duties.

Sec. 38. Subject to the supervision and control of the commission the director of public safety—if there be one, shall be the executive head of the division of police and fire. He shall also be the chief administrative authority in all matters affecting the inspection and regulation of the erection, maintenance, repair and occupancy of buildings as may be ordained by the commission or established by the general law of the state of West Virginia. He shall be charged with the enforcement of all laws and ordinances relating to weights and measures.

Division of Police.

Sec. 39. The chief of police, subject to the approval of the commission, shall have control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, under such rules and regulations as the director of public safety—or in his absence, the mayor as city manager—may prescribe. The police force shall be composed of a chief of police and such officers, patrolmen and other employees as the commission may determine.

Division of Fire.

Sec. 41. The fire chief, subject to the approval of the commission, shall have control of the stationing and transfer of all firemen and other officers and employees constituting the fire force under such rules and regulations as the director of public safety may prescribe. The fire force shall be composed of a chief and such other firemen, officers and employees as the commission may determine.

Suspension of Chief of Police and Fire Chief.

Sec. 42. The commission shall have the right to suspend the chief of police, fire chief and all other subordinate officers for incompetency, neglect of duty, immorality, drunkenness, failure-
to obey orders given by the proper authority, or for any other just and reasonable cause.

Salaries.

Sec. 52. The annual salaries of the officers to be appointed or elected hereunder, shall be fixed by the commission, not to exceed the following amounts:

4. The mayor, not more than two thousand five hundred dollars.
6. The clerk, not more than two thousand five hundred dollars.
7. Commissioners, other than those acting as mayor and clerks, each three hundred dollars.
9. City attorney, not more than one thousand two hundred dollars.

Provided, however, that no member of the commission shall either directly or indirectly receive any other compensation or emolument for any service rendered the said city in any capacity save and except as above provided, nor shall any member of said commission be either directly or indirectly interested in the furnishing of any supplies or in the doing or performance of any contract procured or made for and on behalf of said city.

The salaries to be paid out of the city treasury proportionately at the end of each month, but never in advance. All fees, commissions and other emoluments, except salaries, shall be taxed and collected, and when so collected shall be paid into the treasury, by the officers, respectively, for the absolute use of the city.

Sec. 54. The officers of the city as the same may be at the time this act takes effect shall continue to hold their respective offices and perform the duties thereof until after the first election is held hereunder and their successors are elected or appointed and qualified.

CHAPTER 21.
(Senate Bill No. 18—Mr. Sanders.)

AN ACT to amend and re-enact chapter nine of the acts of the legislature of West Virginia, session one thousand nine hundred and fifteen, granting a charter to the city of Bluefield.
Be it enacted by the Legislature of West Virginia:

That chapter nine of the acts of the legislature of West Virginia, session one thousand nine hundred and fifteen, granting a charter
to the city of Bluefield, be, and the same is, hereby amended and re­enacted so as to read as follows:

ARTICLE I.

The City of Bluefield.

Section 1. The inhabitants of all that part of the county of Mercer included within the limits hereinafter prescribed in article II are hereby made a city corporate and body politic by the name of "the city of Bluefield," and as such shall have perpetual succession and a common seal, and by that name may sue and be sued, plead and be impleaded, and may purchase, hold, lease, or sell real estate and personal property necessary to the discharge of its corporate duties, or needful or convenient for the good order, government, and welfare of said corporation.

ARTICLE II.

Corporate Limits.

Sec. 2. The corporate territorial limits of the city of Bluefield shall comprise all that district of country situate in the county of Mercer and State of West Virginia, to-wit:

Beginning at the intersection of the state line between Virginia and West Virginia with the center of a street between Bluefield, West Virginia, and Graham, Virginia, known as "Bluefield avenue," east of the state line and "Graham avenue" west of the state line; thence with the state line north 49° 34' west 3058 feet to a stone corner 740 feet north of Stony ridge; thence north 66° 35' east 21817 feet to a stone corner on the north side of Stony ridge; thence south 23° 25' east, crossing Stony ridge at 454 feet and running along the west side of the county road overhead bridge 3816 feet to a point on top of Valley ridge; thence following the dividing line of Valley ridge in a southwestern direction 5768.5 feet to a point on top of said ridge, dividing the property of R. W. Tuggle and Marinda Wilson; thence along the said dividing line in a southeasterly direction 6919.5 feet to a black oak at the Cumberland Gap turnpike; thence in a northwesterly direction with said line dividing Virginia from West Virginia to the beginning.

ARTICLE III.

Boundaries of Wards.

Sec. 3. The said city shall be divided into eight wards, the boundaries of which shall be as follows:
3 Ward No. 1.—On the north by the Norfolk and Western
4 Railway Company’s right of way; on the east by Thomas street;
5 on the south by the summit of Valley ridge, running with a line
6 of the Bluefield Water Works and Improvement Company’s lands;
7 and on the west by the line dividing the states of Virginia and
8 West Virginia.
9 Ward No. 2.—On the north by the Norfolk and Western
10 Railway Company’s right of way; on the east by Higginbotham
11 avenue; on the south by the summit of Valley ridge, on the line
12 mentioned above; and on the west by Thomas street.
13 Ward No. 3.—On the north by the Norfolk and Western
14 Railway Company’s right of way; on the east by the center line
15 of Monroe street to its intersection with the south line of the
16 alley in the rear of section number twenty-six; thence a straight
17 line south 23° 25’ east to the summit of Valley ridge; on the
18 south by the summit of Valley ridge and the lines of the Blue-
19 field Water Works and Improvement Company; and on the west
20 by Higginbotham avenue.
21 Ward No. 4.—On the north by the south lines of wards
22 Nos. one and two; on the east by Bland street; on the south and
23 west by the corporate limits of the said city of Bluefield.
24 Ward No. 5.—On the south by the summit of Valley ridge
25 to a point south 23° 25’ east from the intersection of the center
26 line of Monroe street with the south line of the alley in the rear
27 of section twenty-six, said line being a part of the northern boun-
28 dary line of ward number eight; on the west by ward number
29 three, and crossing the Norfolk and Western railway to Henry
30 street; thence along Henry, Sussex, and Warren streets to the
31 head of Warren street; thence a straight line to the northern
32 boundary of said city; and on the north and east by the corporate
33 limits of said city.
34 Ward No. 6.—On the south by the Norfolk and Western
35 Railway Company’s right of way; on the east by the lines of
36 ward number five; on the north by the corporate line to a point
37 on a line of Beasley street; on the west by a straight line running
38 from the said corporate line to the head of Beasley street; thence
39 with Beasley street to Marshall street; thence with Marshall
40 street to Reese street; thence with Reese street to the Norfolk
41 and Western Railway Company’s right of way.
42 Ward No. 7.—On the north and west by the corporate lines
43 of said city; on the south by the Norfolk and Western Railway
44 Company's right of way; on the east by the lines of ward number 45 six.
46 Ward No. 8.—On the north by the south lines of wards 47 numbers three and five; on the west by Bland street; and on the 48 south and east by the corporate lines of said city of Bluefield.

ARTICLE IV.

Municipal Authorities.

Sec. 4. The municipal authorities of the city of Bluefield 2 shall consist of a mayor and eight councilmen who, together shall 3 constitute and be known as “the common council of the city of 4 Bluefield.”

Sec. 5. In addition to the municipal authorities mentioned 2 in section four of this act, said city may have a treasurer, 3 recorder, police judge, city solicitor, chief of police, chief of fire 4 department, city engineer, street commissioner, health commis- 5 sioner, and such other officers and agents as the said council may 6 from time to time create or employ. The health commissioner, 7 the city solicitor, and the chief of police shall constitute the 8 board of health of the city of Bluefield, and all orders of said 9 board of health in cases of epidemic and contagious diseases 10 shall be executed and carried out by the physicians, and all other 11 persons whomsoever they effect; and all of said orders of the said 12 board of health shall be enforced by the mayor and police officers 13 of the said city under fines and penalties prescribed by the 14 council by ordinances.

15 The selection of all appointive officers named or provided 16 for in this section, and the power to fix their salaries, shall be 17 vested in the council unless otherwise herein provided. The 18 duties, in addition to those prescribed herein, of all appointive 19 officers named or authorized in this act shall be prescribed by 20 the council by ordinances; and all such appointive officers and 21 all agents, servants, or employees of the said city shall be subject 22 to removal from office or employment at the will of the council of 23 said city.

ARTICLE V.

Corporate Powers.

Sec. 6. All the corporate powers of said city shall be vested 2 in and exercised by the common council, or under its authority, 3 except as otherwise provided in this act.
Sec. 7. The common council of said city shall have, and is hereby granted, power to have said city surveyed; to lay out, open, vacate, straighten, broaden, change grade of, grade, re-grade, curb, widen, narrow, repair, pave, and repave streets, alleys, roads, squares, steps, sidewalks, and gutters for public use, and to alter, improve, embellish, and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon, and collect from, the property benefited thereby such part of the expense thereof as shall be fixed by ordinance, except as hereinafter provided; to have control of all streets, avenues, roads, alleys, and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to have the right to control all bridges within said city and the traffic there-over; to change the name of any street, avenue, or road within said city, and regulate and cause the numbering and renumbering of houses on any street, avenue, or road therein; to provide for and regulate the naming of streets, avenues, and public places; to regulate and determine the width of streets, sidewalks, roads, and alleys; to order and direct the curbing, recurbing, paving, repaving and repairing of sidewalks and footways for public use in said city, to be done and kept clean and in good order by the owners of adjacent property; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes, drunken or disorderly persons within the city, and to provide for their arrest and manner of punishment; to prohibit by ordinance the bringing into the city of any person or animal afflicted with contagious or infectious disease, and to punish any violator of said ordinance who knows or has reason to believe such person or animal to be so afflicted; to control and suppress disorderly houses, houses of prostitution or ill-fame, houses of assignation, and gaming houses, or any part thereof, and to punish those engaged in gaming; to prohibit within said city, or within two miles thereof, slaughter houses, soap or glue factories, and houses and places of like kind, and any other thing or business dangerous, unwholesome, unhealthy, offensive, indecent, or dangerous to life, health, peace or property; to provide for the entry into, and the examination of, all dwellings, lots, yards, enclosures, buildings, and structures, cars, vehicles
of every description, and to ascertain their condition for health, cleanliness, or safety; to regulate the building and maintenance of party walls, partition fences or lines, fire walls, fire places, boilers, smokestacks, and stove pipes; to provide for and regulate the safe construction, inspection, and repairs of all public and private buildings, bridges, basements, culverts, sewers, or other buildings or structures of any description; to take down and remove, or make safe and secure, any and all buildings, walls, structures or superstructures at the expense of the owners thereof, that are, or may become, dangerous, or to require the owners, or their agents, to take down and remove them, or put them in a safe condition, at their own expense; to regulate, restrain, or prohibit the erection of wooden or other buildings within the city; to regulate the height, construction, and inspection of all new buildings hereafter erected, and the alteration and repair of any buildings already erected, or hereafter erected in said city, and to require permits to be obtained for such buildings and structures, and plans and specifications thereof to be first submitted to the building inspector; to regulate the limit within which it shall be lawful to erect any steps, porticos, bay windows, bow windows, show windows, awnings, signs, columns, piers, or other projection or structural ornaments of any kind for the houses or buildings fronting on any street of said city; to establish fire limits and to provide the kind of buildings and structures that may be erected therein, and to enforce all needful rules and regulations to guard against fire and danger therefrom; to require, regulate, and control the construction of fire escapes, for any buildings or other structures in said city; to control the opening and construction of ditches, drains, sewers, cesspools, and gutters, and to deepen, widen, and clear the same of stagnant water or filth, and to prevent obstruction therein, and to fill, close or abolish the same, and to determine at whose expense the same shall be done; and to build and maintain fire station houses, crematories, jails, lock-ups, and other buildings, police stations and police courts, and to regulate the management thereof; to acquire, establish, lay-off, appropriate, regulate, maintain, and control public grounds, squares and parks, hospitals, market houses, city buildings, libraries, and other educational or charitable institutions, either within or without the city limits; and when the council determines that any real estate in or out of the city is necessary to be acquired
by said city for any such purpose, or for any public purpose, or is necessary in the exercise of its powers herein granted, the power of eminent domain is hereby conferred upon said city, and it shall have the right to institute condemnation proceedings against the owner thereof in the same manner, to the same extent and upon the same conditions, as such power is conferred upon public corporations by chapter forty-two of the code of West Virginia, of the edition of one thousand nine hundred and six, and as now, or may be hereafter, amended; to purchase, sell, lease, or contract for, and take care of, all public buildings and structures and real estate deemed proper for the use of said city; and for the protection of the public, to cause the removal of unsafe walls, structures, or buildings, and the filling of excavations; to prevent injury or annoyance to the business of individuals from anything dangerous, offensive, or unwholesome; to abate, or cause to be abated, all nuisances, and to that end and thereabout to summon witnesses to bear testimony; to regulate or prohibit the keeping of gunpowder and other combustible or dangerous articles; to regulate, restrain, or prohibit the use of firecrackers or other explosives or fireworks, and all noises or performances which may be dangerous or annoying to persons, or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead, in or out of the city, and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees, shrubbery, grass, flowers, and other ornamentation, and the protection of the same; to provide for the poor of the city, and to that end may contract with the proper authorities of Mercer county to keep and maintain the poor, or any number thereof, upon terms to be agreed upon; provided, however, that the said city of Bluefield shall not keep nor maintain the paupers of said city until such time as the county court of Mercer county shall relieve the said city of Bluefield from the payment of all taxes for the support of the paupers residing outside of the corporate limits of said city; to make suitable and proper regulations in regard to the use of the streets, public places, sidewalks, and alleys by street cars, foot passengers, animals, vehicles, motors, automobiles, traction engines, railroad engines and cars, and to regulate the running and operation of the same so as to prevent obstruction thereon, encroachments thereto, or injury, inconvenience, or annoyance to
123 the public; to prohibit prize fighting, cock and dog fighting; to
124 license, tax, regulate, or prohibit theaters, moving pictures, cir-
125 cuses, the exhibition of showmen, and shows of any kind, and
126 the exhibition of natural or artificial curiosities, caravans, menag-
127 eries, and musical exhibitions and performances, and other things
128 or business on which the state does, or may, exact a license tax;
129 to organize and maintain fire companies and departments, and
130 to provide necessary apparatus, engines and implements for the
131 same, and to regulate all matters pertaining to the prevention
132 and extinguishment of fires; and to make proper regulations for
133 guarding against danger and damage from fires, water, or other
134 elements, to regulate and control the kind and manner of plumb-
135 ing and electric wiring, airships, balloons, wireless stations, and
136 other appliances, for the protection of the health and safety of
137 said city; to levy taxes on persons, property, and licenses; to
138 license and tax dogs and other animals, and regulate, restrain,
139 and prohibit them, and all other animals and fowls running at
140 large; to provide revenue for the city and appropriate the same
141 to its expenses; to adopt rules for the transaction of business for
142 its own regulation and government; to promote the general
143 welfare of the city, and to protect the persons and property of
144 citizens therein; to regulate and provide for the weighing of
145 produce and other articles sold in said city, and to regulate the
146 transportation thereof, and other things through the streets,
147 alleys, and public places; to have the sole and exclusive right to
148 grant, refuse, or revoke any and all licenses for the carrying on
149 of any business within said city on which the state exacts, or
150 may exact, a license tax; to establish and regulate markets and
151 to prescribe the time for holding the same, and what shall be
152 sold in such market, and to let stalls or apartments and regu-
153 late the same, and to acquire and hold property for market pur-
154 poses; to regulate the placing of signs, billboards, posters and
155 advertisements in, or over the streets, alleys, sidewalks, and
156 public grounds of said city; to preserve and protect the peace,
157 order, and safety and health of the city and its inhabitants, in-
158 cluding the right to regulate the sale and use of cocaine, mor-
159 phine, opium, and poisonous or dangerous drugs; to appoint and
160 fix the places of holding city elections; to erect, own, lease, and
161 authorize or prohibit the erection of gas works, electric light
162 works, or water works, telephone plants, and other public utili-
163 ties in or near the city, and to operate or to regulate the opera-
tion of the same, and sell the products or services thereof, and
to do any and all things necessary and incidental to the conduct of such business; to provide for the purity of water, milk, meats, and provisions offered for sale in said city, and to that end provide for a system of inspecting the same and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruits, vegetables, or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city, and to prohibit the sale of any article deemed unwholesome, and to condemn the same or destroy or abate it as a nuisance; to provide for the regulation of public processions so as to prevent interference with public traffic, and to promote the good order of the city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality, cleanliness, and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violations of all ordinances even if the offenses under and against the same shall also constitute offense under the law of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of the payment of fines, penalties, or costs under this act, who are otherwise unable, or fail, to discharge the same, by putting them to work for the benefit of the city upon the streets or other places in or out of the city provided by said city, and to use such means to prevent their escape while at work as the council may deem expedient; and the council may fix a reasonable rate per day as wages to be allowed such person until the fine and costs against him are thereby discharged; to compel the attendance at public meetings of the members of the council; to have and exercise such additional rights, privileges, and powers as are granted to municipalities by chapter forty-seven of the code of West Virginia, as amended. For all such purposes, except that of taxation, and for purposes otherwise limited by this act, the council shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city.

And the council shall have the right to establish, construct, and maintain public markets on the ground which does, or shall,
205 belong to said city, or which it shall acquire, by purchase, or 206 otherwise, and to sell, lease, repair, alter, or remove any public 207 markets, or buildings which have been, or shall be, so constructed, 208 and to preserve and protect the peace and good order at the 209 same, and regulate the manner in which they shall be used.

To carry into effect these enumerated powers and all other 211 powers conferred upon said city expressly or by implication in 212 this and other acts of the legislature, the council of said city 213 shall have the power, in the manner herein prescribed, to adopt 214 and enforce all needful orders, rules, and ordinances not con- 215 trary to the laws and constitution of this state; and to prescribe, 216 impose, and enforce reasonable fines and penalties, including im- 217 prisonment in the city lock-up, jail, or station-house, and to 218 work prisoners found guilty as the council may prescribe, and 219 market the products of such labor, and with the consent of the 220 county court of Mercer county entered of record shall have the 221 right to use the jail of said county for any purpose necessary to 222 the administration of its affairs.

ARTICLE VI.

Registration and Qualification of Voters.

Sec. 8. Every person qualified by law to vote for mem- bers of the legislature of the state, and who shall have been a resident of said city for sixty days preceding the day of election, and a bona fide resident of the election precinct in which he offers to vote, shall be entitled to vote at all elections held in said city by, or under, the corporate authorities thereof.

Sec. 9. The council shall by ordinance provide for such regulations for the registration of voters as may be rendered necessary by state laws.

ARTICLE VII.

The Council.

Sec. 10. The present members of the council of the city of Bluefield shall remain in office until their successors are elected and qualify.

On the first Tuesday in June, one thousand nine hundred and nineteen, and every two years thereafter, there shall be elected by the qualified voters of said city eight councilmen, who, together with the mayor, shall constitute the common council.
Sec. 11. One of such councilmen shall be elected by the voters of each of the several wards of the said city, and he shall be a resident of the ward from which he is elected.

Sec. 12. The term of office of councilmen shall begin on the first day of July next after their election.

Sec. 13. In case of a vacancy in the office of councilman occasioned by death, resignation, or otherwise, the same shall be filled by the councilmen remaining by the election of some qualified person for the unexpired term.

Sec. 14. No member of the council shall receive any compensation for his services as such councilman, nor for any further service that may be performed by him for the city during his term of office.

ARTICLE VIII.

The Mayor.

Sec. 15. The present mayor shall hold his office until his successor is elected and qualifies.

At the election to be held in the said city on the first Tuesday in June, one thousand nine hundred and nineteen, and every two years thereafter, there shall be elected by the qualified voters of said city a mayor, whose term of office shall be for two years.

Sec. 16. The mayor shall possess the same qualifications as members of the council.

Sec. 17. The mayor shall receive for his services a salary of eighteen hundred dollars ($1,800.00) per annum.

Sec. 18. In the case of a vacancy in the office of mayor, the same shall be filled by the council by the election of some qualified person for the unexpired term.

Sec. 19. The mayor shall be the chief executive officer of the city, and shall take care that the orders, by-laws, ordinances, acts, and resolutions of the council are faithfully executed. He shall have control of the police of the city, and shall have power to appoint special officers when he deems it necessary, and subject to the action of the council at its next meeting; and it shall be his duty to see that the peace and good order of the city are preserved, and to this end he may cause the arrest and detention of all riotous and disorderly persons within the city before the issuance of a warrant therefor. He shall from time
11 to time recommend to the council such measures as he may
12 deem needful for the welfare of the city. The mayor shall
13 have the power and authority to suspend any officer or em-
14 ployee of the city, and in case of such suspension by him, he
15 shall report the same to the council at its next meeting for such
16 action as the council may determine.

Sec. 20. The mayor shall be a member of the common
2 council of said city and shall preside at the meetings of the
3 same, but shall only be entitled to vote in case of a tie.

ARTICLE IX.

Elections.

Sec. 21. The laws of the state of West Virginia governing
2 the holding of elections, and the ascertaining of the result
3 thereof, shall govern the conduct of the elections hereunder,
4 so far as applicable, except that the recorder shall perform the
5 duties required of the circuit and county clerks under general
6 election laws, and the council shall perform the duties re-
7 quired of the county court under general election laws.

Contested Elections.

Sec. 22. All contested elections shall be heard and decided
2 by council for the time being, and the contest shall be made and
3 conducted in the same manner as provided for in such contests
4 for county and district offices; and the council shall conduct its
5 proceedings in such cases as nearly as practicable in conformity
6 with the proceedings of the county court in such cases, except
7 that for the first election hereunder the council shall hear such
8 contests.

Oath of Officers.

Sec. 23. All officers, elective and appointive, shall make
2 oath, before some one authorized to administer oaths, that they
3 will support the constitution of this state, and will faithfully
4 and impartially discharge the duties of their respective offices
5 to the best of their skill and judgment; and in the case of mem-
6 bers of the council they shall add in their oath that they are not,
7 or will not, during their term of office become pecuniarily in-
8 terested, directly or indirectly, in any contract with the city, or
9 any franchise, or the purchase of supplies therefor. When the
10 officer shall have made such oath in writing and filed the same
12 with the recorder, and shall have given bond required of, and
13 accepted from him, he shall be considered as having qualified
14 for the office to which he was elected or appointed; provided,
15 that if any person elected as member of the council shall not
16 qualify for said office as herein prescribed within ten days
17 after he shall have been officially declared elected thereto, said
18 office shall ipso facto become vacant, and said vacancy shall be
19 filled in the manner provided for in this act.

Bond of Officers.

Sec. 24. Each member of the council, and the treasurer,
2 recorder, health commissioner, chief of police, and chief of fire
3 department, shall, before entering upon the discharge of their
4 duties, give an official bond, conditioned for the faithful per-
5 formance of their respective duties as prescribed in this act or
6 any ordinance now or hereafter passed, in amounts as follows:
7 Each member of the council, one thousand dollars; the treas-
8 urer, forty thousand dollars; the recorder, three thousand dol-
9 lars; health commissioner, chief of police, and the chief of fire
10 department, each one thousand dollars.
11 The council may require additional bond from any of said
12 appointive officers, and may likewise require bond, in whatever
13 sum they may fix, of any other appointive officer. All bonds of
14 appointive officers shall, before their acceptance, be approved by
15 the council; and the bonds of the councilmen shall be approved
16 by the retiring council. All other bonds of whatsoever kind
17 shall not be accepted until first approved by the council. The
18 minutes of the meeting of the council shall show all matters
19 touching the consideration or approval of all bonds, and when
20 said bonds are approved and accepted, they shall be recorded
21 by the recorder in a well-bound book kept by him at his office
22 for that purpose, which book shall be open to public inspection;
23 and the recordation of such bonds as aforesaid shall be prima
24 facie proof of their correctness, and they, as so recorded, shall
25 be admitted as evidence in all the courts of this state. The
26 recorder shall be the custodian of all bonds, except those given
27 by him, and as to them, the city treasurer shall be custodian.
28 All bonds, obligations, or other writings, taken in pursuance of
29 any provisions of this act shall be made payable to “the city of
30 Bluefield," and the respective persons, and their heirs, executors, 
31 administrators, and assigns bound thereby shall be subject to the 
32 same proceedings on said bonds, obligations, and other writings, 
33 for enforcing the conditions of the terms thereof, by motion or 
34 otherwise, before any court of record held within the county of 
35 Mercer, that collectors of county levies and other sureties are, 
36 or shall be, subject to on their bonds for enforcing the payment 
37 of the county levies.

ARTICLE X.

Meetings of Council.

Sec. 25. The council shall have regular public meetings on 
2 the first and third Fridays of each calendar month, at an hour to 
3 be fixed by rules governing the council.

Sec. 26. Special meetings of the council may be called at 
2 any time by the mayor or any three members of the council, by 
3 giving twenty-four hours notice of such meeting, and the purpose 
4 thereof; but no business shall be transacted at any special meeting 
5 but that for which the meeting is called.

Sec. 27. At all meetings of the council five members there-
2 of, exclusive of the mayor, shall constitute a quorum for the trans-
3 action of business. The mayor shall preside at all meetings of 
4 the council when present, but in his absence a presiding officer 
5 shall be elected by the council for the time being.

Sec. 28. Unless otherwise herein provided, the vote upon 
2 any question or motion before the council may be viva voce when 
3 unanimous; but if the question or motion does not receive the 
4 unanimous vote of the members present, then the vote shall be 
5 taken by roll call of the members and made a part of the minutes 
6 of the meeting; and when the vote is unanimous the minutes 
7 shall so state.

Sec. 29. The recorder shall be ex-officio clerk of the council. 
2 Said council shall cause detailed minutes of its meetings and pro-
3 ceedings to be kept by the recorder in a well bound book for that 
4 purpose, which shall remain in the custody of the recorder at his 
5 office, and open to public inspection. The minutes of every regu-
6 lar or special meeting shall be read publicly at the next regular or 
7 special meeting, and after being corrected, shall be signed by the 
8 mayor and recorder, and a copy from such records certified by 
9 the recorder under the seal of the city shall be admitted as evi-
10 dence in any court of record in this state.
Sec. 30. The members of the council shall not hold any other city office, except as prescribed in this act, nor be an employee of the city in any other capacity with a compensation, nor hold any other office, with or without compensation, which may interfere with the faithful discharge of their duties as members of the council.

Sec. 31. No appointive officer of the city shall hold two offices with the city at the same time, nor become the employee of the city in any other capacity, without first having the consent of the council. All appointive officers shall hold for a term of one year, unless sooner removed by, and at the pleasure of, the council, and until their successors are appointed and qualified.

Sec. 32. The council shall purchase all of the supplies and materials for the departments of the city government at the lowest price possible, considering the quality and grade of the supplies desired. And whenever any such supplies or materials involve the expenditure of five hundred dollars, or more, the council shall advertise by reasonable notice in at least two newspapers published in the city, of opposite politics, for bids on supplies or materials to be furnished, and shall award the contract thereon (unless all bids are rejected) to the lowest bidder, taking from such bidder a written contract and bond thereon, to be approved by the council, for the faithful performance of said contract.

Sec. 33. Any one entitled to vote for members of the legislature shall be eligible to any position, office, or appointment hereunder, except member of the council. Any one entitled to vote for members of the legislature and who, for the year next preceding, has paid taxes upon property within the city of the value of at least five hundred dollars shall be eligible to the council.

Sec. 34. Any member of the council, or any officer connected with the city government pursuant to any law of this state, or ordinance of the city now or hereafter passed, who shall, in his official capacity or under color of his office, knowingly, or wilfully, or corruptly vote for, assent to, or report in favor of, allow, or certify for allowance, any claim or demand against the city, which claim or demand shall be on account, or under color of any contract or agreement not authorized by, or in pursuance of, the provisions of this act, or the ordinances of the city, or any claim or demand against the city, which claim or demand, or any part thereof, shall be for work not performed for, and by author-
ity of, said city, or by the council, or for the supplies or materials
not actually furnished thereto pursuant to law, or ordinance, and
every such member or officer as aforesaid, who shall knowingly
vote for, assent to, assist or otherwise permit, or aid, in the dis-
bursement or disposition of any money or property belonging to
the city to any other than the specific use or purpose for which
such money or property shall be, or shall have been, received or
appropriated or collected, or authorized by law to be collected,
shall, upon conviction thereof, be punished by imprisonment in
the county jail for not more than one year, or by fine of not less
than five hundred dollars, nor more than two thousand dollars, or
by both. But the council shall pay any just obligations made by
the city and keep and perform all contracts, agreements, and ob-
ligations made under the law as it was the day before this act
goes into effect, and for which, and on which, the city is liable
or obligated when the council herein provided for goes into
office.

Sec. 35. The council in the exercise of its powers and the
performance of its duties, as prescribed by this act, and by the
laws of the state, shall have the power to enforce the attendance of
witnesses, the production of books, and papers, and the power to
administer oaths in the same manner and with like effect, and un-
der the same penalties as notaries public, justices of the peace, and
other officers of the state authorized to administer oaths under
state laws; and said council shall have such power for contempts
as is conferred on county courts by section thirteen, of chapter
thirteen, of the code. All process necessary to enforce the powers
conferred by this act on the council shall be signed by the mayor
(or acting mayor), and shall be executed by any member of the
police force.

ARTICLE XI.

Franchise and Ordinances.

Sec. 36. All franchises granting the right of occupancy of
any portion of the streets of the city for work of public service,
shall be granted by ordinance by the council, but no such fran-
chise shall hereafter be granted except upon the following re-
strictions and conditions:
No grant of any such franchise shall be made without, at the
time of making it, providing that the grantee shall indemnify the
city against all damages caused by construction, maintenance or
operation of such works. All reasonable additional provisions and conditions may be made for the protection of the public, necessary damage or inconvenience by reason of the construction, maintenance, or operation thereof.

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

The council shall, in all franchises hereafter granted, embody therein a plainly expressed condition, where the franchise is for work to be useful chiefly to the citizens of the city, that at the expiration of such franchise the grantee shall, if required by the council, or of the governing body of the city, sell to the city the plant at what it is then worth. If the city and the owner of the plant cannot agree upon its worth, then the value shall be ascertained by an impartial arbitration, one arbitrator to be selected by the city, one by such owner of the plant, and these two to select the third, and the decision of any two to be binding upon both parties.

Sec. 37. Publication of notice to present franchise and other preliminaries prescribed by the laws of the state relating thereto shall be had in the manner prescribed by state laws before the council shall act on any such franchise; but the passage of any franchise shall be prima facie proof that such notice was given as prescribed by law.

Sec. 38. The style of any ordinance enacted by the council shall be: "Be it ordained by the common council of the city of Bluefield."

Sec. 39. No ordinance shall be passed except by bill and no bill shall be amended in its passage as to change its original purpose. All bills must be in writing or printed and presented at the regular weekly public meeting of the council, and read in full by the recorder. No bill shall be considered for final passage at the meeting at which it was introduced, but at any subsequent regular weekly public meeting of the council, such bill may be
8 taken up by the council for consideration and final action. No
9 bill except general appropriation bills, which may embrace the
10 various subjects and accounts for, and on account of, which
11 moneys are appropriated, shall contain more than one subject,
12 which shall be clearly expressed in its title. No bill shall become
13 an ordinance unless on its final passage a majority of the mem-
14 bers of the council present vote in its favor, and the vote be taken
15 by yeas and nays, and the names of the members voting for and
16 against the same be entered of record in the minutes of the pro-
17 ceedings of the council. No ordinance shall be revived or re-en-
18 acted by mere reference to the title thereof, but the same shall be
19 set forth at length as if it were an original ordinance, nor shall
20 any ordinance be amended by providing that designated words
21 thereof be stricken out, or that designated words be inserted, or
22 that designated words be stricken out and others inserted in lieu
23 thereof, but the ordinance or sections amended shall be set forth in
24 full as amended. All ordinances in force at the time this charter
25 goes into effect not inconsistent therewith shall remain in full
26 force until altered or repealed as herein provided, and all rights,
27 actions, proscriptions, and contracts of the city not inconsistent
28 therewith shall continue to be valid as if this act had not been
29 passed.

Sec. 40. All ordinances passed by the council shall be spread
2 in extenso upon the record of the proceedings of the said council,
3 and at the next regular weekly public meeting, the same shall be
4 read in the open meeting of said council. The council shall pro-
5 vide a well-bound book, in which shall be copied by the recorder
6 all ordinances in the order in which they are passed, which ordin-
7 ances so copied shall be compared with the originals by the mayor,
8 and shall be signed by him when found correct. Such book shall
9 be indexed so as to show in brief form the substance of the ordi-
10 nance, and copies therefrom, certified by the recorder under seal
11 of the city, shall be received by all courts and justices in this state
12 as evidence, but the council may adopt, by ordinance properly
12-a designating and describing it, a code of laws and ordinances
13 which, when adopted, shall be printed in book form, or it may be
14 adopted as a whole after it is printed, and the said code shall be
15 and become the laws and ordinances of said city, and shall be re-
16 ceived as such in all courts of this state, and the printed volume
17 published under the orders of the council shall be so received as
evidence of what is printed therein until errors or omissions be
affirmatively shown therein.

Sec. 41. It shall be the duty of the council, except as here-
inafter provided, to cause such of the ordinances imposing a pen-
alty, fine, or assessment, and such other ordinances of a public and
general nature as they may deem best calculated to give general
information to the citizens, to be published within five days in
two newspapers of opposite politics published in said city; but the
failure to publish any such ordinance, unless otherwise herein pro-
vided, shall not invalidate such ordinance.

ARTICLE XII.

Duties of Officers.

Sec. 42. All persons elected or appointed to the offices
named in this act shall be conservators of the peace within said
city, and any other officer provided for under this act may be
given authority of police officers by the council.

The police judge shall be ex-officio a justice and conservator
of the peace, with authority to issue process for all offenses com-
mitted within the police jurisdiction of the city of Bluefield, of
which a justice of the peace has jurisdiction under state statutes,
and for all violations of any city ordinances, and shall have charge
of, and preside over, the police court of said city; and may com-
mit persons charged with felony or misdemeanor to jail, or take
bond for their appearance before the grand jury of the circuit or
criminal courts of Mercer county; he shall keep an accurate rec-
ord of all his judicial proceedings in said court, showing the style
of each case, which record shall be indexed and numbered. It
shall be his duty to hold daily sessions of his court, Sundays ex-
cepted.

Before trying any person charged with any violation of any
ordinance, he shall issue his warrant, specifying the offense or vi-o-
lation charged; he shall render judgment in any case as the
law of the state or the ordinance of the city applying thereto may
require; he shall also have the power to issue executions for all
fines, penalties, and costs imposed by him, and he may require the
immediate payment thereof, and in default of such payment may
commit the party so in default to the jail of the county of Mercer
or place of imprisonment in said city until the fine and penalty,
and costs, shall be paid or satisfied, to be employed during the
term of imprisonment as hereinafter provided, but the term of
imprisonment in any such case shall not exceed ninety days, and
in all cases where a person is sentenced to imprisonment or to the
payment of a fine of ten dollars or more, such person shall be al-
lowed an appeal from such decision to the criminal court of said
Mercer county, upon the execution of an appeal bond, with surety
deemed sufficient by the said police judge in a penalty double the
amount of the fine and costs imposed by him, conditioned that the
person proposing to appeal will perform and satisfy any judgment
which may be rendered against him on such appeal, and in no
case shall judgment for a fine of less than ten dollars be given by
the police judge if the defendant, his agent, or attorney object
thereto. If such appeal be taken, the warrant of arrest, the
transcript of the judgment, the appeal of bond, and other papers
of the case shall be forthwith delivered by the said police judge to
the clerk of the said court, and the court shall proceed to try the
case as upon indictment or presentment, and render such judg-
ment, including that of cost, as the law and the evidence may re-
quire.

The police judge shall have authority to issue, and cause to be
executed a capias pro fine in all cases where such process is proper.
It shall be the duty of the prosecuting attorney of the county
of Mercer to prosecute any cases appealed from the decision of the
police judge to the criminal court or the circuit court of the coun-
ty of Mercer, and the services so rendered by such prosecuting at-
torney as above required shall be performed by him without pay-
ment of any extra compensation on the part of the city of Blue-
field.

The expenses of maintaining persons committed to the jail of
the county by such police judge shall be paid by the city. The
police judge shall account for and pay over the amount of all
fines collected by him immediately to the treasurer of the city, and
shall make monthly reports thereof, and of all other matters per-
taining to his office, to the council of the city. In the absence of
the police judge, the mayor of the city shall act as such with the
same power and authority.

The police judge shall also perform the other duties imposed
by this act, as well as such duties as may be prescribed from time
to time by the council. He shall receive for his services a salary
to be fixed by the council not to exceed six hundred dollars per
annum.

The recorder of the city shall also perform the other duties
imposed by this act, as well as such duties as may be prescribed
from time to time by the council. He shall receive for his ser-
VICES a salary to be fixed by the council not to exceed one thous-
and and eight hundred dollars per annum; and all fees collected
by him shall be paid over to the treasurer of the city.

Sec. 43. The treasurer shall collect and receive all moneys
and funds of the city and pay same out only upon the order of the
council. He shall receive a salary to be fixed by the council not
to exceed twelve hundred dollars per annum.

Sec. 44. The chief of police shall see that the laws and
ordinances of the city are enforced, and shall have direct super-
vision and control over the police of said city, subject to the di-
rection of the mayor and the council. He shall perform such ser-
VICES in addition to the above as may be required by the mayor
or council, and shall receive a salary to be fixed by the council
not to exceed one thousand and eight hundred dollars per annum.

Sec. 45. The street commissioner, health officer, chief of
fire department, and city engineer shall perform such duties as
may be required of them by council, or by this act, and shall re-
ceive such salary as may be fixed by the council not to exceed in
any case eighteen hundred dollars per annum.

Sec. 46. The city solicitor shall be the chief legal advisor
of the city, and shall give advice on legal questions to the council
and other city officers upon request. He shall represent the city
in any litigation in which it may be a party, or have an interest.
He shall receive such compensation, either in the way of fees, or
salary, as may be fixed from time to time by the council. He
shall assist the prosecuting attorney of the county in the prosecu-
tion of all cases appealed from the police court of the city.

ARTICLE XIII.

Taxes.

Sec. 47. The council shall have power and authority to levy
taxes on all property subject to taxation within the city in ac-
cordance with the provisions of chapter nine of the acts of the
legislature of West Virginia, special session of one thousand, nine
hundred and eight, and as it may be amended, and in the making
of such levies the said council shall comply with all the provisions
of said act as the same now exists, or as it may be hereafter
amended in so far as it applies to the laying of levies by munici-
palities. The taxes so levied as aforesaid shall be levied upon the
values of the real and personal property within the city as the same shall be ascertained by the assessor of Mercer county.

Sec. 47-a. The council shall have authority to levy ten cents on each one hundred dollars of the assessed valuation of said property within the limits of the city in addition to the thirty-five cents on the one hundred dollars provided for by chapter nine of the acts of the legislature of West Virginia, session of one thousand nine hundred and eight, for the purpose of taking care of water rentals due, and to become due, by the said city.

Sec. 48. The council shall have authority to levy and collect an annual tax on real estate and personal property in said city, and to impose a license, and assess a tax thereon, on wheeled vehicles for public hire, and for all dogs kept within said city, and to impose a tax upon all other subjects of taxation under the several laws of the state, which taxes shall be uniform with respect to persons and property within the jurisdiction of said city, and shall only be levied on such property, real, personal, and mixed, and on capital on which the state imposes a tax. There shall be a tax of one dollar annually assessed on each and every male inhabitant of said city over the age of twenty-one years who is subject to a capitation tax under the laws of the state of West Virginia. The same shall be set out and included in the personal property book against every such inhabitant, and shall be collected under the authority of the council at the time of collecting other levies and taxes.

Sec. 49. The taxes levied by the council for the use of the city shall become due at the same time as taxes levied for the use of the county of Mercer, and the treasurer of said city, or such other person as the council may direct, shall collect the same at the same time, and in the same manner, as taxes are collected by the sheriff of Mercer county for county purposes, and the same discount shall be allowed to those paying taxes to the city and the same penalties added as in the cases of taxes collected by the sheriff of Mercer county, it being the intention of this act to make the collection of taxes levied for the purposes of the city uniform in all respects with the collection of taxes for county purposes, and the treasurer of said city, or such other person as may be designated by the council for the collection of taxes, is hereby clothed with all the power within the said city for the purposes of collecting city taxes that is now possessed by the sheriff of Mercer county for the collection of county taxes.
17 The treasurer or collector, on the first Monday in June next succeeding the year for which such taxes were assessed, shall make out and return to the council two alphabetical lists, one a list of real estate, and the other a list of persons and property other than real estate, in the city delinquent for the non-payment of taxes thereon for such year and shall subscribe an oath to each list in form and effect as sheriffs are required to make to delinquent lists returned to county courts and the council shall not give the treasurer or collector credit for any uncollected taxes unless the same have been abated as prescribed herein or are mentioned in such lists. If any real estate within said city be returned delinquent for the non-payment of the taxes thereon, and such return shall be made by the treasurer or collector thereof, in the manner aforesaid, a copy of such delinquent list shall be certified by the council to the auditor of the state, and the same shall be sold for taxes, interest, and commissions thereon, in the same manner and at the same time, and by the same officer as real estate is sold for the non-payment of state and county taxes. A copy of said delinquent list, within ten days after it has been certified by the council, shall be filed in the office of the clerk of the county court of Mercer county, and recorded in a well-bound permanent book, to be furnished by the city, and kept and preserved in said office for that purpose. Provided, however, that a copy of each of said lists shall be posted at the front door of the city hall of said city at least two weeks before said lists are returned to the council, and a copy of said lists shall at the same time be printed for one time in two newspapers of opposite politics, if such there be in said city.

Sec. 50. The treasurer shall have power to collect the city taxes, except as otherwise provided in this act, and he shall also have power to collect city claims which may be placed in his hands by the council for collection, and to execute, within the city, any process which might be executed by the sheriff of Mercer county.

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

Sec. 52. There shall be a lien upon all real estate within said
2 city for the city taxes assessed thereon, including such penalties
3 added thereto for non-payment thereof as are prescribed by this
4 act, from the first day of January of the year in which said taxes
5 are assessed. Said liens may be enforced by appropriate suit in
6 any court of record within Mercer county; provided, such suit be
7 instituted within five years from the time the said liens attached
8 as herein provided, and such suit may either be instituted by and
9 in the name of the city of Bluefield as plaintiff, or said city may
10 intervene by petition in any suit pending to sell or enforce liens
11 against any real estate which is subject to such lien for said taxes.
12 The liens herein created shall have priority over all other liens
13 except those for taxes due the state.

Sec. 53. Said liens for city taxes and attendant penalties
2 may also be enforced by certifying the same to the clerk of the
3 county court of Mercer county for certification to the state audit-
4 or, and the same may be certified down by said auditor, and sold
5 for the taxes, interest, penalties, and commissions thereon, in the
6 same manner, at the same time, and by the same officer as real es-
7 tate is sold for the taxes, interest, damages, costs, and commis-
8 sions due the state thereon, which officer shall account therefor on
9 settlement with the council, and pay over same to the treasurer of
10 the city.

Sec. 54. No taxes or levies shall be assessed upon, or col-
2 lected from, the taxable persons or property within the cor-
3 porate limits of said city for the construction, improvement, or
4 keeping in repair of roads, or for the support of the poor of
5 Mercer county outside of said corporate limits, for any year in
6 which it shall appear that said city shall, at its own expense,
7 provide for its own poor and keep its own roads, streets, and
8 bridges in good order. And neither the county court of Mercer
9 county nor the authorities of the districts in which said city is
10 situated shall have or exercise jurisdiction within the corporate
11 limits with relation to the roads, streets, alleys, or bridges, but
12 the same shall be, and remain, under the exclusive jurisdiction
13 and control of the municipal authorities of said city; and said
14 city shall be liable only for the construction, improvement, re-
15 pair, and good order of the roads, streets, alleys, and bridges in
16 its corporate limits.

ARTICLE XIV.

Deposit of City Funds.

Sec. 55. It shall be the duty of the treasurer of the city
to keep all funds of the city in some bank, or banks, within
said city, which shall pay interest on such deposit, and which
shall pay interest on the average daily balance of such
funds in all accounts of the per centum equal to that paid by
the state depositories on all funds of the state of West Virginia,
and in the same manner and at the same time. If no bank
within said city is willing at any time to receive deposits of the
treasurer and to pay such interest thereon, the treasurer shall
report the fact to the council, who shall thereupon designate a
bank, or banks, in which he shall deposit said funds for the time
being until some bank in said city will receive such deposits on
such terms. Before receiving any such deposits such bank, or
banks, shall give bond in such penalty as the council shall pre-
scribe, and with sureties to be approved by said council, condi-
tioned for the prompt payment whenever lawfully required of
all the city moneys or parts thereof which may be deposited
with them, which bonds shall be renewed at such times as the
council may require.

ARTICLE XV.

Paving and Sewers.

Sec. 56. The council of the city of Bluefield may order any
street or alley, or any part of any street or alley, to be paved or
macadamized between the sidewalks with some suitable ma-
terial, and if the street or alley has heretofore been paved or
macadamized, the council shall have authority to order the
same repaved or remacadamized, repaired or altered, and a
sewer to be constructed thereunder, or to have such paving or
repairing done without the construction of a sewer, or a sewer
constructed without such paving being done, under such regu-
lations as may be prescribed by ordinances, upon the lowest and
best terms to be obtained by advertisements for bids therefor.
by the council; and in the event that the council is of the opinion that all of the bids offered upon said work are excessive, or for any other reason none of said bids are acceptable, then the council shall have power to construct said work by its street force, and two-thirds of the cost of such paving, repaving, altering, or repairing shall be paid for by the abutting property owners, and the whole cost of such sewer shall be paid for by the city. Two-thirds of the cost of such paving, repaving, or repairing shall be assessed against the lots, or the fractional parts of lots, and the owners thereof abutting or bounding on that part of the street or alley so paved, repaved, or altered in proportion to the length of frontage owned by each. One-third of such assessment shall be paid into the city treasury within thirty days from the completion of the work, and the remainder in two equal installments, in sixty and ninety days, respectively, from the completion of such work; and the other third of the cost of such paving, repaving, altering, or repairing shall be borne by the city. The intersection of streets or of a street and alley paved, repaved, altered, or repaired under this section shall be correspondingly paved, repaved, altered, or repaired at the sole expense of the city. Provided, however, that any street or alley within said city upon which is operated a street car track, the company operating said street railway shall pay the cost of paving, repaving, altering, or repairing the said street or alley between the tracks of said railway upon said street or alley, and one-half on each side thereof. It is further provided, that it shall be the duty of the said council, upon a petition of a majority of the property owners abutting on any street or alley, or any block between any street or alley, to have the same paved, repaved, altered, or repaired on the same terms and conditions as herein provided for in this section. The assessments made for the paving, repaving, altering, or repairing as aforesaid shall be a lien on the lots, or parts of lots, upon which they are assessed, which lien may be enforced by a suit in equity in the name of the city, in any court having jurisdiction thereof, or may be recovered in an action at law before any justice, or any court having jurisdiction; or said assessments may be returned delinquent and the lots chargeable with same may be sold for such delinquent assessments in the same manner and at the same time as is herein provided for the
Upon completion and acceptance of any paving, repaving, altering, or repairing contract, and upon the completion of the paving, repaving, alteration, or repairing of any street or alley done by the street force of the city, the council shall direct the recorder to immediately cause to be published a notice which shall name and describe the location of the streets or alleys upon which such paving, repaving, altering, or repairing shall have been made, giving the name or names of the owners of each lot abutting or bounding on such street or alley, if known, and if the name or names of the owner or owners of any such lot, or part of lot, are unknown, such lot shall be described with reasonable certainty for identification, and the fact that the name or names of the owner or owners are unknown shall also be stated; the number of feet that each lot, or fractional part of a lot, abuts on said street or alley shall be stated, as well as the amount assessed against the same.

Said notice shall require all the owners of lots abutting on the street or alley aforesaid to appear before the council at a meeting thereof within thirty days from the first publication of such notice, and show cause, if any they can, why the said assessment should not become final, which notice shall be published once a week for two successive weeks in some newspaper published in the said city.

The council, upon the request of any one or more, owners of said lots or parts of lots, shall appoint a day to hear grievances of said owner or owners, and they may alter or amend any assessment made against any such lot or lots, or the owner or owners thereof, for good cause which may be shown therefor. The recorder shall give notice to all persons claiming to be injured by said assessment of the time and place for holding said meeting, which shall be held within ten days after the expiration of the thirty days mentioned in the published notice above provided for. The hearing may be adjourned from time to time. In case any of the owners of any such lots shall fail to appear before the council for the purpose of having such assessment corrected within the time aforesaid, the said assessment against such owner, or owners, shall become final. The findings of the said council shall be conclusive and final. The rights conferred
by this section are cumulative, and shall not be exhausted as to any particular street or alley by reason of having been once exercised.

The lien upon real estate created by virtue of this section shall be void as to any purchaser of any such real estate for value and without notice, who shall have purchased such real estate at any time after a period of twelve months has elapsed after the paving has been accepted by the city, unless an abstract of such assessment, giving the location of the real estate affected, the name of the owner or owners thereof, and the date and amount of the assessment shall have been first recorded in the office of the clerk of the county court of Mercer county in a well-bound book to be furnished by the city for the purpose and preserved in the said office; and it is hereby made the duty of the said county clerk to record such abstracts, the said clerk to be paid a fee of twenty-five cents by the said city for same.

Sec. 57. The council shall have the authority to regulate by ordinance the manner in which connections are to be made with the sewers of the said city by the owners of property therein, and shall have the authority to compel the owners of any property abutting upon a street or alley in which there is a sewer to connect their pipes therewith under the regulations prescribed by the council, and may charge such person or persons a reasonable amount therefor, to be affixed by the council by ordinance; and in case of the failure of the owner of any such property to so connect his sewer pipe with any such sewer, when required, the council may provide by ordinance such fines and penalties as in its discretion may be necessary to effect a compliance with its regulations. The amount fixed by the council for the connection with such sewer shall be paid into the city treasury to the credit of the fund to be used for sewers, and shall be used for no other purpose.

ARTICLE XVI.

Refunding Bonded Indebtedness, Etc.

Sec. 58. The council may refund the lawful bonded indebtedness of said city by issuing bonds of the city, payable within twenty years, bearing no greater rate of interest than five per centum, but the indebtedness of the city shall not thereby
be increased without the consent of the voters of said city being first had and obtained, as provided by law.

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

ARTICLE XVII.

Hospitals, Libraries, Etc.

Sec. 59. The council shall have the authority to erect, buy, sell, and lease all buildings necessary for the use of the city government, and to provide for and regulate the same, and to establish and maintain public hospitals, libraries, and reading rooms, and to purchase books, papers, and manuscripts therefor, and to receive donations, gifts, or bequests for the same in trust or otherwise.

ARTICLE XVIII.

Serving Notice.

Sec. 60. Whenever any notice is required to be given, or any summons, warrant, or other process is required to be served, or otherwise executed, under the provisions of this act, it shall be sufficient if such notice, summons, warrant, or other process be executed by an officer of the police department of said city in the same way, or manner, in which the laws of the state prescribe for executing summonses and subpoenas by state officers, unless otherwise provided by this act.

ARTICLE XIX.

Licenses.

Sec. 61. Whenever anything for which a state license is, or may be, required is to be done within said city, or within two miles of the corporate limits thereof, the council, as herein
4 provided, may by ordinance require a city license to be had for
5 doing the same, the amount of which license shall be fixed by
6 the council; in no case, however, to be less than the amount
7 charged by the state for a license for doing the same thing,
8 and may, in any case, require from the person licensed a bond,
9 with sureties, and in such penalty, and with such conditions as
10 it may deem proper, and the council on notice may revoke such
11 license at any time if the condition of the said bond be broken.
12 The council may impose a license and assess a tax thereon
13 on all wheeled vehicles for public hire, and upon all dogs kept
14 within said corporate limits. The council may prescribe, im-
15 pose, and enforce reasonable fines and penalties, including im-
16 prisonment, under the order of the police judge of said city, or
17 the persons lawfully exercising his functions, upon any person
18 carrying on, or attempting to carry on, any business
19 for which a city license is required without first obtaining a
20 city license therefor, and paying the city license tax assessed
21 thereon. All licenses provided for in this act shall be paid to
22 the treasurer of the city; and for the purpose of enforcing the
23 provisions of this section, the city shall have police jurisdiction
24 for two miles beyond the corporate limits thereof.
25 The council shall have the power to make all regulations
26 and pass all ordinances necessary and proper concerning the
27 granting and revoking of licenses, but the public shall be given
28 notice by publication for two issues in a newspaper of general
29 circulation by any firm, person, or corporation desiring a license
30 of any character.

ARTICLE XX.

Nuisances.

Sec. 62. The council of said city shall have authority to
2 abate and remove all nuisances in said city. It may compel
3 the owners, agents, assignees, occupants, or tenants of any lot,
4 premises, property, building, or structure upon, or in which
5 any nuisance may be, to abate and remove the same by orders
6 therefor, and by ordinance provide a penalty for the violation
7 of such orders.
8 Said council may also by its own officers, appointees, and
9 employees abate and remove nuisances. It may by ordinance
10 regulate the location, construction, repair, use, emptying, and
11 cleaning of all water closets, privies, cesspools, sinks, plumbing,
12 drains, yards, lots, areaways, pens, stables, and other places
13 where offensive, unsightly, unwholesome, objectionable, or dan-
14 gerous substances or liquids are, or may, accumulate, and pro-
15 vide suitable penalties for violations of such regulations, which
16 may be enforced against the owner, agent, assignee, occupant, or
17 tenant of any premises or structure where such violation may
18 occur.
19 If the owner, agent, tenant, assignee, or occupant of any
20 such premises, lot, property, building, or structure, as is men-
21 tioned herein, shall fail or refuse to abate or remove any such
22 nuisance as mentioned herein, or to comply with the provisions
23 of any such ordinance and the regulations herein contained,
24 the said council may have said nuisance abated or the provisions
25 of said ordinance, or ordinances, carried out, after reasonable
26 notice to said owner, occupant, tenant, agent or assignee, of its
27 intention so to do, and collect the expenses thereof, with one
28 per centum per month interest added from the date of said
29 notice, from the said owner, occupant, tenant, agent, or assignee,
30 by distress or sale, in the same manner in which taxes levied
31 upon real estate for the benefit of said city are herein author-
32 ized to be collected, and the expense shall remain a lien upon
33 said lot, or part of lot, the same as taxes levied upon real estate
34 in said city; which lien may be enforced by a suit in equity
35 before any court having jurisdiction, as other liens against real
36 estate are enforced. In case of nonresident owners of real estate,
37 such notice may be served upon any tenant, occupant, assignee,
38 or rental agent, or by publication thereof once a week for not
39 less than two consecutive weeks, in two newspapers of opposite
40 politics published in said city.
41 And in all cases where any tenant, occupant, or agent is re-
42 quired to abate and remove any nuisance under the provisions
43 of this section, or comply with the provisions of any such ordi-
44 nance as is mentioned herein, the expense thereof may be de-
45 ducted out of the accruing, or accrued, rent of said property,
46 or amount due said owner from said agent, and such tenant,
47 occupant, or agent may recover the amount so paid from the
48 owner, unless otherwise especially agreed upon.
49 Any expense incurred by the council, as herein provided,
50 in the manner aforesaid, may be collected in the manner herein
51 provided, notwithstanding the imposition of any other penalty
52 or penalties upon any of the persons named herein, under any
53 of the provisions of this act. The abatement or removal of any
54 such nuisance by the council, at the expense of said city, as
55 herein provided, shall be *prima facie* proof that the said notice
56 to the owner, occupant, tenant, agent, or assignee was given as
57 herein prescribed.

Sec. 63. The council may require all owners, tenants, or
2 occupants of improved property which may be located upon or
3 near any street or alley along which may extend any sewer or
4 system of sewerage, which the said city may construct, own, or
5 control, to connect with such sewer or system of sewerage, all
6 privies, ponds, water closets, cesspools, drains, or sinks located
7 upon their respective properties or premises so that their con-
8 tents may be made to empty into such sewer or system of sewer-
9 age, and shall have the right to charge a reasonable amount for
10 the right to connect to such sewer.

ARTICLE XXI.

*Sidewalks.*

Sec. 64. The council shall have the right and authority to
2 establish the width of any sidewalk on any street, alley, or public
3 square, or portion thereof, in said city; to cause to be put down
4 a suitable curb of brick, stone, or other material along and for
5 the footways and sidewalks of the streets, alleys, or public
6 squares, or portion thereof; and to order the construction, re-
7 laying, and repair of sidewalks and gutters of such material
8 and width, and in such manner as the council may reasonably
8-a prescribed, by the owners or occupants of the lots, or parts
9 of lots, facing upon said streets, alleys, and public squares, and
10 in case of a failure or refusal of any such owners or occupants
11 of the lots, or parts of lots, to construct, relay, or repair such
12 sidewalks and gutters, when required, it shall be lawful for the
13 council to have such sidewalks and gutters constructed, relaid,
14 or repaired, and levy and collect the expense thereof, with one
15 per centum per month interest added after demand of thirty
16 days has been made by the treasurer of the city, from the said
17 owner, owners, occupant, or occupants, or any of them; and in
18 all cases of such assessment, whether for the construction, re-
19 laying, or repairing of sidewalks, or gutters, payment thereof
20 shall be made to the treasurer within thirty days after the com-
21 pletion of the work and demand made, and if not so paid, the
council is hereby authorized to collect, or cause to be col-
23 lected, the expense thereof, with one per centum per month
24 interest added after the work has been completed and a de-
25 mand of thirty days, and they shall have the power to collect,
or cause to be collected, the same from said owner, owners,
27 occupant, or occupants, or any of them, by distress and sale, in
28 the same manner in which taxes levied upon real estate for the
29 benefit of the said city are herein authorized to be collected,
30 and in addition there shall be a lien upon the real estate against
which any such assessment has been levied for the construction,
31-a relaying, and repairing of sidewalks and gutters as herein pro-
32 vided, which lien may be enforced by a suit in equity before any
court having jurisdiction as other liens against real estate are
34 enforced, and in addition to, and as an additional remedy, said
35 expense shall be a lien upon the property against which any
36 such assessment has been made, the same as taxes, and which
37 lien may be enforced in all respects in the same manner as may
38 be provided for the collection of city taxes assessed against real
39 estate, and it shall be the duty of the council to cause to be
40 certified to the clerk of the county court of Mercer county their
41 order laying an assessment authorized by this section. The
42 clerk of the county court of Mercer county is hereby required
43 to record and index such assessments in the proper trust deed
44 book in the name of each person against whose property assess-
45 ments appear therein; provided, however, that a reasonable
46 notice shall first be given to said owner or occupant, or their
47 agent, that they are required to construct, relay, or repair such
48 sidewalks or gutters. Such notice may be given by publication
49 for not less than once a week for two consecutive weeks in any
50 newspaper printed in said city; and in all cases where a tenant
51 shall be required to construct, relay, or repair sidewalks or
52 gutters in front of the property of his or her occupancy, the ex-
53 pense of such construction, relaying, or repairing may be de-
54 ducted out of the accruing rent of said property, and he may
55 recover the amount so paid from the owner, unless otherwise
56 especially agreed upon. The laying or construction of any such
57 sidewalks by said city shall be prima facie proof that the said
58 notice to the owner (resident or nonresident), or occupant, or
59 their agent, was given as herein required.
ARTICLE XXII.

First Election and Present Officers.

Sec. 65. The first election hereunder shall be held on the first Tuesday in June, one thousand nine hundred and nineteen, and the officers then elected shall begin their terms on the first day of July, one thousand nine hundred and nineteen, and thereafter all elections, except special elections, shall be held on the first Tuesday of June, in every second year thereafter; and the terms of office of the persons elected shall begin on the first day of July next after such election.

Sec. 66. The recorder, acting under state laws in so far as they are not in conflict with this act, shall perform such duties relating to all municipal elections held under the municipal authority of said city, as the clerk of the county court of Mercer county performs, under state laws, in relation to state, county, and district elections in said county; and he shall likewise be the custodian of all ballots, tally sheets, etc., pertaining to all municipal elections.

Existing Officers and Ordinances.

Sec. 67. All valid ordinances and regulations passed and adopted by the board of affairs, or any former common council of the city of Bluefield, and not inconsistent with this act, shall be and remain in full force unless and until repealed.

Sec. 68. All provisions of general law governing the issuance and sale of bonds by municipalities and the investment of sinking funds shall be applicable to the issuance and sale of bonds and the investment of sinking funds by said city of Bluefield, except as herein otherwise provided. All the provisions of general law governing the levying and collecting of taxes for the use and benefit of said city of Bluefield, except as herein otherwise provided, and the provisions of general law requiring the making and publishing of estimates and expenditures in advance of the laying of levies therefor, and limiting the amount of such levies shall be enforced and complied with by the council of said city.

Sec. 69. All acts in conflict, or inconsistent with this act, to the extent of any such conflict, are hereby repealed.
CHAPTER 22.

(Senate Bill No. 222—Mr. Stewart.)

AN ACT to amend and re-enact sections four, five, six, seven, eight, fourteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-six, twenty-seven, twenty-eight, twenty-nine, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, seventy-one, seventy-three, seventy-four, seventy-seven, seventy-nine, eighty, one hundred and one, one hundred and twelve, one hundred and eighteen, one hundred and twenty-eight, one hundred and thirty-three, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty-one, one hundred and forty-nine, one hundred and fifty-two, one hundred and fifty-nine of article one of chapter ten of the acts of the legislature, regular session, of one thousand nine hundred and fifteen entitled, "An act to amend and re-enact chapter eleven of the acts of one thousand eight hundred and ninety-nine incorporating the city of Fairmont, as amended by chapter one hundred and forty-three of the acts of one thousand nine hundred and thirteen, of the legislature of West Virginia; defining the corporate limits of said city, amending the present charter, providing for registration of voters and prescribing the manner of holding city elections therein, and to repeal all acts and parts of acts inconsistent with the provisions of this act;" and by adding nineteen sections to article one of said chapter ten, to be known as sections nineteen-a, nineteen-b, nineteen-c, nineteen-d, nineteen-e, nineteen-f, nineteen-g, nineteen-h, nineteen-i, nineteen-j, eighty-a, eighty-b, ninety-a, one hundred and seven-a, one hundred and nine-a, one hundred and forty-nine-a, one hundred and fifty-eight-a, one hundred and fifty-eight-b, one hundred and fifty-nine-a, and one hundred and fifty-nine-b, and repealing sections nine, ten, eleven, twelve, thirteen, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, seventy, eighty-two, one hundred and nineteen, one hundred and twenty-four, one hundred and twenty-five,
five, one hundred and twenty-six, one hundred and twenty-nine,
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dred and thirty-two, one hundred and thirty-four, one hundred
and thirty-five, one hundred and forty, one hundred and forty-two, one hundred and forty-five, and one hundred and forty-eight of article one of chapter ten
of the acts of one thousand nine hundred and fifteen, and sec­
tions one to two hundred and thirty-one, both inclusive, of article
two of said chapter ten of the acts of one thousand nine hundred
and fifteen.

[Passed February 15, 1919. In effect from passage. Became a law without
the Governor's approval.]

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SEC. 152. Sidewalks and shade trees: assessments for; board may let work by contract; advertising contracts.

158-a. Indebtedness and bonds.
158-b. Bonds to be issued upon approval by vote of the people; form of ballot that may be used.

SEC. 159. Terms of office to end; when.
159-a. This act not effective unless adopted by a majority of votes of the people; form of ballot to be voted.
159-b. Repealing all acts or parts of acts inconsistent.

Be it enacted by the Legislature of West Virginia:

Section 1. That sections four, five, six, seven, eight, fourteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-six, twenty-seven, twenty-eight, twenty-nine, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, seventy-one, seventy-three, seventy-four, seventy-five, seventy-nine, eighty, one hundred and one, one hundred and twelve-a, one hundred and eighteen, one hundred and twenty-eight, one hundred and thirty-three, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty-one, one hundred and forty-nine, one hundred and fifty-two, and one hundred and fifty-nine of article one of chapter ten of the acts of the legislature, regular session, one thousand nine hundred and fifteen, be amended and re-enacted so to read as follows:

That nineteen additional sections be added to article one of said chapter, to be known as sections nineteen-a to nineteen-j, inclusive, eighty-a, eighty-b, ninety-a, one hundred and seven-a, one hundred and nine-a, one hundred and forty-nine-a, one hundred and fifty-eight-a, and one hundred and fifty-nine-a, and one hundred and fifty-nine-b to read as follows:

That sections nine, ten, eleven, twelve, thirteen, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, seventy, eighty-two, one hundred and nineteen, one hundred and twenty-four, one hundred and twenty-five, one hundred and twenty-six, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-two, one hundred and thirty-four, one hundred and thirty-five, one hundred and thirty-six, one hundred and forty, one hundred and forty-two, one hundred and forty-five, and one hundred and forty-eight of article one of said chapter, and sections one to two hun-
35 dred and thirty-one, both inclusive, of article two of said chapter, 36 be repealed.

**Municipal Authorities—Corporate Powers.**

Sec. 4. The municipal authorities of the city of Fairmont 2 shall be four directors who shall constitute a board of directors 3 and shall be known as the “board of directors of the city of Fair- 4 mont.” All the corporate powers of said city shall be vested in, 5 and exercised by, the board of directors or under its authority, 6 except as otherwise provided in this act.

**Powers of the Board of Directors.**

Sec. 5. The board of directors of said city shall and are 2 hereby granted power to have said city surveyed; to open, vacate, 3 broaden, change grade of, and pave streets, sidewalks and gut- 4 ters for public use, and to alter, improve, embellish and orna- 5 ment and light the same, and to construct and maintain public 6 sewers and laterals; and shall, in all cases, have power and 7 authority to assess upon and collect from the property benefi- 8 cted thereby such part of the expense thereof as shall be fixed 9 by ordinance, except as hereinafter provided; to have control of 10 all streets, avenues, roads, alleys and ground for public use in 11 said city, and to regulate the use thereof and driving thereon, 12 and to have the same kept in good order and free from obstruc- 13 tion, pollution or litter on or over them; to have the right to 14 control all bridges within said city, and the traffic passing there- 15 over; to change the name of any street, avenue or road within 16 said city, and to cause the renumbering of houses on any street, 17 avenue or road therein; to regulate and determine the width of 18 streets, sidewalks, or roads therein; to regulate and determine 19 the width of streets, sidewalks, roads and alleys; to order and 20 direct the curbing and paving of sidewalks, roads and footways 21 for public use in said city to be done and kept clean and in 22 good order by the owners of adjacent property; to prohibit and 23 punish the abuse of animals; to restrain and punish vagrants, 24 mendicants, beggars, tramps, prostitutes, drunken or disorderly 25 persons within the city, and to provide for their arrest and 26 manner of punishment; to prohibit and punish by fine the 27 bringing into the city by steamboats, railroads or other carriers, 28 of paupers or persons afflicted with contagious diseases; to con- 29 trol and suppress disorderly houses, houses of prostitution or
ill-fame, houses of assignation, and gaming houses and to pun-
ishing gaming; to prohibit within said city or within one mile
thereof slaughter houses, soap or glue factories and houses of
like kind; to control the construction and repair of all houses,
basements, walls, bridges, culverts and sewers, and to prescribe
and enforce all reasonable regulations affecting the construc-
tion of the same, and to require permits to be obtained for such
buildings and structures, and plans and specifications thereof
to be first submitted to a city architect or building inspector;
to control the opening and construction of ditches, drains, sew-
ers, cess-pools and gutters, and to deepen, widen and clear the
same of stagnant water or filth, and to prevent obstruction
therein, and to determine at whose expense the same shall be
done; and to build and maintain fire station houses, police
stations and jails, and to regulate the management thereof; to
acquire, lay off, appropriate and control public grounds, squares
and parks, either within or without the city limits as herein-
defined. And when the board of directors determine that
any real estate is necessary to be acquired by said city for any
such purpose, or for any public purpose, the power of eminent
domain is hereby conferred upon said city, and it shall have the
right to institute condemnation proceedings against the owner
thereof in the same manner, to the same extent and upon the
same conditions as such power is conferred upon public corpora-
tions by chapter forty-two of the code of West Virginia of the
edition of one thousand nine hundred and six, and as now
amended; to purchase, sell, lease or contract for and take care
of all public buildings and structures and real estate, including
libraries and hospitals, deemed proper for use of such city; and
for the protection of the public, to cause the removal of unsafe
walls or buildings, and the filling of excavations; to prevent
injury or annoyance to the business of individuals from any-
thing dangerous, offensive or unwholesome; to abate and pro-
hibit or cause to be abated and prohibited all nuisances and to
that end and thereabout to summon witnesses and hear testi-
mony; to regulate the keeping of gunpowder, gasoline, dyna-
mite and other combustible or dangerous articles; to regulate,
restrain or prohibit the use of firecrackers or other explosives
or fireworks and all noises or performances which may be dan-
gerous, annoying to persons or tend to frighten horses or other
animals; to provide and maintain proper places for the burial
of the dead and to regulate interments therein upon such terms
and conditions as to price and otherwise as may be determined,
and to dispose of, discontinue and grant any cemetery; to pro-
vide for shade and ornamental trees and the protection of the
same; to provide for the making of division fences; to make
proper regulation for guarding against danger or damage from
fires; to provide for the poor of the city, and to that end may
contract with the proper authorities of Marion county to keep
and maintain the poor, or any number thereof, upon terms to
be agreed upon; to build, own and maintain a home for the poor;
to make reasonable regulations in regard to the use of the
streets and alleys for street cars, railroad engines, automobiles,
and auto trucks, cars, and to regulate the running and operation
of the same so as to prevent injury to the public and to the
public highways; to prohibit prize fighting, cock and dog fight-
ing; to license, tax, regulate or prohibit theatres, motion picture
shows, circuses, the exhibition of showmen and shows of any
kind, and the exhibition of natural or artificial curiosities, cara-
vans, menageries, and musical exhibitions and performances,
and other things or business on which the state does or may
exact a license tax; to organize and maintain fire companies
and to provide necessary apparatus, engines and implements
for the same; to regulate and control the kind and manner of
plumbing and electric wiring for the protection of the health
and safety of said city; to levy taxes on persons, property and
licenses; to license and tax dogs and other animals, and regu-
late, restrain and prohibit them and all other animals and fowls
running at large; to provide revenue for the city, and appropri-
ate the same to its expenses; to adopt rules for the transaction
of business and for its own regulation and government; to
promote the general welfare of the city and to protect the per-
sons and property of citizens therein; to regulate and provide
for the weighing of produce and other articles sold in said city,
and to regulate the transportation thereof, and other things
through the streets; to have the sole and exclusive right to
grant, refuse, or revoke any and all licenses for the carrying
on of any business within said city, on which the state exacts
a license tax; to own and maintain a public market; to establish
and regulate markets and to prescribe the time for holding the
same, and what shall be sold in such markets and to acquire and
hold property for market purposes; to regulate and prohibit
the placing of signs, billboards, posters and advertisements in, on or over the streets, alleys, sidewalks and public grounds of said city; to regulate, or prohibit the placing of signs, billboards, posters and advertisements on private property within said city; to preserve and protect the peace, order and safety and health of the city and its inhabitants, including the right to regulate the sale and use of cocaine, morphine, opium and poisonous drugs; to appoint and fix the place of holding city elections; to regulate the erection of gas works, telephone plants, electric light works or water works or ferry boats in the city, and to own, lease, erect, operate and maintain gas works, telephone plants, electric light works, water works, including water plants, reservoirs, filters, pumping stations, water pipe lines, mains, laterals and connections, including all appliances, accessories and connections required in and about the operation of a water system, and to sell and furnish water, gas and electric current to the city and the inhabitants thereof, and to persons and corporations within three miles of the corporate limits of the city, and for public use; to build, hold, purchase, own and operate toll bridges; to provide for the purity of water, milk, meats and provisions offered for sale in said city, and to that end provide for a system of inspecting the same, and making and enforcing rules for the regulation of their sale, and to prohibit the sale of any unwholesome or tainted milk, meats, fish, fruits, vegetables or the sale of milk containing water or other things not constituting a part of pure milk; to provide for inspecting dairies and slaughter houses, whether in or outside of the city, where the milk and meat therefrom are offered for sale within said city; to prescribe and enforce ordinances and rules for the purpose of protecting the health, property, lives, decency, morality and good order of the city and its inhabitants, and to protect places of divine worship in and about the premises where held, and to punish violations of such ordinances even if the offense under and against the same shall constitute offenses under the law of the state of West Virginia or the common law; to provide for the employment and safe keeping of persons who may be committed in default of the payment of fines, penalties or costs under this act, who are otherwise unable to give bond to secure the payment of such fines and costs, or fail to discharge the same by putting them to work for the benefit of the city upon the streets or other places provided by said city, and to use such
means to prevent their escape while at work as the board of directors may deem expedient; and the board of directors may fix a reasonable rate per day as wages to be allowed such person until the fine and costs against him are thereby discharged; to compel the attendance at public meetings of the members of the board of directors; to have and exercise such additional rights, privileges and powers as are granted to municipalities by chapter forty-seven of the code of West Virginia of the edition of one thousand nine hundred and six, or as amended. For all such purposes, except that of taxation, the board of directors shall have jurisdiction, when necessary, for one mile beyond the corporate limits of said city, excepting any other municipal corporation or part thereof within said one mile limit. Said city of Fairmont as constituted by this act, shall retain, keep and succeed to all rights, privileges, property interest, claims and demands heretofore acquired by, vested in, or transferred to said city of Fairmont, as heretofore constituted.

And the board of directors shall have the right to establish, construct and maintain landings, ferries, wharves, and docks on any ground which does or shall belong to said city, or which it shall acquire, and to sell, lease, repair, alter, or remove any such landings, ferries, wharves, buildings or docks which have been or shall be constructed, and to levy and collect reasonable duty on vessels and other crafts coming to or using said landings, ferries, wharves, docks and buildings, and to preserve and protect the peace and good order at the same, and regulate the manner in which they shall be used and to have the sole right under state laws and in the same manner as now control county courts, to establish, construct, maintain, regulate and control all such wharves, docks, ferries and landings within the corporate limits of said city; to enter into an article of agreement with the county court of Marion county for joint action on behalf of the city of Fairmont or any portion thereof with the magisterial district or districts adjacent to said city of Fairmont, for the permanent improvement of streets and roads within said city or magisterial districts, said article of agreement may provide for the selling of bonds of said magisterial district or districts including the city of Fairmont, upon an affirmative vote of three-fifths of all the votes cast at a special election called for this purpose by the authority of said county court.

The board of directors shall have power to construct and
193 maintain bridges and retaining walls in any part of the said 194 city, including the power to construct and maintain a bridge or 195 bridges over and across the Monongahela river, the West Fork 196 river or the Tygart's Valley river.

197 The board of directors shall have power to prohibit the 198 manufacture, sale, keeping or storing for sale in the city, or 199 offering, or exposing for sale all liquors or absinthe or any drink 200 compounded with absinthe in said city, subject to the provisions 201 of law, and liquors as used in this act shall be construed to em- 202 brace all malt vinous or spirituous liquors, wine, porter, ale, beer, 203 or any other intoxicating drink, mixture or preparation of like 204 nature; and all malt or brewed drinks, whether intoxicating or 205 not, shall be deemed malt liquors within the meaning of this act; 206 and all liquids, mixtures or preparations, whether patented or 207 not, which shall produce intoxication, and all beverages contain- 208 ing so much as one-half of one per centum of alcohol by volume 209 shall be deemed spirituous liquors, and all shall be embraced in 210 the word liquors as used in this act.

Nominations and Election of the Board of Directors.

Sec. 6. The first general municipal election for said city 2 held hereunder shall be held on the second Tuesday of August, 3 one thousand nine hundred and nineteen, at which time there 4 shall be elected by the qualified voters of the whole city, four di- 5 rectors, who shall constitute the said board of directors. All of 6 the members of the board of directors elected at the said first 7 general municipal election shall begin their term of office on the 8 first day of September, one thousand nine hundred and nineteen 9 and serve until the thirtieth day of June, one thousand nine hun- 10 dred and twenty-three, and until a majority of their successors 11 are elected and shall have qualified, and said members of the 12 board of directors shall be elected from the city at large, except 13 that no two directors of the same political party as hereinafter 14 defined shall be elected from the same ward, and shall be nom- 15 inated and voted for and elected by the electors of said city in the 16 manner hereinafter prescribed. The next general municipal elec- 17 tion for said city shall be held on the second Tuesday in June, 18 one thousand nine hundred and twenty-three, and on the same 19 day in every fourth year thereafter, at which there shall be elected 20 by the qualified voters of the whole city, four directors, consti- 21 tuting said board of directors; and all members of the board of
22 directors thereafter shall serve for a term of four years, and until 23 a majority of their successors are elected and shall have qualified, 24 except that no two directors of the same political party as herein- 25 after defined shall be elected from the same ward, and shall be 26 nominated and voted for and elected by the electors of said city in 27 the manner hereinafter prescribed; the term of office of the mem- 28 bers of the board of directors, except those elected at the first 29 general municipal election held hereunder, shall begin on the 30 first day of July next after the general municipal election and 31 end on the thirtieth day of June in the fourth year thereafter

Vacancies.

Sec. 7. Vacancies in the board of directors shall be filled 2 by the board of directors for the unexpired term, except vacancy 3 resulting from a recall election.

Qualifications.

Sec. 8. Members of the board of directors shall be residents 2 of the city having the qualifications of electors therein and shall 3 be free holders, owning real estate in said city. No member of 4 the board of directors of said city shall hold any other elective 5 office, or have any other employment, which will interfere with 6 the duties of his office as member of the board of directors, during 7 his term of office; nor shall any member of the board of directors 8 or employee of the city be interested in the profits or emoluments 9 of any contract, job, work or services for the municipality. A 10 member of the board of directors who shall cease to possess any 11 of the qualifications herein required shall forthwith forfeit his 12 office, and any such contract in which any member of the board 13 of directors or any employee of the city is or may become interested 14 shall be void. No more than two members of the board of directors 15 elected or appointed shall belong to the same political party as 16 defined by this act.

Resignation or Vacancy.

Sec. 14. If any person elected as a member of the board of 2 directors fail to qualify as herein provided within thirty days 3 after his said election, or shall after having been qualified, resign 4 his office, or move from the city, or move into the same ward 5 where another director of the same political party lives, his office 6 shall be vacated, or if a vacancy in his office occur from any other
cause, except by recall election, the remaining members of said board of directors shall fill such vacancy for the unexpired term with some person qualified to hold said office. But said vacancy shall be filled by the appointment of a person openly and publicly recognized as belonging to and affiliated with the political party from which the person whose vacancy is to be filled was elected or appointed. Provided, however, the city executive committee of the political party from which the persons whose vacancy is to be filled was elected or appointed shall have the right to nominate one or more persons having the qualifications of a director and the board of directors shall fill such vacancy by the appointment of some person so nominated by such committee.

Additional Officers.

Sec. 17. In addition to the board of directors said city shall have a city clerk, city attorney, chief of police, chief of fire department, city physician, city engineer, city health officer and such other officers and agents as the board of directors may create or employ. The appointment and removal of all appointive officers named or provided for in this section shall be vested in the board of directors.

Qualification of Voters.

Sec. 18. Every person qualified by law to vote for members of the legislature of the state, and who has been a resident of said city for sixty days preceding the day of election, and of the ward in which he offers to vote thirty days, shall be entitled to vote at all elections held in said city or by or under the corporate authorities thereof, and any such qualified voter shall be entitled to vote for two candidates for members of the board of directors, and no more, at any general municipal election.

Manner of Holding Election.

Sec. 19. The laws of the state of West Virginia governing the holding of elections, and the ascertaining of the result thereof, shall govern the conduct of the municipal elections hereunder, so far as applicable; except that the city clerk shall perform the duties required of the circuit and county clerks under the general election laws, and the board of directors shall perform the duties required of the county court under the general election laws. The board of directors shall divide, define and proclaim the elect-
tion precincts of the city and fix the boundaries thereof in the manner provided by law, and provide the commissioners of the election a map and pertinent description of such division and boundaries and of changes which, from time to time, are made by the board. And the voting precincts and voting places shall, as far as practical, conform to the voting precincts and voting places established by the county court of said Marion county for the holding of general elections, except that the board of directors shall have the power to change the place of voting in any precinct.

Sec. 19-a. The provisions of chapter six of the acts of the legislature of West Virginia, extraordinary session one thousand nine hundred and sixteen, relating to the registration of voters, for the primary election in the year which a president of the United States is elected, are hereby adopted as and for the law regulating the registration of voters of the city; and the time therein fixed when the county court of each county shall hold a regular or special session in the year in which a president of the United States is to be elected for the appointment of registrars, the time therein fixed for the making of such registration, and the return thereon, and the time therein fixed at which such county court shall convene for the purpose of hearing any and all matters in relation to registration of voters, and the time therein fixed when the registrars shall sit for further amending, correcting and completing the registration of voters of their precincts, and the time therein fixed at which the county court shall convene for the purpose of adding to the list of voters, shall be and is the several times at which the board of directors shall sit for the same purposes and the registrars convene for the performance of the same duties under the provisions of this charter,—except that for the purposes of the first election held under the provision of this charter the board of affairs (board of affairs in the present instance) shall convene on the second Tuesday in June, one thousand nine hundred and nineteen, for the purpose of appointing and appoint such registrars; the said registrars shall meet together on the third Thursday in June, one thousand nine hundred and nineteen, and proceed to register the names of all the qualified voters in their respective precincts and shall endeavor to ascertain and register each and every qualified voter entitled to vote within the precinct, and for this purpose shall visit the usual place of abode of each and every voter; the said registrars shall for the purpose
33 of amending, correcting and completing said registration sit to-
34 gether at some convenient place within the voting precinct for
35 two days commencing on the first Monday in July, one thousand
36 nine hundred and nineteen, and they shall give notice of the
37 time and place of the sitting for such registration and correc-
38 tion by posting written or printed notices of the time and place
39 of such sitting for five days prior thereto at not less than five
40 of the most conspicuous places in said voting precincts, one of
41 which shall be at the place of voting in said precinct; and said
42 board of affairs shall convene on the fourth Monday in July,
43 one thousand nine hundred and nineteen, for the purpose of
44 hearing any and all matters as to the registration of voters, at
45 which meeting said board of affairs shall examine the returns
46 made to them by the registrars, and if they are satisfied that
47 persons have been registered who are not entitled to vote they
48 shall cause their names to be stricken from the list of voters, and
49 if they shall find that persons named have been omitted by the
50 registrars who should be registered, either because the same have
51 been omitted or by reason of such persons having become en-
52 titled to vote since such registration was made, the board shall
53 cause their names to be registered as qualified voters.

54 And the duties by said chapter six of the acts of the legisla-
55 ture, extraordinary session, one thousand nine hundred and six-
56 teen, required therein to be performed by the county court shall
57 be performed by the board of directors and the duties therein
58 provided to be performed by the clerk of the county court shall
59 be performed by the city clerk.

Nomination of Candidates.

Sec. 19-b. Candidates to be voted for at any municipal elec-
2 tion for members of the board of directors may be nominated
3 either by convention, or primary election. A political party for
4 the purpose of this act shall be taken and construed to be an
5 affiliation of electors representing a political party or organiza-
6 tion, which at the last preceding municipal election polled for
7 any one of its candidates for members of the board of directors at
8 least twenty per centum of the total vote cast at said election by
9 all parties, but for the purpose of the first election hereunder for
10 members of the board of directors, no organization, either political
11 or otherwise, shall be taken and deemed to be a political party
12 unless it cast at the last general election for its candidate for
13 governor, a vote equal to twenty per centum of the whole vote
14 cast for all the candidates for the office of governor, within the
15 corporate limits of said city.
16 The city executive committee of any political party entitled
17 to nominate candidates for the office of members of the board
18 of directors shall determine sixty days prior to any municipal
19 election at which members of the board of directors are to be
20 elected, whether such political party will nominate its candidates
21 by convention, or primary election. A city executive committee,
22 composed of one member from each ward of said city, shall be
23 appointed or elected by each political party making nominations
24 of candidates for the office of members of the board of directors,
25 and it shall be the duty of any such city executive committee
26 representing any political party so appointed or elected to do and
27 perform the duties required of it hereunder.
28 No person shall take any part in or vote in any convention or
29 primary election who is not at the time a legal voter in the city,
30 and who is not a known, recognized and openly declared member
31 of the political party included and defined in the terms of the call
32 under which such convention or primary election is held. And
33 the executive committee of the political party calling such con-
34 vention or primary election may require the persons or any of
35 them taking part in and voting in such convention or primary
36 election to take and file with the secretary of said convention or
37 with the commissioners holding such primary election an affi-
38 davit that the person so offering to vote is a qualified voter of
39 the political party holding such convention or primary election.
40 And the city executive committee of any political party shall have
41 the right to adopt rules and regulations prescribing the qualifica-
42 tions of any voter participating in any convention or primary elec-
43 tion hereunder and shall have the authority to decide the qualifi-
44 cations of any voter participating in any such convention or
45 primary election hereunder and shall have the authority to decide
46 the qualifications of any voter participating in any such convention
47 or primary election of such political party.
48 No political party shall nominate more than two persons for
49 the office of members of the board of directors, no two of whom
50 shall be from the same ward, and there shall not be printed on any
51 ticket of any ballot to be voted at any municipal election for the
52 election of members of the board of directors more than two can-
didates of any political party for the office of members of the
board of directors, and no person shall receive the nomination as
a candidate for the office of member of the board of directors from
more than one political party, and all candidates for the office
of members of the board of directors shall be nominated by their
respective political parties, either by convention or by primary
as herein provided, twenty days prior to any municipal election, at
which members of the board of directors are to be elected.

Sec. 19-c. Every person so nominated for the office of mem-
ber of the board of directors, shall, within five days after his
nomination has been certified by the political party making the
nomination, make, under oath, and file with the city clerk, a state-
ment of the political party to which he claims allegiance. If
such person fails to make the oath, and file the same, as herein
prescribed, the ballot commissioners shall not place his name on
the ballot to be voted at the approaching municipal election.
In case of a vacancy, in a nomination, by death, resignation,
or by failure to file said affidavit of allegiance within the time
prescribed by law, the same shall be filled by the city executive
committee of the political party making such nomination, and
whenever any vacancy is so filled by such nomination, the chair-
man and secretary of the city executive committee of the political
party so filling such vacancy shall certify and file the same with
the city clerk.

Conventions.

Sec. 19-d. A convention within the meaning of this act shall
be deemed an organized assemblage of voters or delegates of any
political party for the purpose of nominating candidates for the
office of members of the board of directors, and such convention
of any political party shall be called, and the basis of its represen-
tation therein fixed, by its city executive committee; any conven-
tion held for the purpose of making such nominations may nom-
iniate candidates for the office of members of the board of directors
and members of its city executive committee; and when any
nominations of any candidates for the office of members of the
board of directors are made by a convention of any political party,
it shall be the duty of the presiding officer and secretary of such
convention to certify the same, and file, at least fifteen days prior
to the municipal election, with the city clerk, a certificate of such
nominations, giving the names of the candidates, the office for which they are nominated, and the wards in which they reside.

Primary Elections.

Sec. 19-e. A primary election within the meaning of this act is an election held by the voters who are the members of any political party for the purpose of nominating candidates for the office of members of the board of directors; any primary election held by any political party for the purpose of nominations for the office of members of the board of directors may nominate candidates for the office of members of the board of directors and members of its city executive committee; and when any nominations of any political party of candidates for the office of members of the board of directors are made by any primary election as herein specified, it shall be the duty of the chairman and secretary of the city executive committee representing such political party for which the nominations were made, to certify the same and file, at least fifteen days prior to the municipal election, with the city clerk, a certificate giving the names of such candidates, the office for which nominated, and the wards in which they reside.

Sec. 19-f. Any primary election held by any political party for the nomination of candidates for the office of members of the board of directors may be called by a written or printed notice by the city executive committee of such political party, specifying that the same is to be held in accordance with the provisions of this charter in relation thereto, and the provisions thereof shall apply to the conduct and proceedings of any such primary election; the call for any such primary election shall designate the name of the city executive committee which calls the same, and the purpose for which it is called, and the call shall name the time, place or places at which such election is to be held, and, fully, the purposes thereof, and the city executive committee of any political party calling such primary election may appoint three commissioners of election and two clerks for each voting precinct, who are to conduct such primary election, and the city executive committee shall designate the places at which such primary election is to be held and the mode in which the votes shall be taken, recorded and announced; at any such primary election the votes shall be taken by ballot and all votes cast at such election shall be deposited in a ballot box prepared for the purpose, and in the
21 mode to be provided in the call for such primary election, and the 
22 city shall bear the expense of all primary elections held by any 
23 political party under the provisions hereof for the nomination of 
24 candidates of such political party for the office of members of the 
25 board of directors.

Sec. 19-g. The city executive committee of any political 
2 party shall be appointed by such political party, either in con- 
3 vention, or by election at any primary election, and for the pur- 
4 poses of the first election hereunder for the office of members of 
5 the board of directors, any political party may appoint its city 
6 executive committee by a mass convention held for the purpose 
7 at least sixty days prior to the first municipal election to be held 
8 hereunder.

**Offenses By Voters.**

Sec. 19-h. Whoever shall vote at any such convention, or 
2 primary election, for the nomination of candidates to be supported 
3 at any municipal election, or for the appointment of any city 
4 executive committee of any political party, not being at the time 
5 a legal voter in the city; whoever so votes, being a legal voter, but 
6 who is not a known, recognized, theretofore openly declared, 
7 member of the political party included and defined in the terms 
8 of the call under which any such convention or primary election 
9 is held; whoever shall vote or attempt to vote more than once at 
10 any such convention or primary election; whoever shall vote or 
11 attempt to vote upon any name not his own in such convention 
12 or primary election; whoever shall either use or receive any money 
13 or other thing of value to influence any vote or ballot at any such 
14 convention, or primary election; whoever shall cast or vote any 
15 such ballot at such convention or primary election after having 
16 received or is to receive money, or anything of value, for or in 
17 consideration of such vote or ballot, shall be guilty of a misde- 
18 meanor, and shall be punished by fine of not more than two hun- 
19 dred and fifty dollars, or by imprisonment in the county jail for 
20 not more than six months, or in the discretion of the court, by both 
21 fine and imprisonment.

**False Returns.**

Sec. 19-i. Whoever shall knowingly make any false count 
2 of the ballots or votes cast in any such convention or primary elec- 
3 tion, or any false statement or declaration of the result of any
such vote or ballot, knowing such count or statement to be false, 
or whoever shall willfully alter, deface, or destroy such vote or bal-
lot cast at any such convention or primary election, or the evidence 
of any such vote or ballot, shall be guilty of a misdemeanor, and 
shall be punished by a fine not to exceed five hundred dollars, or 
by imprisonment in the county jail for a period not exceeding six 
months or in the discretion of the court, by both fine and impris-
onment.

Nominations By Certificates.

Sec. 19-j. Members of the board of directors may be nomin-
ated otherwise than by conventions or primary elections. In such 
case, a certificate shall be signed by the qualified voters within 
the corporate limits of said city to a number equal to ten per 
centum of the entire vote cast at the last general municipal elec-
tion, and for the purpose of nominating candidates for members 
of the board of directors to be voted for at the first general mun-
icipal election to be held hereunder, a certificate shall be signed 
by the qualified voters of said city to a number equal to ten 
per centum of the entire vote cast at the last general election for 
all candidates for governor, within the corporate limits of said 
city. No voter signing such certificate shall be counted unless 
his street residence and postoffice shall be designated thereon. 
Such certificate shall state the names of the candidates, and the 
wards in which they reside, respectively, and that such candidates 
are legally qualified to hold the office of members of the board 
of directors; and that the subscribers to said certificate desire and 
are legally qualified to vote for such candidate for members of 
the board of directors; and said certificate shall designate, by 
not more than five words, a brief name of the political party or 
organization which said candidates for members of the board of 
directors named in said certificates represent; and the signatures 
to such certificate need not be appended to any one paper; but to 
each separate paper there shall be an affidavit of the circulator 
thereof, stating the number of subscribers to such paper, and that 
each signature appended thereto was made in his presence and is 
the genuine signature of the person whose name it purports to 
be; and not more than two candidates for members of the board 
of directors shall be nominated by the subscribers to any certifi-
cate; and no person who has participated in the nomination of
candidates for members of the board of directors by any political party by convention or primary election or by other certificate shall be counted.

Such certificates may be in the following form or to the following effect, to-wit:

State of West Virginia,

City of Fairmont, ss:

This is to certify that we, the undersigned, qualified voters resident within the corporate limits of the city of Fairmont, West Virginia, do hereby make the following nominations for members of the board of directors of the city of Fairmont, to-wit:

....................... , Residence ............ Ward;

...................... , Residence ............... Ward.

And we further certify that each of said candidates is legally qualified to hold the office of member of the board of directors for which he is nominated, and that we desire, and are legally qualified, to vote for said candidates; and that we have not nor will we hereafter, participate in the nomination of any other candidates of any political party, organization or by other certificates, for members of the board of directors to be voted for at the approaching general municipal election. The name of the political party or organization which said candidates represent is ........

Signature Street Address Postoffice Address
(Name of Voter) (Describe It) (Name It)

Certificates for nominations of candidates for members of the board of directors shall, on or before twenty days, before the regular municipal election be filed with the city clerk, and each candidate so nominated by certificate as in this section provided, shall make, under oath, and file the same with the city clerk, a statement of the political party or organization to which he claims allegiance; and the voters who have subscribed to any certificate of nominations, whereby candidates for members of the board of directors are nominated, and wherein a political party or organization is named, shall, on or before fifteen days before any general municipal election select a city executive committee as herein defined, composed of one member from each ward of said city.

Election Results and Contested Elections.

Sec. 20. The four candidates receiving the greatest number
2 of votes for the board of directors at any regular municipal election shall be declared elected and if two or more candidates receive an equal number of votes, the canvassing board, before whom the said election returns shall have been canvassed, shall decide between them according to the intent and provisions of this act, but only two of such candidates of the same political party shall be declared elected. All contested elections shall be heard and determined by the board of directors, and the contests shall be made and heard and conducted in the manner and as provided for such contests for county and district offices; and the board of directors shall conduct its proceedings in such cases as nearly as practicable in conformity with the proceedings of the county court in such cases.

If two or more directors elected at any regular municipal election fail or neglect to qualify within the time provided in this act, the offices to which they were elected shall be declared vacated, and the then said board of directors (board of affairs in the first instance), shall appoint members of said board of directors to fill the vacancies caused by said directors elect failing or neglecting to qualify; but such vacancies on the said board of directors shall be filled by the appointment of persons according to the intent of this act; not more than two members of the said board shall belong to the same political party; and any person appointed to fill any such vacancy shall be by the appointment of a person openly and publicly recognized as belonging to and affiliated with the political party from which the person whose vacancy is to be filled was elected; provided, however, the city executive committee of the political party from which the person whose vacancy is to be filled was elected shall have the right to nominate persons having the qualifications of a director and the board of directors (board of affairs in the first instance) shall fill any such vacancy by the appointment of some person nominated by such committee as aforesaid.

Oaths of Officers.

Sec. 21. All officers, elective and appointive, shall make oath, before some one authorized to administer oaths, that they will support the constitution of this state, and will faithfully and impartially discharge the duties of their respective offices, to the best of their skill and judgment; that they will not administer
6 their respective offices with the aim to benefit any political party;
7 that they will not during their term of office become pecuniarily
8 interested directly or indirectly, in any contract with the city, or
9 the purchase of any supplies therefor. When the officer shall have
10 made such oath in writing and filed the same with the city clerk,
11 and shall have given the bond required of and accepted from
12 him, he shall be considered as having qualified for the office to
13 which he was elected or appointed; provided, that if any person
14 elected to the office of board of directors shall not qualify for
15 said office as herein prescribed within thirty days after he shall
16 have been officially declared elected thereto, said office shall ipso
17 facto become vacant, and said vacancy shall be filled in the manner
18 provided for in this act.

**Bond of Officers.**

Sec. 22. Each member of the board of directors and the
2 city clerk, city attorney, city physician, chief of police, chief of
3 fire department and heads of departments, shall, before entering
4 upon the discharge of their duties, give an official bond, con-
5 ditioned for the faithful performance of their respective duties as
6 prescribed in this act or any ordinance now or hereafter passed,
7 in amounts as follows: Each director five thousand dollars, except
8 the director of finance, who shall give bond in the penalty of
9 sixty-five thousand dollars; the city clerk, three thousand dol-
10 lars; the city attorney, city physician, chief of police, and the
11 chief of the fire department, each one thousand dollars.
12 The board of directors may require additional bond from any
13 of said appointive officers, and may likewise require a bond in
14 whatever sum they may fix, of any other appointive officer. All
15 bonds of appointive officers shall, before their acceptance, be
16 approved by the board of directors; and the bonds of the directors
17 shall be approved by the retiring board of directors, (board of
18 affairs in the first instance). All other bonds of whatsoever kind
19 shall not be accepted until first approved by the board of direc-
20 tors. The minutes of the meeting of the board shall show all
21 matters touching the consideration or approval of all bonds, and
22 when said bonds are approved and accepted they shall be recorded
23 by the city clerk in a well bound book kept by him at his office
24 for that purpose, which book shall be open to public inspection;
25 and the recordation of such bonds as aforesaid shall be *prima facie*
26 proof of their correctness, and they, as so recorded, shall be ad-
27 mitted as evidence in all the courts of this state. The city clerk
28 shall be the custodian of all bonds, except those given by him,
29 and as to them, the city treasurer shall be custodian.
30 All bonds, obligations or other writing taken in pursuance
31 of any provisions of this act shall be made payable to "the city of
32 Fairmont," and the respective persons, and their heirs, executors,
33 administrators and assigns bound thereby shall be subject to the
34 same proceedings on said bonds, obligations and other writings,
35 for enforcing the conditions of the terms thereof, by motion or
36 otherwise, before any court of record held in and for the county
37 of Marion, that collectors of county levies and other sureties
38 are or shall be subject to on their bonds for enforcing the pay-
39 ment of the county levies.

Sec. 23. All appointive officers shall hold their offices for
2 the term of four years (unless sooner removed as herein provided),
3 and until their successors are appointed and qualified. No ap-
4 pointive officer of the city shall hold two official offices with the
5 city at the same time, nor shall become the employe of the city
6 in any other capacity except by the consent of the board of direc-
7 tors shown by resolution.

Sec. 26. No franchise or ordinance shall be passed, and no
2 contract shall be awarded, nor any money appropriated for any
3 purpose in a greater sum than one hundred dollars, and no ap-
4 pointments of any officers shall be made, nor any vacancy in
5 office declared without the affirmative vote of at least three mem-
6 bers of the board of directors.

Notice For Franchise.

Sec. 27. Publication of notice to present franchise and other
2 preliminaries prescribed by the laws of the state relating thereto
3 shall be had in the manner prescribed by the state laws, before the
4 board of directors shall act on any such franchise.

Salaries.

Sec. 28. The members of the board of directors shall each
2 receive two thousand five hundred dollars per annum. All sal-
3 aries shall be paid monthly, as the services shall have been ren-
4 dered.

Salaries of Appointive Officers.

Sec. 29. The salaries of all appointive officers shall be fixed
2 by the board of directors and paid monthly, as the services shall
3 have been rendered. The salary of the city clerk shall not ex-
4 ceed one thousand eight hundred dollars per year; the salary of
5 the city physician shall not exceed seven hundred and fifty dollars
6 per year; the salary of the city attorney shall not exceed one
7 thousand five hundred dollars per year; the salary of the chief
8 of police shall not exceed one thousand eight hundred dollars
9 per year; the salary of the chief of the fire department shall not
10 exceed one thousand eight hundred dollars per year; the salary
11 of the city engineer shall not exceed one thousand eight hundred
12 dollars per year; the salary of no other appointive officer or agent
13 not herein specifically limited shall exceed one thousand five hun-
14 dred dollars per year; provided, however, that whenever the United
15 States census of said city shall show its population to be as much
16 as twenty thousand people then the board of directors may by
17 ordinance provide an increase in all salaries including their own
18 not to exceed twenty-five per cent.

Recall Elections.

Sec. 43. Any or all members of the board of directors
2 provided for in this charter may be removed from office by the
3 electors. The procedure to effect such removal shall be as fol-
4 lows:
5 A petition demanding that the question of removing such
6 officer or officers be submitted to the electors shall be filed with
7 the city clerk. Such petition for the recall of any or all of the
8 board of directors shall be signed by at least thirty-five per cent
9 of the total number of registered voters in the municipality. The
10 signatures to such petitions need not be appended to any one
11 paper.

Sec. 44. Petition papers shall be procured only from the
2 clerk of the board of directors, who shall keep a sufficient number
3 of such blank petitions on file for distribution as herein provided.
4 Prior to the issuance of such petition papers an affidavit shall
5 be made by one or more qualified electors and filed with the city
6 clerk, stating the name and office of the officer or officers sought
7 to be removed. The clerk of the board of directors upon issuing
8 any such petition papers to an elector shall enter in a record, to
9 be kept in his office, the name of the elector to whom issued, the
10 date of such issuance, and the number of papers issued, and shall
11 certify on such papers the name of the elector to whom issued
and the date issued. No petition papers so issued shall be ac-
cepted as part of the petition unless it bears such certificate of
the clerk, and unless it be filed as provided herein.

Sec. 45. Each signer of a recall petition shall sign his name
in ink, or indelible pencil, and shall place thereon after his name
his place of residence by street and number. To each such petition
paper there shall be attached an affidavit of the circulator thereof
stating the number of signers to such part of the petition, and
that each signature appended to the paper was made in his pres-
ence and is the genuine signature of the person whose name it
pursports to be.

Sec. 46. All papers comprising a recall petition shall be
filed with the clerk as one instrument within thirty days after
the filing with the clerk of the affidavit stating the names and
office of the officers sought to be removed.

Sec. 47. The clerk shall at once submit the recall petition
to the board of directors, and shall notify the officer sought to be
recalled of such action. If the official whose removal is sought
does not resign within five days after such notice, the board shall
thereupon order and fix a day for holding a recall election. Any
such election shall be held not less than forty nor more than sixty
seven days after the petition has been presented to the board, at the
same time as any other general or special election held within
such period; but if no such election be held within such period,
the board shall call a special recall election to be held within the
next time aforesaid.

Sec. 48. The ballots at such recall election shall conform to
the following requirements:
With respect to each person whose removal is sought the
question shall be submitted, "Shall (name of person) be re-
moved from the office of (name of office) by recall?"
Immediately following each such question there shall be
printed on the ballots the two propositions, in the order set
forth:
For the recall of (name of person).
Against the recall of (Name of person).
Immediately to the left of the proposition shall be placed a
square in which the electors, by making a cross mark (x), may
vote either of such propositions. Under said questions shall be
placed the names of candidates to fill the vacancy or vacancies.
The name of the officer or officers whose removal is sought shall not appear on the ballot as a candidate or candidates to succeed himself or themselves.

Before any such recall election for the removal of directors shall be had, there shall be nominated candidates to fill the vacancy or vacancies, the nominations therefor to be made in the manner as herein provided for the nomination of candidates for the general municipal election, and a certificate of such nominations shall be filed with the clerk twenty days prior to the date fixed for holding such recall election.

Sec. 49. Should a majority of the votes cast at a recall election be against the recall of the officer named on the ballot, such officer shall continue in office for the remainder of his unexpired term subject to recall as before. If a majority of the votes cast at a recall election shall be for the recall of the officer named on the ballot he shall, regardless of any technical defects in the recall petition, be deemed removed from office.

Sec. 50. No recall petition shall be filed against a director within six months after he takes his office, nor in case of an officer re-elected in a recall election, until six months after that election. At each recall election or any special election the registrars who made the registration of the voters for the last preceding general election shall sit one day at their respective voting precincts two weeks prior to any recall election or any special election for correcting, amending and adding to the registration, and at any recall election or any special election for said city the board of directors shall sit one day one week prior to such election for the correcting, amending and adding to such registration, and no voter shall vote at such recall elections or any special election unless he has been duly registered as aforesaid.

Initiation; Referendum and Protest.

Sec. 51. Any proposed ordinance may be submitted to the board of directors, by petition signed by at least ten per cent of the total number of registered voters in the municipality. All petition papers, circulated with respect to any proposed ordinance, shall be uniform in character, and shall contain the proposed ordinance in full, and have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition, and shall constitute a committee of the petitioners for the purposes hereinafter named.
Sec. 52. Each signer of a petition shall sign his name in ink or indelible pencil and shall place on the petition paper after his name his place of residence by street and number. The signatures to any such petition paper need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition, and that each signature appended to one paper is the genuine signature of the person whose name it purports to be and was made in the presence of the affiant.

Sec. 53. All papers comprising a petition shall be filed with the city clerk as one instrument, and when so filed the clerk shall submit the proposed ordinance to the board of directors at its next regular meeting. Provision shall be made for public hearings upon the proposed ordinance.

Sec. 54. The board of directors shall at once proceed to consider it, and shall take final action thereon within thirty days from the date of submission. If the board rejects the proposed ordinance, or passes it in a form different from that set forth in the petition, the committee of the petitioners may require that it be submitted to a vote of the electors in its original form or that it be submitted to a vote of the electors with any proposed change, addition, or amendment, if a petition for such election is presented bearing additional signatures of fifteen per cent of the electors of the city.

Sec. 55. When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the clerk within twenty days after the final action on such proposed ordinance by the board of directors.

Sec. 56. Upon receipt of the certificates and certified copy of the proposed ordinance, the clerk shall certify the fact to the board at its next regular meeting. If an election is to be held not more than six months nor less than thirty days after the receipt of the clerk's certificate by the board, such proposed ordinance shall then be submitted to a vote of the electors. If no such election is to be held within the time aforesaid, the board shall provide for submitting the proposed ordinance to the electors at a special election.

Sec. 57. The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted
on and below it the two propositions, "For the ordinance," and 4 "Against the ordinance." Immediately at the left of each proposition there shall be a square in which, by making a cross (x), 6 the voter may vote for or against the proposed ordinance. If a 7 majority of the electors voting on any such proposed ordinance 8 shall vote in favor thereof, it shall thereupon become an ordinance of the city.

Sec. 58. Proposed ordinances for repealing any existing 2 ordinance or ordinances in whole or in part, may be submitted to 3 the board of directors as provided in the preceding sections for 4 initiating ordinances. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the 6 board as in the case of other ordinances.

Sec. 59. No ordinance passed by the board, unless it be an 2 emergency measure, shall go into effect until fifteen days after its 3 final passage by the board of directors. If at any time within 4 said fifteen days, a petition signed by twenty-five per cent. of the 5 total number of registered voters in the municipality be filed with 6 the clerk of the board of directors requesting that any such 7 ordinance be repealed or submitted to a vote of the electors, it 8 shall not become operative until the steps indicated herein have 9 been taken.

Sec. 60. The city clerk shall deliver the petition to the 2 board, which shall proceed to reconsider the ordinance. If, upon 3 such reconsideration, the ordinance be not entirely repealed, the 4 board shall provide for submitting it to a vote of the electors, 5 and in so doing the board shall be governed by the provisions of 6 sections fifty-five, fifty-six and fifty-seven hereof, respecting the 7 time of submission and of the manner of voting on ordinances 8 proposed to the board by petition. If, when submitting to a 9 vote of the electors, any such ordinance be not approved by a 10 majority of those voting thereon, it shall be deemed repealed.

Sec. 61. Referendum petitions need not contain the text of 2 the ordinances, the repeal of which is sought, but shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the board. Ballots used in referendum elections shall conform in all respects to those provided 6 for in section fifty-seven of this charter.

Ordinances.

Sec. 62. Ordinances submitted to the board of directors
2 by initiative petition, and passed by the board without change, or 3 passed in an amended form and not required to be submitted to a 4 vote of the electors by the committee of the petitioners, shall be 5 subject to the referendum in the same manner as other ordin- 6 ances.

Conflicting Ordinances.

Sec. 63. If the provisions of two or more ordinances adopted 2 or approved at the same election conflict, the ordinances receiving 3 the highest affirmative vote shall prevail.

Referendum on Emergency Measures.

Sec. 64. Ordinances passed as emergency measures shall be 2 subject to referendum in like manner as other ordinances, except 3 that they shall go into effect at the time indicated in such ordin- 4 ances. If, when submitted to a vote of the electors, an emergency 5 measure be not approved by a majority of those voting thereon, 6 it shall be considered repealed as regards any further action there- 7 under; but such measure so repealed shall be deemed sufficient 8 authority for payment in accordance with the ordinance, of any 9 expense incurred previous to the referendum vote thereon.

Referendum; Preliminary Action.

Sec. 65. In case a petition be filed requiring that a measure 2 passed by the board of directors providing for an expenditure 3 of money, a bond issue, or a public improvement be submitted to 4 a vote of the electors, all steps preliminary to such actual expen- 5 diture, actual issuance of bonds, or actual execution of a contract 6 for such improvement may be taken prior to the election.

Mayor.

Sec. 66. The board of directors shall select by vote the 2 mayor from and among its own members at its first meeting.

Sec. 67. But should the board fail to select the mayor 2 within ten days after the beginning of their term of office, then 3 the members of said board shall decide by casting lots, which one 4 of them shall be the mayor, and until such decision shall have been 5 made as to what one of said members of the board of directors 6 shall be the mayor, the city attorney shall be the acting mayor 7 of the city, with the powers and duties, and salary of mayor,
while he so acts, except he shall not vote upon any question arising or coming before the board of directors and the members of the board of directors shall receive no salary until the mayor shall have been selected, their salary beginning with the date of such selection.

Meetings of the Board.

Sec. 71. At ten o'clock A. M., on the first Monday in July following a regular municipal election, the board of directors shall meet at the usual place for holding the meeting of the legislative body of the city, except that the first meeting of the board of directors under this charter shall be held on the first Monday in September, one thousand nine hundred and nineteen. Thereafter the board shall meet at such times as may be prescribed by ordinance or resolution, except that they shall meet not less than once each week. The mayor or two members of the board if directors may call special meetings of the board upon at least six hours' written notice to each member of the board of directors served personally on each member; and may publish like notice of the time and purpose of said meeting, by publishing said notice at least once in all the daily newspapers published in said city. All meetings of the board of directors shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The board shall determine its own rules and order of business and shall keep a journal of its proceedings.

Ordinance Enactment.

Sec. 73. Each proposed ordinance or resolution shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clauses of all ordinances passed by the board shall be, "Be it ordained by the board of directors of the city of Fairmont."

No ordinance, unless it be declared an emergency measure shall be passed on the day on which it shall have been introduced, unless so ordered by an affirmative vote of all the members of the board of directors.

No ordinance or resolution or section thereof shall be re-
vised or amended, unless the new ordinance or resolution contain the entire ordinance or resolution or section revised or amended and the original ordinance, resolution, section or sections so amended shall be repealed.

Emergency Measures.

Sec. 74. All ordinances and resolutions shall be in effect from and after fifteen days from the date of their passage by the board of directors, except as otherwise provided in this charter. The board may, by an affirmative vote of not less than three members, pass emergency measures to take effect at the time indicated therein. An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety, or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined in a preamble thereto. Ordinances appropriating money may be passed as emergency measures; but no measure making a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure.

Publication of Ordinances.

Sec. 77. Every ordinance or resolution upon its final passage shall be recorded in a book kept for that purpose, and shall be authenticated by the signature of the presiding officer and the city clerk. Every ordinance or resolution shall be published at least once within five days after its final passage in all daily newspapers of opposite politics published in the city of Fairmont.

Investigations by the Mayor.

Sec. 79. The mayor without notice may cause the affairs of any department or the conduct of any officer or employe to be examined or investigated.

Departments of City Government.

Sec. 80. In order to better dispense the business of the city, and assign more in detail the members of the board of directors, the government of said city is hereby divided into four departments, to-wit:

(a) The department of law and public welfare, under which shall be included the departments of fire, police, law, health and charity.
(b) The department of public highways, under which shall be included the streets, alleys, storm sewers, surface drainage, wharves, bridges, public buildings and grounds.

(c) The department of finance, under which shall be included all finances of the city, water rents and taxation.

(d) The department of water, under which shall be included the city's water system and sanitary sewers.

Sec. 80-a. The board of directors shall at the first regular meeting of the board of directors following their election and qualifications, designate the mayor and each of the other directors at the head of one of the said departments of government, except the mayor shall be at the head of the department of law and public welfare, and the director thus assigned shall be styled the director of that department and he shall have the immediate care and supervision of his department but subject always to the control of the board of directors. The business and the labors incident thereto of each of the departments shall be that which properly falls within the scope of the particular department, but, which, in detail, may be fixed from time to time by the board of directors. The head of each department shall see to the performance of all the business coming within his department or which may be referred thereto or to any officer thereunder, from time to time.

Sec. 80-b. The director of each department shall keep a public office in the city building at which he may be found or communicated with during stated hours, to be fixed by him for the convenience of the public, unless his official duties call him elsewhere.

Sec. 90-a. The board of directors shall have the right whenever the exigencies of the business of the municiplity make the same necessary to employ special counsel to assist the city attorney.

DEPARTMENT OF HIGHWAYS.

General Powers and Duties.

Sec. 101. Subject to the supervision and control of the board in all matters the director of public highways shall manage and have charge of the construction, improvement, repair and maintenance of streets, alleys, sidewalks, lanes, bridges, viaducts and all other public highways; or storm sewers, surface drainage,
6 ditches, culverts, canals, streams and water courses; of boulevards, squares and other public places and ground belonging to the city or dedicated to the public use. He shall manage market houses and shall have charge of the making and preservation of all surface maps, plans, drawings and estimates for such public works; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of waste; the preservation of contracts, papers, plans, tools and appliances belonging to the city and pertaining to this department.

Sec. 107-a. The director of the finance shall have charge of the collection of all water rents and all finances connected with the city's water system.

DEPARTMENT OF WATER.

General Powers and Duties.

Sec. 109-a. Subject to the supervision and control of the board in all matters, the director of the department of water shall manage and have charge of the construction, improvement, repair, maintenance and operation of the water system owned and controlled by said city, and he shall manage, control, and have supervision over all sanitary sewers, and shall be in charge of the construction, improvement, repair and extension of all sanitary sewers; he shall have charge of the water works; he shall manage the sewage disposal plants and farms; he shall preserve all contracts, papers, maps plans, tools and appliances belonging to the city and pertaining to this department.

Sec. 112-a. Said city of Fairmont is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paving and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said city, in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which said city is authorized to sell said bonds but not below the par value thereof. The amount for which said bonds are issued shall be made up of five bonds payable in two, four, six, eight and ten years respectively, from the date of their issue, and shall bear interest not to exceed six per cent. per annum, payable annually or semi-annually; and the assessments as pro-
vided for and required to be paid herein shall be applied to the
liquidation of said bonds and interest thereon, and if, by reason of
the penalties collected with the delinquent assessments, there be
any balance after the payment of the bonds and all accrued in-
terests and costs, it shall be turned into the city treasury to the
credit of the interest and sinking fund of the city.

But the said city shall not become indebted in any manner
or for any purpose to an amount including existing indebtedness,
in the aggregate exceeding five per cent. of the value of all taxable
property therein as provided in section 158-a of this act, and for
that purpose in estimating "existing indebtedness," special assess-
ment bonds representing the cost of paving or other permanent
improvements of streets, roads or alleys, or the construction of
sewers, or the acquiring or taking of land for such purposes and
the cost of which is assessed against the abutting property on
such avenues, streets, roads or alleys, or especially benefited
property adjacent thereto, or on such owner, shall not be included;
and likewise the amount in any sinking fund or the amount in-
vested therefor as provided by law, for the payment of outstanding
bonds, shall not be included in the estimate or existing indebted-
ness; provided, that the aggregate of its debts of every kind what-
soever, including such special street permanent improvement
bonds, or sewer bonds shall not exceed five per cent. of the value of
all taxable property therein.

Sec. 115-a. Upon the petition in writing of the owners of
not less than one-half in lineal feet of property abutting on any
avenue, street or alley, or portion thereof, in said city asking the
board of directors to grade, curb, pave, or macadamize or other-
wise permanently improve such avenue, street or alley, or portion
thereof, and offering in said petition to have their said property
proportionately assessed with the entire cost of the paving, grading,
curbing or macadamizing or other permanent improvement of
such avenue, street or alley, or portion thereof, so paved or other-
wise permanently improved as petitioned for, the board of direc-
tors may order such avenue, street or alley, or portion thereof, to
be paved, or otherwise permanently improved as petitioned for,
and assess the entire cost thereof to and require the same to be
paid by the owners of the land, lots or fractional parts of the lots
fronting or abutting on such avenue, street or alley, or portion
thereof, so improved; and the board of directors in doing the
17 work so petitioned for shall be governed by the provision of sec-
18 tions one hundred and eleven, one hundred and twelve, one hun-
19 dred and thirteen and one hundred and fourteen hereof relating to
20 paving or otherwise permanently improving avenues, streets or
21 alleys, assessing the cost thereof to the abutting property owners,
22 and providing for and enforcing payment for the same, except,
23 that the entire cost of the said work may be assessed to and re-
24 quired to be paid by the owners of the land, lots or fractional parts
25 of the lots fronting or abutting on such avenue, street or alley so
26 improved, instead of two-thirds of such cost, as in said sections
27 provided.

Sec. 118. It shall be lawful for the city of Fairmont to issue
2 and sell its bonds, as provided in this act for the sale of other
3 paving and sewer bonds, to pay the city's part of the cost of the
4 construction of said sewers and the paving or other permanent
5 improvements of said streets and alleys, as required by this act;
6 and said city may levy taxes, in addition to all other taxes, author-
7 ized by law, to pay such bonds and interest thereon; provided,
8 that the total indebtedness of the city for all purposes shall not
9 exceed five per centum of the total value of all taxable property
10 therein, notwithstanding anything herein, or statute or act of the
11 legislature to the contrary.
12 It is especially provided that no bonds shall be issued under
13 the provisions of this act, unless and until the questions of issuing
14 said bonds shall have first been submitted to a vote of the people
15 of said city, and shall have received three-fifths of all votes cast
16 at said election for and against the same. But all bonds shall be
17 issued and elections authorizing the same shall be held, pursuant
18 to section one hundred and fifty-eight-b of this act.

Franchises and Public Utilities; Grant.

Sec. 128. The board of directors may, by ordinance, grant
2 permission to any individual, company or corporation to construct
3 and operate a public utility in, over and under the streets, alleys
4 and public grounds of the city under the provisions of law ap-
5 plicable thereto. No franchise shall be considered an emergency
6 measure. And the board of directors may, by ordinance, renew
7 any franchise to construct and operate a public utility in, under
7-a and over the streets, alleys and public grounds of the city; and
8 the board of directors may by ordinance, grant to any individual,
9 company or corporation operating a public utility the right to
extend the appliances and services of such utility, but the right
to use and maintain any such extension shall expire with the
original grant of the utility or any renewal thereof.

Sec. 133. The board of directors shall at all times control
the distribution of space in, over, under or across all streets or
public grounds, occupied by public utility fixtures. All rights
hereafter granted for the construction and operation of public
utilities shall be subject to the continuing right of the board to
require such reconstruction, relocation, change or discontinuance
of the appliances used by the utility in such streets or public
grounds as shall in the opinion of the board be necessary in the
public interest.

**Limitations of Appropriations.**

Sec. 138. At the close of each fiscal year the unincumbered
balance of each appropriation shall revert to the respective fund
from which it was appropriated, and shall be subject to future
appropriation. Any accruing revenue of the city, not appropriated
as hereinbefore provided, and any balances at any time remaining
after the purposes of the appropriation shall have been satisfied,
may from time to time be appropriated by the board, to such uses
as will not conflict with any uses for which specially such revenues
accrued.

**Continuance of Present Officers and Ordinances.**

Sec. 139. All persons holding appointive positions or em-
ployment with said city at the time this act goes into effect, shall
continue in office, and in the performance of their duties, until
provisions shall have been otherwise made in accordance with the
provisions of this act for the performance or discontinuance of
the duties of any such office. When such provision shall have
been made the term of any such officer shall expire.

All the valid ordinances enacted by and now in force in the
city of Fairmont as heretofore constituted, shall remain in full
force and effect within the territory, except when the same are in
conflict or inconsistent with this act, until the members of the
board of directors as provided for in this act shall have been
elected at the first election thereunder and a majority thereof
shall have qualified, and upon the election and qualification of a
majority of said directors said ordinances shall *ipso facto* extend
to and over the whole of the city of Fairmont, as embraced in
Continuance of Contracts.

Sec. 141. All contracts entered into by the city, or for its benefits, prior to the taking effect of this act, shall continue in full force and effect. All public work begun prior to the taking effect of this act shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this act takes effect may be carried to completion in accordance with the provisions of such laws. The municipal corporation herein created shall take all the rights and be subject to all the liabilities of the municipal corporation which it succeeds, or of which it is but a continuation.

Licenses.

Sec. 149. Concerning anything for which a state license is required to be done within the said county, the board of directors may require a city license therefor, and may impose a tax thereon for the use of the city; and the board of directors shall have the power to grant, refuse or revoke any such license or the licenses of owners or keepers of hotels, carts or wagons drays, and every other description of wheeled carriages kept or used for hire in said city, and to levy and collect tax thereon, and to subject the same to such regulations as the interest and convenience of the inhabitants of said city, in the opinion of the board of directors may require.

Taxi Cabs.

Sec. 149-a. The board of directors shall have power to control and regulate by ordinance, all taxi cabs, automobiles and vehicles of like motive power engaged in the transportation of passengers for hire over the streets, alleys and public grounds of said city, and may require bond from the owners thereof for their faithful compliance with said ordinances and the rules and regulations made by the board in pursuance thereof.
Sidewalks and Shade Trees.

Sec. 152. The board of directors is authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenues, streets, roads and alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine, and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine, and to require the owners of the land or lots or parts of lots facing upon said avenues, streets, roads or alleys to keep such sidewalks clean and in good repair, and to grade the plat of ground on either side of the sidewalks between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions, and otherwise in good condition and repair. The owners or occupiers of lands or lots abutting upon any such avenues, streets, roads or alleys who shall desire to lay any such sidewalk, curb or gutter, or plant any such shade trees, shall make application to the board of directors for such permission, and the board of directors shall thereupon cause the grade and curb line of the avenue, street, road or alley upon which such land or lot abuts to be established and located by the city engineer, and such owners or occupiers of such lands or lots shall thereupon have the right to lay any such sidewalk, curb or gutter or plant any such shade trees, but only upon and in conformity to the grade and curb line so established and located by the city engineer, and in the manner prescribed by the board of directors; and the board of directors shall have the right to prescribe the kind of shade trees to be planted and the manner of planting the same. The said city may lay such sidewalk, gutter or curb, and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct, shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessments shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The
amount so assessed against any land or lot shall also be a debt
against the owner of such land or lot, which may be collected as
other debts are collected, in any court having jurisdiction, and
shall be due and payable in ninety days from the completion
and acceptance of such work as certified to by the board of
directors, with six per cent. interest thereon from the date of
such record acceptance.

And in ascertaining the amount to be assessed against
any corner lot for the cost of laying any such sidewalk and
planting trees in front or alongside thereof, the board may
assess the total cost of laying such sidewalk, and planting trees,
in front or alongside said lot and extended to the curb or gutter
of the intersections of the avenues, streets, roads or alleys at
that point.

When such work is done by the city, and not let to con-
tract, the board shall certify such assessments to the treasurer
of the city for collection, who shall account for the same as
directed by the board or by ordinances, and the treasurer shall
accept payment, when tendered, of the amount of said assess-
ment with interest to the date of payment, and unless said as-
essment shall have been paid within ninety days from the
date of such assessments, then a copy of such report shall be
certified by the city clerk to the clerk of the county court of
Marion county, who is hereby required to record and index the
same in the proper trust deed book in the name of the person
against whose property assessments appear therein. If any
such assessment shall not be paid when due, the board of direc-
tors shall cause to be enforced the payment of said assessment
and interest in all respects herein provided for the collection
of taxes due the city; and said assessments shall be a lien upon
the property liable therefor, the same as for taxes, which lien
may be enforced in the same manner as provided for the sale of
property for the non-payment of taxes and tax liens; and the
liens herein provided for shall have priority over all other liens
except those for taxes and assessments due the state and county,
and shall be on a parity with taxes and assessments due the
city. When such assessment shall have been paid in full, and
a lien therefor shall be of record in the county clerk's office,
the treasurer shall execute and deliver to the owner of said prop-
A release of said lien, which may be recorded in the office of the county clerk as other releases of liens are recorded.

The board may, if it so elect, let said work to contract, and certificates may be issued for the amount of said assessments which may be sold to the contractor doing the work, or other persons, in full of the total cost, in the same manner as provided for paving certificates in section one hundred and eleven herein; provided, the city, in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment therefor, except upon the direct action of the board of directors as expressed by resolution or record before such sale. Said certificates, to be signed by the mayor and clerk or other person or persons designated of record by the board, shall bear date as of the time when such work is accepted and certified by the board of directors, and shall be due and payable in ninety days from date thereof, with six per cent. interest. When the board shall have received said work, it shall at the same time make said assessments upon written report; and at the end of ninety days from date thereof, upon the demand in writing filed with the city clerk, of the holder or holders of the unpaid certificates issued to cover said assessments, said clerk shall certify a copy of said report, only in so far as it relates to the owners against whom said exhibit certificates remain unpaid, to the clerk of the county court of Marion county, who shall record and index the same as other liens of like kind are recorded and indexed, and the same shall be and remain a lien upon the real estate against which said assessments are made, as set out in said certified report, and said lien may be enforced, in the name of the holder of such certificate in the same manner as set out in section one hundred and eleven of this act.

Before letting such work to contract, the board shall advertise the same once a week for two successive weeks in all the daily newspapers published in the city of Fairmont, setting out the time and place for receiving proposals for such work and referring to the plans and specifications made therefor; and the city reserves the right, whether stated in such notice or not, to refuse any and all bids for the work. The fact that such contract shall be awarded for said work shall be prima facie proof that said notice was given as required herein. Such
lien, as represented by certificate, may be released of record, as
provided for in section one hundred and eleven herein; and in
no event shall such assessment be and remain a lien of record
for a longer period than one year from the date set out in said
certified report so recorded in the office of the county clerk,
unless at the end of said one year period a suit shall be pending
for the enforcement of said lien, or the amount thereof, shall,
in some way, be involved in a suit pending at the end of said
one year period.

All such work, whether done by the city direct, or through
contractors, shall be done under the supervision of the street
department of the city or some person designated for the pur-
pose by the board of directors.

If the owner or occupier of any such lot or land shall be
required by the board to lay or relay, clean or repair any such
sidewalk, curb or gutter, or shall be required to grade the space
on either side of the sidewalk between the street curb and the
property line, and keep the same sodded and free from weeds
or obstruction or otherwise in good condition and repair, written
or published notice shall be given to such owner or occupier in
the manner provided by ordinance or resolution adopted by
the board, and the neglect or refusal of such owner or occupier
to do the work, in the manner and within the time required
by the board, as set out or referred to in said notice shall be
an offense and may be punished as provided by ordinance; and
after the expiration of the time set out in said notice for the
doing of said work, and the same remains undone, the board
may do or cause to be done, said work and assess and collect
the cost thereof in the manner, upon either plan, and to the
full extent set out in this section.

Indebtedness and Bonds.

Section 158-a. The city of Fairmont, excepting cases where
it has already authorized bonds to be issued shall not hereafter
be allowed to become indebted in any manner, or for any pur-
pose, to an amount, including existing indebtedness, in the aggre-
grate, exceeding five per centum on the value of taxable property
therein, to be ascertained by the last assessment for state and
county taxes, previous to the incurring of such indebtedness; nor
without, at the same time providing for the collection of a direct
9 annual tax sufficient to pay annually or semi-annually, the in-
10 terest on such debt and the principal thereof, within and not
11 exceeding thirty-four years; and the city of Fairmont is hereby
11-a authorized and allowed, notwithstanding anything herein, or any
12 other statute or act of the legislature to the contrary, to become
13 indebted in an amount, including existing indebtedness, in the
14 aggregate, not to exceed five per centum of the value of the tax-
15 able property therein ascertained as aforesaid, and to issue bonds
16 therefor for the purpose of locating, grading, draining, paving
17 and permanently improving the streets and alleys and public
18 grounds, parks and play grounds therein, and of con-
18-a structing and repairing the bridges and retaining walls
19 therein, and of sewer­ ing the city, and the terms "sewe-
20 ering" being used in its comprehensive sense so as to
21 include mains, laterals, connections, traps, incinerating and dis-
22 posit­al plants, and other necessary and convenient accessories to
23 a modern, sanitary and efficient sewerage system, and for the
24 purpose of leasing, purchasing or erecting, owning, maintaining
25 and operating a system of water works, gas plants to produce
26 artificial gas, with distributing system; and electric power
27 plants for the generation of electricity for electric current, fuel,
28 heat and light with the necessary transmission systems, for the
29 city and the inhabitants and industries thereof, and the inhab-
30 itants and industries of any territory adjacent to the territory
31 of the city of Fairmont, which the board of directors may from
32 time to time agree to supply from the city water works, gas
33 plants or power plants as provided for in this or any other act
34 of the legislature, and of building municipal halls, hospitals, libra-
35 ries and other public buildings and of refunding outstanding
36 bonds, and of funding existing and floating indebtedness of said
37 city.

Sec. 158-b. The board of directors shall have power to
2 issue bonds of the city for one or more purposes authorized by
3 this charter or by the laws of the state. Before issuing any such
4 bonds, except the bonds mentioned in section one hundred and
5 twelve of this act, the board of directors shall by ordinance sub-
6 mit all questions connected with the same to the vote of the
7 people, and no such bonds shall be issued unless the proposition
8 for their issuance shall receive three-fifths of all the votes cast
9 for and against the same. Such ordinance shall state the pur-
pose or purposes for which bonds are to be issued, and the amount
to be appropriated to each such purpose. The ballot voted at
such election shall be in the following form:

For the issuance of bonds under ordinance adopted
---------------------- 19-

Against the issuance of bonds under ordinance
adopted ------------------ 19-

Said ballot shall be voted or marked in the manner prescribed
by law. Said ordinance shall specify the maturities of said bonds
and the rate of interest thereon, not exceeding six per centum,
per annum, payable annually or semi-annually, said bonds shall
be made payable in not less than one year and within and not ex-
ceeding thirty-four years from the date of their issuance, and said
ordinance shall provide for a direct annual tax, sufficient, with other
revenue applicable thereto, to pay the interest and maturing
principal of said bonds within and not exceeding thirty-four
years. If any part of such bonds shall be issued to refund any out-
standing bonds, the amount of such bonds to be issued to refund
such outstanding bonds shall be stated in such ordinance. Notice of
the submission of such proposition shall be given by a proclama-
tion of the mayor, reciting and embodying said ordinance and
appointing a day on which an election shall be held by the qual-
fied voters of such city to vote for or against such proposition
for the issuance of such bonds pursuant to said ordinance. Said
proclamation shall be published in all daily newspapers in said
city for at least once a week for two successive weeks previous
to the day of such election. No other publication of such ordi-
nance shall be required. Such election shall be conducted, can-
vassed and the results ascertained in all respects according to
the laws governing elections for county and district officers. If,
upon the canvass of such election, it shall be found that three-
fifths of all the votes cast for and against the said bond issue
have been cast in favor of the issuance of said bonds, the mayor
shall issue a proclamation determining such fact, which procla-
mation shall be published in all daily newspapers of said city.
Such proclamation shall state the amount, date and maturities
of such bonds, and the purpose or purposes for which they are
to be issued, that all questions connected with the same have
been submitted to the qualified voters of the city, and that three-
fifths of all the votes cast for and against the issuance of such
47-a bonds have been cast in favor of their issuance, that a direct
annual tax sufficient to pay the interest and the maturing prin-
cipal of such bonds has been duly authorized and that said bonds
will be issued bearing the date named in said proclamation. After
the publication as aforesaid of any proclamation in the form
above prescribed, and after the delivery of and payment for the
said bonds therein specified, such proclamation shall constitute
the final declaration and conclusive evidence of the facts so re-
cited, and the validity of such election, or of the ordinance or
other proceedings calling such election, or authorizing such bonds,
shall not be called into question in any act or proceeding involv-
ing the validity of such bonds or of any tax to pay the interest
thereon, and the principal thereof, anything herein or in any
other statute, or act of the legislature to the contrary notwith-
standing. Notice of the sale of such bonds shall be published
at least once a week for two weeks prior thereto in a financial
paper published in the city of New York, in the state of New
York, in all daily newspapers published in said city, and in such
other paper or papers as the board of directors may direct, and
such bonds shall not be sold at less than their par value.

Terms of Office to End.

Sec. 159. The term of office of the mayor, the board of
affairs and the common council of said city of Fairmont shall
cease and determine whenever the members, or a majority of the
members, of the board of directors have been elected and qualified
and entered upon the discharge of their official duties as provided
in this act.

Sec. 159-a. This act shall not be effective unless the same
shall first be submitted to the voters of said city at a special elec-
tion called for the purpose and adopted by a majority of votes
cast at said election. Said election shall be held on the second
Tuesday in June, one thousand nine hundred and nineteen, and
this act shall be published in all daily newspapers published in
said city once at least ten days preceding said special election.
Said special election shall be conducted in the regular manner
for regular municipal elections by the board of affairs then in
office in said city; provided, however, that the commissioners of
said election shall be appointed by the judge of the circuit court
of Marion county. If this act is ratified or adopted at said special
election it shall then go into effect.
The ballots to be voted at said election shall be printed upon plain, substantial white paper and shall be in the following form:

CITY OF FAIRMONT.

Charter Amendments Election.

Indicate by a cross (X) in the square how you desire to vote. For adoption of new charter amendments. Against adoption of new charter amendments.

Sec. 150-b. All other acts and parts of acts coming within the purview of this act and inconsistent with this act are hereby repealed.

CHAPTER 23.

(Senate Bill No. 102—Mr. Coalter.)

AN ACT to amend and re-enact chapter one hundred and four of the acts of one thousand eight hundred and ninety-five, incorporating the city of Hinton, as amended by chapter one hundred and twenty-one of acts of one thousand nine hundred and one and chapter fifteen of the acts of one thousand nine hundred and fifteen of the legislature of West Virginia; to extend the limits of said city and define the powers thereof; and to repeal all acts and parts of acts inconsistent herewith; and an act to create and establish the independent school district of Hinton, in the county of Summers, and submitting the question to a vote of the people.

[Passed February 21, 1910. In effect from passage. Became a law without the Governor's approval.]

Sec. 1. The city of Hinton; city corporate and body politic.

2. Corporate limits described; city of Avils included.

3. City wards.

4. Municipal authorities.

5. Corporate powers.

6. Board of affairs; duties and powers.

7. Common council; how composed; additional ward may be created.

8. President of the common council.

9. City clerk ex-officio clerk of the common council.

10. Members of common council entering upon their duties.

11. Failure to qualify; vacancies; how filled.

12. Vacancy in office of president; how filled.

13. Right of veto conferred upon common council.

14. Hearings of charges against members of board of affairs; proof of charges; removals; filling vacancies.

15. Section 6 of article 4 of the constitution applied in removals.


17. Department of city government.

18. Providing for heads of departments.

19. Public offices to be maintained.

20. Mayor.

21. To cast lots in case of tie.

22. Vacancy in office of mayor; how filled.

23. Duties and powers of the mayor.

24. Duties and powers of commissioner charged with department of finance, taxation and streets.
Sec. 25. Duties and power of commissioner charged with department of records, public buildings and
grounds.

26. Duties and powers of commissioner charged with department of law.

27. Additional officers; how appointed.

28. Qualification of voters.

29. Registration of voters.

30. Nomination of candidates; convention; primary election or petition may be employed.

31. Nomination to fill vacancies.

32. Statement, by candidate, of political belief.

33. Election of officers; commissioners: fixing date of elections.

34. Election of members of common council.

35. Eligibility to office.

36. Results of election.

37. In case of tie vote in election.

38. Candidates elected must be of opposing political parties.


40. Conducted elections.

41. Oaths of officers.

42. Bonds of officers.

43. Terms and salaries of officers.

44. Terms of appointive officers.

45. Salaries of commissioners; payable monthly; forfeiture of salary.

46. Fixing salaries of appointive officers.

47. Day laborers.

48. Duties of appointive officers.

49. Meetings of the board of affairs.

50. Special meetings.

51. Vote: how taken.

52. Keeping of minutes of meetings.

53. Meetings of the common council.

54. Special meetings.

55. Attendance of witnesses; punishing contempts, etc.

56. Quorum. Board of affairs and common council.

57. Filling vacancies in office of commissioner.

58. Absence of officers.

59. Cannot hold other office.

60. Appointive officers cannot hold two offices.

61. Purchase of supplies for city government.

62. Police, judge and other officers.

63. Vote on franchise, ordinances, officers, contracts.

64. Franchise; when effective.

65. Ordinance; when effective.

66. Veto of franchise.

67. Tie vote on passage of franchise.

68. Publication of notices relative to franchises.

69. Publication of ordinance and collection of taxes.

70. Style of ordinance.

71. License; when required; fees for, etc.

72. Nuisances; abatement and removal of.

73. May require sewerage connections.

74. Sidewalks and shade trees; construction and repair of; requirements that may be made of property holders; assessments for payment.

75. Taxes, levies, assessments; method of levy and collection of taxes.

Sec. 76. Annual tax on real estate and personal property.

77. Taxes a lien on real estate; duties of the clerk in levying and collection of taxes.

78. Keeping in repair roads outside the corporate limits.

79. Assessment of capitation tax.

80. Depositing of city funds.

81-a. Paving of streets, roads and alleys.

82-a. Authority to issue bonds for specified purposes.

83. Payment by land owners for portion of paving.

84. Authority of board of affairs in regard to payment for paving.

85. Paying upon petition in writing of property owners.

86. Sewer construction: rules and regulations governing.

87. Release of liens.

88. Further right regarding issuing and sale of bonds.

88-a. Water works; may issue bonds for.

89. Cost of improvements to include cost of assessment, preliminary survey, printing, publishing, etc.

90. Describing lots and lands abutting upon improvements.

91. Publication of notice of assessment upon completion of improvement.

92. Charges against persons holding position in police department.

93. Code of laws and ordinances.

94. Non-partisan administration.

95. Service of notice.

96. Board of affairs successors to council.

97. Joint meeting of municipal officers of cities of Hinton and Avis for calling of special election: method of holding such elections.

98. Existing ordinances and records to obtain until new shall have been adopted.

100. City clerk custodian of records and papers.

101. Acts and parts of acts inconsistent with this act repealed.

102. Independent district of Hinton; schools.

103. Board of education.

104. Appointment of school commissioners by board of affairs: term of office.

105. Election of school commissioners or members of board of education.

106. Method of holding elections.

107. Nomination of candidates.

108. Statement by candidate of political affiliation.


110. Board of education a corporation; powers and duties.

111. Organization of board at first meeting; election of president and secretary.

112. Salaries of president and secretary of the board.

113. Meetings of the board of education; regular and special.

114. Making of estimates and laying of levies.
Be it enacted by the Legislature of West Virginia:

That chapter fifteen of the acts of one thousand nine hundred and fifteen entitled: An act to amend and re-enact chapter one hundred and four of the acts of one thousand eight hundred and ninety-seven, incorporating the city of Hinton, as amended by chapter one hundred and twenty-one of acts of one thousand nine hundred and one of the legislature of West Virginia, be amended and re-enacted to read as follows:

ARTICLE I.

The City of Hinton.

Section 1. That part of the county of Summers, included in the limits hereafter mentioned in sections two and three is hereby made a city corporate and body politic by the name of "The city of Hinton" and as such shall have perpetual succession and a common seal and by that name may sue and be sued, plead and be impleaded, purchase, lease, sell, and hold or own real estate and personal property necessary to the purposes of said corporation.

Corporate Limits.

Sec. 2. The corporation territorial limits of "The city of Hinton" shall be as follows, to-wit: Beginning at a stone post, corner for the lands of the Hinton heirs and the Central Land Company of West Virginia, now owned by the Hinton Water Light and Supply company, also corner for the corporation lines of the cities of Hinton and Avis, said stone post being marked "C. & O."; thence leaving said post north forty-six cast four thousand six hundred twenty feet to a beech on Grimmett's (now Brier's) branch, thence north forty-three west one thousand six
10 hundred seventeen feet, crossing the Chesapeake and Ohio railway's right of way to the edge of New river, at the mouth of 12 said Brier's branch; thence same course across New river to the 13 Raleigh county line; thence up New river with said Raleigh 14 county line to the corner of same at the mouth of Madams creek; 15 thence continuing up said New river at normal water line and 16 meanders of said river to a point opposite the south line of 17 the property of the Hinton-Bellevue Realty company, the same 18 being the south line of Riddleberger street in the town of Belle- 19 point; thence crossing New river to said south line of Riddle- 20 berger street, and with said street to the county road; thence in 21 a direct line to the Bellepoint reservoir; thence from and in- 22 cluding said reservoir in a straight and direct line southeasterly 23 to the northwest corner of the upper county bridge across Green- 24 brier river, about one mile from the mouth of said river, and 25 thence from said north-west corner of the bridge in a straight and 26 direct line to a stone marked "C. & O.," and now a corner for the 27 corporation line for the said cities of Hinton and Avis, being 28 the place of beginning, and shall include all of the territory now 29-30 in the cities of Hinton and Avis and all of the territory included 31 in the village of Bellepoint and outlying territory as hereinbefore 32 set out, bounded and described, and also all of the portions of 33 the rivers, islands, roads, railroads and railway tracks and rights 34 of ways, and all other rights of ways, lying outside as well as 35 inside of said cities of Hinton and Avis or the said village of 36 Bellepoint, or the additional outlying territory, as hereinbefore 37 set out and bounded as the new territorial limits of the city of 38 Hinton. And shall contain all of the territory now embraced 39 in the present city of Hinton, city of Avis, village of Bellepoint, 40 as shown by its map and plan, and the additional outlying terri- 41 tory adjacent to the village of Bellepoint, as hereinbefore set out, 42 bounded and described as the new territorial limits of "The city 43 of Hinton."

Sec. 3. The territory of the said city of Hinton shall con- 2 sist of seven wards, six of which shall be as they are now con- 3 stituted in the cities of Hinton and Avis, and the seventh ward 4 shall include the boundary above the sixth ward, now part of the 5 city of Avis, and the exterior line of the said city of Hinton, in- 6 cluding the village of Bellepoint and the adjacent outlying terri- 7 tory included in the boundary as hereinbefore set out and de-
It is provided, however, that the board of affairs, hereinafter provided for, after the expiration of two years from the time this act takes effect, may by ordinance fix the boundaries and increase or decrease the number of wards.

**ARTICLE II.**

**Municipal Authorities.**

Sec. 4. The municipal authorities of the city of Hinton shall be four commissioners, who shall constitute a board of affairs, (and common council hereinafter provided for in article three) and shall be known as the “board of affairs of the city of Hinton.”

**Corporate Powers.**

Sec. 5. All corporate powers of said city shall be vested in and exercised by the board of affairs, or under its authority, except as otherwise provided in this act.

**Powers of Board of Affairs.**

Sec. 6. The board of affairs of said city shall have and are hereby granted power to have said city surveyed; to open, vacate, broaden, change grade of, and pave streets, sidewalks and gutters for public use, and to alter, improve, embellish and ornament and light the same, and to construct and maintain public sewers and laterals, and shall in all cases have power and authority to assess upon and collect from the property benefited thereby such part of the expense thereof as shall be fixed by ordinance except as hereinafter provided; to have control of all streets, avenues, roads, alleys and grounds for public use in said city, and to regulate the use thereof and driving thereon, and to have the same kept in good order and free from obstruction, pollution or litter on or over them; to change name of any street, avenue or road within said city, and to cause the renumbering of houses on any street, avenue or road therein; to regulate and determine the width of streets, sidewalks, roads and alleys; to order and direct the curbing and paving of sidewalks, roads and highways for public use in said city to be done and kept clean and in good order by the owners of adjacent property; to prohibit and punish the abuse of animals; to restrain and punish vagrants, mendicants, beggars, tramps, prostitutes,
22 drunken or disorderly persons within the city, and to provide
23 for their arrest and manner of punishment; to prohibit and
24 punish by fine the bringing into the city by railroads or other
25 carriers, of paupers or persons afflicted with contagious dis-
26 eases; to control and suppress disorderly houses, houses of pros-
27 titution, of ill-fame, houses of assignation, and gaming houses
28 or any part thereof, and to punish within
29 said city or within one mile thereof slaughter houses, soap or
30 glue factories and houses of like kind; to control the construc-
31 tion and repair of all houses, basements, walls, culverts and
32 sewers, and to prescribe and enforce all reasonable regulations
33 affecting the construction of the same, and to require permits
34 to be obtained for such buildings and structures, and plans and
35 specifications thereof to be first submitted to a city architect or
36 building inspector; to control the opening and construction of
37 ditches, drains, sewers, cesspools and gutters, and to deepen,
38 widen and clear the same of stagnant water or filth, and to pre-
39 vent obstruction therein, and to determine at whose expense the
40 same shall be done; and to build and maintain fire station
41 houses, police stations and police courts, and to regulate the
42 management thereof; to acquire, lay off, appropriate and con-
43 trol public grounds, squares and parks, either within or without
44 the city limits as hereinafter defined, and when the board of
45 affairs determine that any real estate is necessary to be acquired
46 by said city for any such purpose, or for any public purpose,
47 the power of eminent domain is hereby conferred upon said
48 city, and it shall have the right to institute condemnation pro-
49 ceedings against the owner thereof in the same manner, to the
50 same extent and upon the same conditions as such power is
51 conferred upon public corporations by chapter forty-two of the
52 code of West Virginia of the edition of one thousand nine hun-
53 dred and six, and as now amended; to purchase, sell, lease or
54 contract for and take care of all public buildings and structures
55 and real estate including libraries and hospitals, deemed proper
56 for use of such city; and, for the protection of the public, to
57 cause the removal of unsafe walls or buildings, and the filling of
58 excavations; to prevent injury or annoyance to the business of
59 individuals from anything dangerous, offensive or unwhole-
60 some; to abate or cause to be abated all nuisances and to that
61 end and thereabout to summon witnesses and hear testimony;
to regulate the keeping of gunpowder, gasoline, dynamite and other combustible or dangerous articles; to regulate, restrain or prohibit the use of firecrackers or other explosives or fireworks and all noises or performances which may be dangerous, annoying to persons or tend to frighten horses or other animals; to provide and maintain proper places for the burial of the dead and to regulate interments therein upon such terms and conditions as to price and otherwise as may be determined; to provide for shade and ornamental trees and the protection of the same; to provide for the making of division fences; to make proper regulation for guarding against danger or damage from fires; to provide for the poor of the city, and to that end may contract with the proper authorities of Summers county to keep and maintain the poor, or any number thereof, upon terms to be agreed upon; to make suitable and proper regulations in regard to the use of the streets and alleys for street cars, railroad engines and cars, and to regulate the running and operation of the same so as to prevent injury, inconvenience or annoyance to the public; to prohibit prize fighting, cock and dog fighting; to license, tax, regulate or prohibit theatres, circuses, the exhibition of showmen and shows of any kind and the exhibition of natural or artificial curiosities, caravans, menageries and musical exhibitions and performances, and other things or business on which the state does or may exact a license tax; to organize and maintain fire companies and to provide necessary apparatus, engine and implements for the same; to regulate and control the kind and manner of plumbing and electric wiring for the protection of the health and safety of said city; to levy taxes on persons, property and licenses; to license and tax dogs and other animals and regulate, restrain and prohibit them and all other animals and fowls running at large; to provide revenue for the city and appropriate the same to its expenses; to adopt rules for the transaction of business and for its own regulation and government; to promote the general welfare of the city and to protect the persons and property of citizens therein; to regulate and provide for the weighing of produce and other articles sold in said city and to regulate the transportation thereof, and other things through the streets; to have the sole and exclusive right to grant, refuse or revoke any and all licenses for the carrying on of any business within said city on which
102 the state exacts a license tax; to establish and regulate markets
103 and to prescribe the time for holding the same and what shall
104 be sold in such markets, and to acquire and hold property for
105 market purposes; to regulate the placing of signs, billboards,
106 posters and advertisements in, on or over the streets, alleys, side-
107 walks and public grounds of said city; to preserve and protect
108 the peace, order, safety and health of the city and its inhabi-
109 tants, including the right to regulate the sale and use of cocaine,
110 morphine, opium and poisonous drugs; to appoint and fix the
111 places of holding city elections; to erect, own, lease, au-
112 thorize the erection of gas works, electric light works or
113 water works or ice plants, in or near the city, and to
114 operate the same and sell the products or service thereof,
115 and to do any and all things necessary and incidental to the con-
116 duct of such business, including the right in any franchise
117-121 hereafter granted; to provide for the purity of water,
122 milk, meats and provisions offered for sale in said city,
123 and to that end provide for a system of inspecting the same and
124 making and enforcing rules for the regulation of their sale, and
125 to prohibit the sale of any unwholesome or tainted milk, meats,
126 fish, fruit, vegetables, or the sale of milk containing water or
127 other things not constituting a part of pure milk; to provide
128 for inspecting dairies and slaughter houses whether in or out-
129 side of the city, where the milk and meat therefrom are offered
130 for sale within said city; to prescribe and enforce ordinances
131 and rules for the purpose of protecting the health, property,
132 lives, decency, morality and good order of the city and its in-
133 habitants, and to protect places or divine worship in and about
134 the premises where held, and to punish violations of such or-
135 dinances even if the offense under and against the same shall
136 constitute offenses under the law of the state of West Virginia
137 or the common law; to provide for the employment and safe
138 keeping of persons who may be committed in default of the pay-
139 ment of fines, penalties or costs under this act, who are other-
140 wise unable or fail to discharge the same, by putting them to
141 work for the benefit of the city upon the streets or other places
142 provided by said city, and to use such means to prevent their
143 escape while at work as the board of affairs may deem expedi-
144 ent; and the board of affairs may fix a reasonable rate per day
145 as wages to be allowed such persons until the fine and costs
against them are thereby discharged; to compel the attendance
at public meetings of the members of the board of affairs; to
have and exercise such additional rights, privileges and powers
as are granted to municipalities by chapter forty-seven of the
code of West Virginia of the edition of one thousand nine hun-
dred and six. For all such purposes, except that of taxation,
the board of affairs shall have jurisdiction, when necessary, for
one mile beyond the corporate limits of said city in all direc-
tions. Said city of Hinton as constituted by this act, shall re-
tain, keep and succeed to all rights, privileges, property, in-
terests, claims and demands heretofore acquired by, vested in
or transferred to said city of Hinton and said city of Avis, as
heretofore constituted.

And the board of affairs shall have the right to enter into
an article of agreement with the county court of Summers
county for joint action on behalf of the city of Hinton or any
portion thereof with the magisterial district or districts adjacent
to said city of Hinton, for the permanent improvement of streets
and roads within said city or magisterial districts. Said ar-
ticles of agreement may provide for the selling of bonds of said
magisterial district or districts including the city of Hinton, as
constituted under this act, or any portion thereof upon an af-
firmative vote of three-fifths of all the votes cast at a special
election called for this purpose by the authority of said county
court.

ARTICLE III.

Common Council.

Sec. 7. The city of Hinton shall have an additional board to
that provided for in Article II of this act to be known and styled
"the common council of the city of Hinton," and which shall be
composed of two persons from each ward in said city, and who
shall be voted for and elected by the qualified voters of each ward
respectively and in the manner hereinafter prescribed; provided,
that two councilmen at large shall be elected from the territory
now known as the city of Avis, and comprising the fifth and sixth
wards of the City of Hinton as herein constituted; that is to say
from the fifth and sixth wards of said city in addition to the two
councilmen provided for in each of said wards two additional
councilmen are to be elected, which will make the total number
of councilmen from these two said wards six, and the total number of councilmen in the new city of Hinton, sixteen. It is here pro-
vided that an additional ward may be created in the territory now comprised in the fifth and sixth wards upon a petition presented to the board of affairs and council of the city of Hinton, when signed by fifteen per cent of the voters of said wards. In the event that a new ward is created in the territory now comprised in the fifth and sixth wards the provisions herein for the election of two councilmen at large from said wards becomes null and void.

Sec. 8. The common council shall, at its first meeting after a majority of the newly elected members thereof shall have qualified, elect one of its members president of the body, whose term of office shall run with the term of the members of the body electing him.

Sec. 9. The commissioner charged with the duties of the city clerk shall be ex-officio clerk of the common council, and shall perform such duties pertaining thereto as the common council may require of him.

Sec. 10. Whenever a majority of the newly elected members of the common council shall have qualified, they shall enter upon the duties of their offices, as a body, and supersede all the former members of said councils of the city of Hinton and the city of Avis.

Sec. 11. If any persons elected to the common council fail to qualify as herein provided within ten days after his said election, or shall, after having qualified, resign from the council or move from the ward in which he was elected, his office shall be vacated, and the common council shall, by a majority vote of the members voting thereon, fill such vacancy for the unexpired term with some person from the same ward and of the same political party as the person whose vacancy of office is being filled.

Sec. 12. The common council shall, likewise by a majority vote of the members voting thereon, fill any vacancy in the office of president of its body by electing another member of the council to the office of president for the unexpired term.

Sec. 13. The right to veto any franchise or ordinance passed by the board of affairs is hereby conferred upon the common council, in the manner prescribed in article twelve of this act. Such veto shall be by a majority vote of all the members elected to said council (except as prescribed in section seventy-six of this act).
6 act), and the vote thereon shall be taken by roll call of the mem-
bers and entered of record in the minutes of the meeting.

Sec. 14. The common council shall have the right to hear,
2 consider and act on charges against any member of the board of
3 affairs, and after having heard proof of such charges, may remove
4 such commissioner and declare his office vacant by two-thirds of
5 all the members elected on said board, and the vote thereon shall
6 be by roll call of the members and entered of record in the minutes
7 of the meeting. But before such commissioner shall be put on trial
8 on said charges, he shall have at least ten days' written notice of
9 the nature of said charges, and the time and place of a hearing
10 thereon before said common council. In the common council, after
11 hearing of said charges, shall remove said commissioner from
12 office, thereby declaring a vacancy in his said office of commis-
13 sioner, it shall through its president or otherwise, cause its action
14 thereabout to be at once certified to the board of affairs.

Sec. 15. No commissioner shall be removed from his office
2 except for one of the causes mentioned in section six of article
3 four of the constitution of West Virginia.

Sec. 16. The common council shall make proper rules for its
2 government not contrary or inconsistent with any of the provi-
3 sions of this act or the authority vested in the board of affairs;
4 and it shall cause a record of its meeting and proceedings to be
5 kept and recorded by its clerk in a well bound book, which shall
6 remain in the custody and at the office of the commissioner
7 charged with the duties of city clerk, open to public inspection.
8 The minutes of the meetings and proceedings of said council, after
9 recordation and when signed by its president, shall be admitted
10 as evidence in any court of record in this state.

ARTICLE IV.

Departments of City Government.

Sec. 17. In order to better dispatch the business of the city,
2 and assign more in detail the duties of the members of the board
3 of affairs, the government of said city is hereby divided into four
4 departments, to-wit:
5 Department of fire, police, health and charity;
6 Department of finance, taxation and streets;
7 Department of records, public buildings and grounds;
Department of law.

Sec. 18. The mayor shall be the commissioner as herein-2 after provided in section twenty of article five, and shall be 3 charged with the department of fire, police, health and charity; 4 the commissioner receiving the highest number of votes of the 5 opposite political party to that of the mayor shall be the commis- 6 sioner in charge of the department of finance, taxation and 7 streets; the commissioner receiving the next highest number of 8 votes to that of the mayor and the same political party as the 9 mayor shall be the commissioner in charge of the department of 10 records, public buildings and grounds; and the fourth and re-11 maining commissioner and of the opposite political party to that 12 of the mayor shall be the commissioner in charge of the depart-13 ment of law, and the commissioners thus assigned shall be styled 14 the commissioner of his department and he shall have the imme-15 diate care and supervision of his department but subject always 16 to the control of the board of affairs. The business and the labors 17 incident thereto of each of the departments shall be that which 18 properly falls within the scope of the particular department. The 19 head of each department shall see to the performance of all the 20 business coming within his department or which may be referred 21 thereto or to any officer thereunder, from time to time.

Sec. 19. The commissioner of each department shall keep a 2 public office in the city at which he may be found or communi-3 cated with during stated hours to be fixed by him for the con-4 venience of the public, unless his official duties call him elsewhere.

ARTICLE V.

Commissioners' Duties and Powers.

Sec. 20. The commissioner receiving the greatest number of 2 votes at the general election for members of the board of affairs 3 shall, by reason thereof, be the mayor of the city.

Sec. 21. If two or more commissioners shall receive an 2 equal number of votes at such election they shall decide by casting 3 lots which of them shall be mayor, and until such decision shall 4 have been made the city attorney shall be the acting mayor of the 5 city with the powers and duties and salary of mayor while he so 6 acts, except he shall not vote on any question arising or coming 7 before the board of affairs.
Sec. 22. A vacancy in the office of mayor shall be filled for the unexpired term by the board of affairs by the election thereto of some member of their board; provided, that if such appointment be made at a time when there is also a vacancy on the board of affairs, said appointment shall hold only until the vacancy on the board of affairs shall have been filled, when the full membership of the board of affairs shall appoint some member of its board to the office of mayor for the unexpired term.

Sec. 23. The mayor shall have and exercise all rights, powers and duties of mayor conferred by the constitution and laws of this state, and all those conferred by the terms of this act, and no other. He shall be the presiding officer of the board of affairs, and he, in the capacity of commissioner, shall have the right to vote on any question arising before the board, but he, in the capacity of presiding officer of the board, shall not have any vote by which to decide a question on which there is a tie vote. He shall be the executive officer of the city, and shall see, except as herein otherwise provided, that the laws and ordinances of the city and resolutions and orders of the board of affairs are enforced, and that the peace and good order of the city are preserved, and that the persons and property therein are protected. He shall perform such other duties, if they be not inconsistent with the duties of the office of mayor or commissioner, as the board of affairs may from time to time prescribe.

Sec. 24. The commissioner charged with the department of finance, taxation and streets, shall have and exercise all the rights, powers and duties that have heretofore been assigned to the sergeant, the assessor and street commissioners, by the old charter and amendments thereto of the city of Hinton, and in addition he shall perform such other duties as shall properly come in his department either by this charter or the laws of the state.

Sec. 25. The commissioner charged with the department of records, public buildings and grounds, shall have and exercise all the rights, powers and duties now conferred and required by the present charter of the city of Hinton of the recorder, and shall perform such duties as herein required by the city clerk, and such other duties as shall be necessary for the proper discharge of his department as herein provided by the statute laws of the state, or as the board of affairs may from time to time prescribe.

Sec. 26. The commissioner charged with the department of
law shall have and exercise all the rights, powers and duties of the police judge as herein provided and as may be conferred by the constitution and laws of this state, and by the terms of this act.

ARTICLE VI.

Additional Officers.

Sec. 27. In addition to the municipal authorities mentioned in section four of this act, said city shall have a city attorney, chief of police, chief of fire department, health officer, and such other officers and agents as the board of affairs may from time to time create or employ. The election of all appointive officers named or provided for in this section shall be vested in the board of affairs, subject to the approval of common council.

ARTICLE VII.

Qualification of Voters.

Sec. 28. Every person qualified by law to vote for members of the legislature of the state, and who shall have been a resident of said city for sixty days preceding the day of election, and a bona fide resident of the election precinct in which he offers to vote, shall be entitled to vote at all elections held in said city by or under the corporate authorities thereof.

Registration of Voters.

Sec. 29. The board of affairs shall by ordinance provide for such regulations for registration of voters as may be necessary to comply with state laws.

ARTICLE VIII.

Nomination of Candidates.

Sec. 30. Candidates to be voted for at any municipal election for members of the board of affairs and members of the common council may be nominated by convention, primary or petition in the manner and under the provisions now or hereafter prescribed by state laws relating thereto. Provided, however, that no political party shall nominate more than three persons for the office of members of the board of affairs, no two of whom shall be from the
same ward, and no more than two persons in each ward of the city for the office of members of the common council. If any certificate of nomination, or any petition for nomination, of candidates for either the board of affairs or the common council shall contain more names than prescribed in this section for such office, then the ballot commissioners shall take the first three names for the board of affairs and the first two names for common council as the nominees of such party for said respective offices. And, provided, further, that there shall not be printed on any ticket or any ballot to be voted at any municipal election for the election of officers of the city more than three names for the office of members of the board of affairs nor more than two names for the office of members of the common council.

Sec. 31. In case of nomination of candidates to be voted for to fill vacancies on the board of affairs, no political party shall nominate more than double the number to be elected and such nominations shall be certified, and the names of the nominees printed on the ballot, in the manner prescribed in section thirty, herein.

Sec. 32. Every person so nominated for the office of commissioner, shall, within five days after his nomination has been certified by the political party making the nomination or a petition therefor shall have been filed, make, under oath, and file with the city clerk, a statement of the political party to which he claims allegiance, and, if nominated by two or more parties, he shall state to which of them he belongs. If such person fail to make the oath, and file the same, as herein prescribed, the ballot commissioner shall not place his name on the ballot to be voted at the approaching election.

ARTICLE IX.

Election of Officers.

Sec. 33. On the second Tuesday of December one thousand nine hundred and nineteen, and on the same day in every second year thereafter, there shall be elected by the qualified voters of the whole city four commissioners, who shall hold their offices from the time of their qualification on and from the first day of the next succeeding month for the term of two years, and until their successors are elected and a majority thereof shall have qualified.
Sec. 34. At the same election at which commissioners shall be elected, there shall also be elected by the qualified voters of each ward of the city two members of the common council who shall at the time be residents of the ward from which they are elected, and who shall hold their offices from the time of their qualification on and from the first day of the next succeeding month for the term of two years, and until their successors are elected and a majority thereof have qualified.

Sec. 35. No person shall be eligible to the office of commissioner or member of the common council except he be a citizen entitled to vote at the election at which commissioners are elected, and be a free-holder owning real estate within the city or assessed with personal property to the value of fifty dollars.

Sec. 36. Not more than two persons whose names appear on any ticket of the ballot being voted at an election for members of the board of affairs shall be elected to said office. The four candidates receiving the greatest number of votes shall be declared elected; provided, that not more than two of the four candidates receiving the greatest number of votes shall be of the same political party, and if more than two candidates of the same political party receive the greatest number of votes then the two of such party receiving the greatest number of votes shall be declared elected, and the votes for the other candidates of said party for said office shall be disregarded and the two candidates of other political parties voted for at said election who receive the next greatest vote shall be declared elected. And provided, further, that two of the members of the board of affairs shall be residents of the city of Hinton as constituted prior to this act must belong to different political parties, and the remaining two members of the board of affairs shall be residents of the additional territory herein included within the bounds of the city of Hinton.

Sec. 37. If the two or more candidates receive an equal number of votes for commissioner or member of the common council, the canvassing board, before whom said election returns shall have been canvassed, shall decide between them according to the provisions an intent of this act as to eligibility of candidates and political parties and tickets to which they belong.

Sec. 38. Not more than one person whose name appears on the ticket of any party being voted at an election for members of the common council shall be elected to said office. The two candidates receiving the greatest number of votes shall be declared
5 elected, provided, that not more than one of the two candidates
6 receiving the greatest number of votes shall be of the same po-
7 litical party.

Sec. 39. All elections of whatsoever kind, held under this
2 act shall be conducted, returned and the result thereof ascertained
3 and declared in the manner prescribed by the laws of the state
4 relating to elections in so far as they are not in conflict or incon-
5 sistent with the provisions of the act.

Contested Elections.

Sec. 40. All contested elections shall be heard and decided
2 by the board of affairs for the time being, and the contest shall
3 be made and conducted in the same manner as provided for in
4 such contest for county and district offices; and the board of affairs
5 shall conduct its proceedings in such cases as nearly as practicable
6 in conformity with the proceedings of the county court in such
7 cases.

Oaths of Officers.

Sec. 41. All officers, elective and appointive, shall take oath,
2 before some one authorized to administer oaths, that they will sup-
3 port the constitution of this state, and will faithfully and im-
4 partially discharge the duties of their respective offices, to the best
5 of their skill and judgment; and that they will not administer
7 their respective offices with the aim to benefit any political party;
8 and, in the case of commissioners, they shall add in their oath
9 that they will not during their term of office pecuniarily inter-
10 terested directly or indirectly, in any contract with the city, or the
11 purchase of any supplies therefor. When the officer shall have
12 made such oath in writing and filed the same with the city clerk,
13 and shall have given the bond required of and accepted from him,
14 he shall be considered as having qualified for the office to which
15 he was elected or appointed; provided, that if any person elected
16 to the office of commissioner shall not qualify for said office as
17 herein prescribed within ten days after he shall have been officially
18 declared elected thereto, said office shall ipso facto become vacant,
19 and said vacancy shall be filled in the manner provided for in this
20 act.

Bonds of Officers.

Sec. 42. Each member of the board of affairs, chief of police
2 and chief of fire department, shall, before entering upon the dis-
3 charge of their duties, give an official bond, conditioned for the
4 faithful performance of their respective duties as prescribed in this
5 act or any ordinance now or hereafter passed, in amounts as fol-
6 lows:
7 The commissioner exercising the powers of mayor, two thou-
8 sand dollars; the commissioner exercising the power of sergeant,
9 assessor and street foreman, ten thousand dollars; the commis-
10 sioner exercising the powers of city clerk, et cetera, one thousand
11 five hundred dollars; the commissioner exercising the powers of po-
12 lice judge, et cetera, five hundred dollars.
13 The board of affairs may require additional bond from any of
14 said appointive officers, and may likewise require a bond in what-
15 ever sum they may fix, of any other appointive officer. All bonds
16 of appointive officers shall, before their acceptance, be approved
17 by the board of affairs; and the bonds of the commissioners shall
18 be approved by the retiring board of affairs, (common council in
19 the first instance.) All other bonds of whatsoever kind shall not
20 be accepted until first approved by the board of affairs. The min-
21 utes of the meeting of the board shall show all matters touching
22 the consideration or approval of all bonds, and when said bonds
23 are approved and accepted they shall be recorded by the city clerk
24 in a well bound book kept by him at his office for that purpose,
25 which book shall be open to public inspection; and the recordation
26 of such bonds as aforesaid shall be prima facie proof of their cor-
27 rectness, and they, as so recorded, shall be admitted as evidence
28 in all the courts of this state. The city clerk shall be the custodian
29 of all bonds, except those given by him, and as to them the mayor
30 shall be custodian.
31 All bonds, obligations or other writing taken in pursuance of
32 any provisions of this act shall be made payable to "the city of
33 Hinton" and the respective persons, and their heirs, executors, ad-
34 ministrators and assigns bound thereby, shall be subject to the
35 same proceedings on said bonds, obligations and other writings,
36 for enforcing the conditions of the terms thereof, by motion or
37 otherwise, before any court of record held in and for the county
38 of Summers, that collectors of county levies and other sureties
39 are or shall be subject to on their bonds for enforcing the pay-
40 ment of the county levies.
Term and Salary of Officers.

Sec. 43. The term of office of a member of the board of affairs and a member of the common council shall be for two years, commencing on the first day of January next after the general election, and ending on the thirty-first day of December in the first year thereafter, that is, the first year after said year, and until their successors are elected and qualified.

Sec. 44. All appointive officers shall hold for the term of two years (unless sooner removed by and at the pleasure of the board of affairs) and until their successors are appointed and qualified.

Sec. 45. The salary of the commissioners shall be as follows:

The commissioner charged with the duties of the department of fire, police, health and charity, shall receive a salary not to exceed seven hundred and twenty dollars per annum; the commissioner designated and charged with the duties of the department of finance, taxation and streets, shall receive a salary not exceeding seven hundred dollars per annum, and two per cent. commission on all taxes and licenses collected except taxes paid by public service corporations, on which he shall receive no commission, unless the salary and commission from other taxes and licenses shall not be sufficient to make his yearly compensation fifteen hundred dollars, and in that event he shall be allowed so much commission on the taxes received from public service corporations to make his yearly compensation fifteen hundred dollars, but in no event shall the commission exceed two per cent. of the amount of taxes and licenses collected, whether the compensation amounts to fifteen hundred dollars per year or not; the commissioner charged with the duties of the department of records shall receive a salary of not exceeding the sum of three hundred and sixty dollars per year, and the commissioner charged with the duties of the department of law shall receive a salary not exceeding three hundred and sixty dollars per year; each and all of the salaries herein provided shall be payable monthly as their services shall have been rendered. Provided, however, that if the board of affairs fail or refuse to make their appointments of all appointive officers for a period of thirty days, said commissioners thereafter, and until such appointments shall have been made, shall forfeit their salary; and the mayor, city clerk and treasurer, or the commissioners charged with their respective duties, shall take official notice of such failure to fill said appointive offices, and shall not issue any order for nor otherwise pay to the commissioners
their salary for the period of their failure to make said appointments.

Sec. 46. The board of affairs may by ordinance fix the salaries of all appointive officers, which shall be subject to the veto of the common council, as provided in section thirteen.

Sec. 47. Laborers by the day and those doing special work may be paid by the board of affairs without fixing the price thereof by ordinance.

**Duties of Appointive Officers.**

Sec. 48. The duties, in addition to those prescribed herein, of all appointive officers named or authorized in this act, shall be prescribed by the board of affairs.

**ARTICLE X.**

**Meetings of Board of Affairs.**

Sec. 49. The board of affairs shall meet at some place provided for that purpose at least once each month on a stated day and at any hour fixed by ordinance or rules governing the board.

Sec. 50. Special meetings of the board may be called by the mayor or any two members of the board by personal notice given to the other members thereof, and like notice to the public through publication in two daily newspapers of the city of opposite politics, stating the time and object of the meeting; and no business, except that stated in said notice, shall be considered or acted upon at said meeting. All meetings of the board shall be open to the public.

**How Vote Taken.**

Sec. 51. The vote upon any question or motion before the board of affairs may be *viva voce* when unanimous; but if the question or motion does not receive the unanimous vote of the members present, then the vote shall be taken by roll call of the members and made a part of the minutes of the meeting; and when the vote is unanimous the minutes shall so state.

**Minutes of the Meeting.**

Sec. 52. The city clerk shall be ex-officio clerk of the board of affairs. Said board shall cause detailed minutes of its meetings and proceedings to be kept by the clerk in a well bound book for
that purpose, which shall remain in the custody of the city clerk at his office and open to public inspection. The minutes of every regular or special meeting shall be read publicly at the next regular meeting of the board, and after being corrected shall be signed by the mayor and city clerk, and if thus recorded and signed, they shall be admitted as evidence in any court of record in this state.

Meetings of the Common Council.

Sec. 53. The common council shall meet bi-monthly the first Monday of the month, at an hour and at a place to be fixed by it by the rules governing its body.

Sec. 54. Special meetings of the common council may be called by its president, or any nine members thereof, or by the board of affairs, or by the mayor, by a notice published in two daily newspapers of the city of opposite politics, on three consecutive days, stating the time and object of the meeting. The holding of a special meeting of the common council shall be prima facie evidence that the said notice required therefor was given as prescribed in this section.

Each member of the common council shall receive the sum of two dollars for each and every meeting of the council, either regular or special, at which he is in attendance.

Attendance of Witnesses, Punishing Contempts, Et cetera.

Sec. 55. The board of affairs and the common council in the exercise of their respective powers, and the performance of their respective duties, as prescribed by this act and by the laws of the state, shall have the power to enforce the attendance of witnesses, the production of books and papers, and the power to administer oaths in the same manner and with like effect, and under the same penalties, as notaries public, justices of the peace, and other officers of the state authorized to administer oaths under state laws; and said board of affairs and said common council shall have such power to punish for contempt as is conferred on county courts by section thirteen of chapter thirty-one of the code. All process necessary to enforce the powers conferred by this act on the board of affairs and common council shall be signed by the mayor (or acting mayor), and the president of the common council, respectively, and shall be executed by any member of the police force.
Quorum.

Sec. 56. A majority of the members of the board of affairs and a majority of the members of the common council shall be necessary for the transaction of business before said respective boards.

Filling Vacancies in Office of Commissioner.

Sec. 57. Whenever a vacancy or vacancies, from any cause whatever, shall occur in the office of commissioner, and the time for a regular municipal election, as provided for in section thirty-three herein, is not within one year therefrom, then the board of affairs shall call a special election at which the qualified voters of the city shall fill such vacancy or vacancies by the election of some person or persons thereto; but the person or persons so elected must be eligible to hold said office, and shall be of the same political party as the person he succeeds in office.

Such special election shall be governed by laws of the state relating to elections and as prescribed in this act for regular elections.

Sec. 58. If there shall occur at any one time more than two vacancies on the board of affairs, the common council, by a majority vote of all the members elected thereto, shall fill such vacancies for the time being, but the person so appointed shall be of the same political party as the commissioner whose office was vacated and is being filled; and in no event shall such appointment be made so as to give any political party a majority on the board of affairs; provided, before any such appointment shall become final the person so appointed shall make and file the oath required by section thirty-two of this act; and after the filing of said oath the common council may, if it so elects, by a majority vote of all members elected thereto, recall said appointments, or any one thereof, and such appointment from that time shall be void and of no effect, and the vacancy caused thereby shall be filled in the same manner and under the conditions prescribed in the first instance.

Commissioners thus appointed by the common council to fill vacancies on the board of affairs, shall, before entering upon the discharge of their duties, take the oath required of other officers of the city, and give the required official bond; and they shall hold their said offices only until their successors shall have been
22 elected and qualified as prescribed in section fifty-seven of this act.

Absence of Officers.

Sec. 59. When any member of the board of affairs, or any 2 appointive officer of the city shall from sickness or other cause 3 be unable, for a short space of time, to attend to the duties of 4 his office, the board of affairs, in case of the absence of a commis- 5 sioner, may designate another commissioner to attend to the duties 6 of such absent commissioner in addition to his duties already 7 devolving upon him in the capacity of commissioner; and in case 8 of the absence of any appointive officer, the board may appoint 9 some other officer of the city or other person to perform the duties 10 of such officer, during his absence, either with or without the 11 salary, in whole or in part, of such absent officer.

Cannot Hold Any Other Office.

Sec. 60. The members of the board of affairs shall not hold 2 any other city office, except as prescribed in this act, nor be an 3 employe of the city in any other capacity with a compensation, 4 nor hold any other office or position, with or without compensa- 5 tion, which may interfere with the faithful discharge of their 6 duties as commissioner.

Sec. 61. No appointive officer of the city shall hold two 2 official offices with the city at the same time, or shall become the 3 employe of the city in any other capacity, without first having 4 the consent of the board of affairs.

Purchasing Supplies.

Sec. 62. The board of affairs shall purchase all the supplies 2 for the departments of the city government at the lowest price 3 possible considering the quality and grade of the supplies desired. 4 And when practicable, the board shall advertise by reasonable 5 notice in at least two daily newspapers of opposite politics, for 6 bids on supplies to be furnished, and shall award contract therein 7 (unless all bids are rejected), to the lowest bidder, taking from 8 such bidder a written contract and bond therein, to be approved 9 by the board, for the faithful performance of said contract.

ARTICLE XI.

Police Judge and Other Officers.

Sec. 63. All persons elected or appointed to the offices named
2 in this act shall be conservators of the peace within said city, 3 and they, and any other officer provided for under this act, may 4 be given authority of police officers by the board of affairs.  
5 The commissioner herein charged with the powers and duties 6 of police judge shall be ex-officio, a justice of the peace, with au- 7 thority to issue warrants or other process for all offenses committed 8 within the police jurisdiction of the city of Hinton of which a 9 justice of the peace has jurisdiction under the state laws, and 10 for all violations of any city ordinances; in order to preserve the 11 peace and good order of the city, and protect the persons and 12 property therein, riotous and disorderly persons in the city may 13 be arrested and detained before issuing any warrant therefor. The 14 police judge may, without fees or other compensation, commit 15 persons charged with felony or misdemeanor to jail, or take bond 16 for their appearance before the grand jury of the circuit court of 17 Summers county; and he shall have power to issue executions 18 for all fines, penalties and costs imposed by him. And he may 19 require the immediate payment thereof, and in default of such 20 payment, may commit the person so in default to jail unless the 21 fine and penalty and costs shall be paid or satisfied, and to be em- 22 ployed during imprisonment as provided by this act. Any person 23 sentenced to imprisonment, or any person or corporation 24 assessed with a fine, shall be allowed to appeal from said decision 25 of the police judge in the same manner and under the same con- 26 dition as appeals are allowed from a justice of the peace, condi- 27 tioned that the person proposing to appeal will perform and satisfy 28 any judgment which may be recovered against him by the circuit 29 court on such appeal. If such appeal be taken, the warrant of 30 arrest, the transcript of the judgment, the appeal bonds and other 31 papers of the case shall forthwith be delivered by the police judge 32 to the clerk of the circuit court, and said circuit court shall proceed 33 to try the case as upon indictment or presentment, and render 34 such judgment, including that of costs, as the law and evidence 35 may demand.

ARTICLE XII.

Vote on Franchises, Ordinances, Officers, Et cetera.

Sec. 64. No franchise or ordinance shall be passed, and no 2 contract shall be awarded, nor any money appropriated for any 3 one purpose in a greater sum than twenty-five dollars, and no 4 appointments of any officer shall be made, nor any vacancy in
office declared without the affirmative vote of at least three members of the board of affairs.

Sec. 65. When any franchise shall have passed the board of affairs it shall not become effective until after the next regular meeting time of the common council, or a special meeting time of said body called to act on such franchise, and not then if said common council at such meeting time expresses its veto to said franchise, as provided in section thirteen of this act.

Sec. 66. If any ordinance passes the board of affairs, it shall become effective as therein prescribed, unless vetoed by the common council at its next regular meeting time, or special meeting time called to act on said ordinance.

Sec. 67. Whenever the common council shall express its veto of any franchises or ordinance passed by the board of affairs, it shall not later than the second day thereafter, cause such franchise or ordinance, with its veto thereof and its written reasons therefor, addressed to the board of affairs, to be transmitted to the city clerk, and the city clerk shall submit the same to the board of affairs, at its regular meeting, or special meeting called for that purpose, which shall be noted in the minutes of said meeting; but a failure to transmit such franchise or ordinance within said time shall not render such veto void. If the franchise or ordinance shall be changed and again passed by the board of affairs, it shall be treated as a new or original ordinance and subject to the veto power of the common council.

Sec. 68. If there shall be a tie vote on the passage of any franchise before the board of affairs, the mayor shall at once transmit such franchise, with a written statement that the vote on the passage of the same before the board of affairs was a tie, to the president of the common council, who shall lay the same before said common council at its next regular meeting time thereafter, or prior special meeting time called for that purpose. If upon consideration of said franchise by the common council a majority of all the members elected to said common council shall vote for the passage of said franchise as transmitted from the board of affairs, it shall be considered passed and adopted, and shall become effective as prescribed by the terms thereof. The common council, through its president or otherwise, after the expiration of the time for the consideration of said franchise, shall at once transmit the same, with the action of the
Section 69. Publication of notice to present franchise, and other preliminaries prescribed by the laws of the state relating thereto, shall be had in the manner prescribed by state laws before the board of affairs shall act on any such franchise; but the passage of any franchise shall be prima facie proof that such notice was given as prescribed by law.

Sec. 70. The word "franchise," whenever used in this act, shall include every special privilege in, under and over the streets, highways and public grounds of the city which does not belong to the citizens generally by common right.

The word "franchise," whenever used in this act, shall include every special privilege in, under and over the streets, highways and public grounds of the city which does not belong to the citizens generally by common right.

ARTICLE XIII.

Licenses.

Required to be done within the said county, the board of affairs may require a city license therefor, and may impose a tax thereon for the use of the city; and the board of affairs shall have the power to grant, refuse or revoke any such license of owners or keepers of hotels, carts or wagons, drays, and every other description of wheeled carriages kept or used for hire in said city, and to levy and collect tax thereon, and to subject the same to such regulations as the interest and convenience of the inhabitants of said city, in the opinion of the board of affairs, may require. The board of affairs, may, at its election, require from the person so licensed a bond, with approved security, payable to the said city in such penalty, and with such conditions, as it may think proper, and may revoke such license at any time if the condition of the bond is broken; and the board of affairs shall have authority to subject any person or persons, who, without having paid the tax imposed by the board of affairs for the privilege, shall do any act or follow any employment or business in the said city upon which the said board is or shall be authorized to impose a tax, to any
20 fine or imprisonment which it is or may be authorized to impose
21 or inflict for the enforcement of its ordinances; provided, that the
22 board of affairs under limit hereby made shall not fix the license
23 tax on automobiles at more than five dollars on each car or
24 machine.

Nuisances.

Sec. 72. The board of affairs of said city shall have authority
2 to abate and remove all nuisances in said city. It may compel the
3 owners, agents, assignees, occupants or tenants, of any lot, prem-
4 ises, property, building or structure, upon or in which any nuis-
5 ance may be, to abate and remove the same by orders therefor,
6 and by ordinance provided for the violation of such orders.
7 Said board of affairs may also by its own officers, appointees
8 and employes, abate and remove nuisances. It may by ordinance,
9 regulate the location, construction, repair, use, emptying and
10 cleaning of all water closets, privies, cesspools, sinks, plumbing,
11 drains, yards, pens, stables, and other places, where offensive or
12 dangerous substances, or liquids are, or may accumulate, and pro-
13 vide suitable penalties for the violation of such regulations, which
14 may be enforced against the owner, agents, assignee, occupant or
15 tenant, of any premises or structure where such violation may
16 occur.
17 If the owner, agent, tenant, assignee, or occupant of any
18 such premises, lot, property, building, or structure, as is men-
19 tioned herein, shall fail or refuse to abate or remove any such
20 nuisance, as mentioned herein, or to comply with the provisions
21 of any such ordinance, and the regulations herein contained, the
22 said board of affairs may have said nuisance abated or the pro-
23 visions of said ordinance or ordinances carried out, after reason-
24 able notice to said owner, occupant, tenant, agent or assignee of
25 its intentions so to do, and collect the expense thereof with one
26 per centum per month interest added from the date of said notice,
27 from the owner, occupant, tenant, agent or assignee by distress
28 or sale, in the same manner in which taxes levied upon real estate
29 for the benefit of said city are herein authorized to be collected,
30 and the expense shall remain a lien upon said lot, or part of lot,
31 the same as taxes levied upon real estate in said city; which lien
32 may be enforced by a suit in equity before any court having
33 jurisdiction, as other liens against real estate are enforced, and in
case of non-resident owners of real estate such notices may be served upon any tenant, occupant, assignee or rental agent, or by publication thereof for not less than two consecutive weeks in two newspapers of opposite politics, published in said city.

And in all cases where any tenant, occupant or agent is required to abate and remove any nuisance under the provisions of this section, or comply with the provisions of any such ordinance as is mentioned herein, the expense thereof may be deducted out of the accruing or accrued rent of said property, or amount due said owner from said agent, and such tenant, occupant or agent may recover the amount so paid from the owner, unless otherwise especially agreed upon.

Any expense incurred by the board of affairs, as herein provided, in the manner aforesaid, may be collected in the manner herein provided, notwithstanding the imposition of any other penalty or penalties upon any of the persons named herein, under any of the provisions of this act. The abatement or removal of any such nuisance by the board of affairs at the expense of said city, as herein provided, shall be prima facie proof that the said notice to the owner, occupant, tenant, agent or assignee, was given as herein prescribed.

Sec. 73. The board of affairs may require all owners, tenants, and occupants of improved property which may be located upon or near any street or alley along which may extend any sewer or system of sewerage, which the said city may construct, own privies, water closets, cesspools, drains, or sinks located upon their respective properties or premises so that their contents may be made to empty into such sewer or system of sewerage.

Sidewalks and Shade Trees.

Sec. 74. The board of affairs are authorized and empowered to cause to be put down a suitable curb of brick, stone or other material along and for the footways and sidewalks of the avenues, streets, roads or alleys of said city, and to order and cause the laying or relaying or repair of sidewalks and gutters of such material and widths as the board may determine, and the planting or replanting of and caring for shade trees along said avenues, streets and roads at such points and in such manner as the board may determine, and to require the owners or occupiers of the land or lots or parts of lots facing upon said avenues, streets,
roads or alleys to keep such sidewalks clean and in good repair, and to grade the plot of ground on either side of the sidewalk between the street curb and the property line and keep the same sodded with grass and free of weeds and obstructions and otherwise in good condition and repair. The owners or occupiers of the land or lots abutting upon such avenues, streets, roads or alleys shall not lay any such sidewalk, curb or gutter, or plant any such shade trees, unless specially required to do so by resolution adopted by said board, and then only in the manner prescribed by said board, but said city may lay such sidewalk, curb or gutter and plant or replant and care for said shade trees, or may let said work to contract, and in either case the total cost of said work, or such part thereof as the board may direct, shall be charged upon and against the land or lots abutting upon such avenue, street, road or alley, which assessment shall be and remain a lien upon said land or lots the same as taxes levied upon real estate in said city, which lien may be enforced by a suit in equity before any court having jurisdiction as other liens against real estate are enforced. The amount so assessed against any land or lot shall also be a debt against the owner of such land or lot, which may be collected as other debts are collected, in any court having jurisdiction, and shall be due and payable in ninety days from the completion and acceptance of such work as certified to by the board of affairs, with six per cent interest thereon from the date of such record acceptance. And in ascertaining the amount to be assessed against any corner lot for the cost of laying any such sidewalk and planting trees in front or alongside thereof, the board may assess the total cost of laying such sidewalk, and planting trees, in front or alongside said lot and extended to the curb or gutter of the intersection of the avenues, streets, roads or alleys at that point.

When such work is done by the city, and not let to contract, the board shall certify such assessments to the commissioner charged with the duties of sergeant, etc., of the city for collection, who shall account for the same as directed by the board or by ordinance, and the sergeant shall accept payment, when tendered, of the amount of said assessment with interest to the date of payment, and unless said assessments shall have been paid within ninety days from the date of such assessment, then a copy of such report shall be certified by the city clerk to the
clerk of the county court of Summers county, who is hereby re-
quired to record and index the same in the proper trust deed
book in the name of each person against whose property assess-
ments appears therein. If any such assessment shall not be paid
when due, the board of affairs shall cause to be enforced the pay-
ment of said assessment and interest in all respects as herein
provided for the collection of taxes due the city; and said as-
essment shall be a lien upon the property liable therefor, the
same as taxes, which lien may be enforced in the same manner
as provided for the sale of property for the non-payment of taxes
and tax liens; and the liens herein provided for shall have pri-
ority over all other liens except those for taxes due the state and
county, and shall be on a parity with taxes and assessments due
city. When such assessment shall have been paid in full,
and a lien therefor shall be of record in the county clerk’s of-
office, the sergeant shall execute and deliver to the owner of said
property a release of said lien, which may be recorded in the
office of the county clerk as other releases of liens are recorded.
The board may, if it so elect, let said work to contract, and
certificates may be issued for the amount of said assessments
which may be sold to the contractor doing the work, or other
persons, in full of the total cost, in the same manner as pro-
vided for paving certificates in section eighty-four herein; pro-
vided, the city, in negotiating and selling such certificates, shall
not be held as guarantor or in any way liable for payment there-
for, except upon the direct action of the board of affairs as ex-
pressed by resolution of record before such sale. Said certi-
ficates to be signed by the mayor and city clerk or other person
or persons designated of record by the board, shall bear date as
of the time when such work is accepted and certified by the
board of affairs, and shall be due and payable in ninety days
from date hereof, with six per cent. interest. When the board
shall have received said work, it shall at the same time make
said assessments upon written report; and at the end of ninety
days from date thereof, upon the demand in writing filed with the
city clerk of the holder or holders of the unpaid certificates issued
to cover said assessments, said city clerk shall certify a copy of
said report, only in so far as it relates to the owners against
whom said exhibited certificates remain unpaid, to the clerk of
the county court of Summers county, who shall record and index
the same as other liens of like kind are recorded and indexed, and the same shall be and remain a lien upon the real estate against which said assessments are made, as set out in said certified report, and said lien may be enforced, in the name of the holder of such certificate in the same manner as set out in section eighty-four in this act.

Before letting such work to contract, the board shall advertise the same once a week for two consecutive weeks in two newspapers of opposite politics published in the city of Hinton, or in one paper in case publication cannot be had in two such newspapers, setting out the time and place for receiving proposals for such work and referring to the specifications made therefor; and the city reserves the right, whether stated in such notice or not, to refuse any and all bids for the work. On refusal of said papers to publish said notice at reasonable rates, the board may, by resolution, direct how such notice may be given. The fact that such contract shall be awarded for said work shall be prima facie proof that said notice was given as required herein. Such lien, as represented by certificate, may be released of record in the office of the county clerk in the same manner as paving liens, represented by certificate, are released of record, as provided for in section eighty-seven herein; and no event shall such assessment be and remain a lien of record for a longer period than one year from the date set out in said certified report so recorded in the office of the county clerk, unless at the end of said one year period a suit shall be pending for the enforcement of said lien, or the amount thereof shall, in some way, be involved in a suit pending at the end of said one year period.

All such work, whether done by the city direct, or through contractors, shall be under the supervision of the street department of the city or some person designated for that purpose by the board of affairs.

If the owner or occupier of any such lot or land shall be required by the board to lay or relay, clean or repair any such sidewalk, curb or gutter, or shall be required to grade the space on either side of the side walk between the street curb and the property line, and keep the same sodded and free from weeds or obstruction, and otherwise in good condition and repair, written or published notice shall be given to such owner or occupier in
the manner provided by ordinance or resolution adopted by the board and the neglect or refusal of such owner or occupier to do the work, in the manner and within the time required by the board, as set out or referred to in said notice, shall be an offense and may be punished as provided by ordinance; and after the expiration of the time set out in said notice for the doing of said work, and the same remains undone, the board may do or cause to be done, said work and assess and collect the cost thereof in the manner, upon either plan, and to the full extent set out in this section.

**ARTICLE XIV.**

*Taxes, Levies, Assessments, Et cetera.*

Sec. 75. The board of affairs shall annually, before the levying of taxes provided for and authorized by this act, ascertain the total expense of said city to be provided for by levy for the fiscal year in which said levy is made, and it shall ascertain the sum of money necessary to pay interest accruing on the bonded indebtedness of said city, and to provide the necessary sinking funds, and what amounts it shall expend for the support of its various departments, and for the improvements of its streets, alleys, avenues and public grounds, or for its contingent expenses; and before making such levy it shall apportion the rate thereof among the several funds so ascertained and provided for, which apportionment shall be spread upon the records of said board and a copy of a statement thereof shall annually be published by direction of said board as soon as the same is recorded, in at least two newspapers of said city of opposite politics. And for the purpose of paying the interest on the present bonded indebtedness, and creating a sinking fund to pay off such indebtedness when due, that is now owed by the city of Hinton and the city of Avis before the enacting of this act the territory now comprising the city of Hinton and the territory now comprising the city of Avis shall each constitute a separate special levy district in which separate levy districts, a separate levy shall be annually laid by said board of commissioners to pay the interest and create a sinking fund in said respective districts to pay off and discharge the said bonded indebtedness of each of said cities respectively, and as soon as such indebtedness has been paid by such special levy aforesaid annually laid until said indebtedness of that district
26-27 shall also be abolished, so that the bonded indebtedness of each
28 of the municipal corporations, namely: Hinton and Avis, the
29 territory of each being embraced and included in this act, with the
30 accrued and accruing interest against each, shall be provided for
31 and paid out of levies on property and taxable subjects of each,
32 within the boundaries of said corporations respectively, as they
33 were respectively just prior to the passage of this act; and said
34 boundaries shall be observed and recognized in making levies and
35 assessments for the payment of said bonds and interest as separ-
36 ate taxable districts for said purposes only; and the territory em-
37 braced in this act, not within the boundaries of either of said
38 former municipalities, shall not become liable or taxed to pay any
39 part of the said indebtedness or interest thereon of either of said
40 corporations.

Sec. 76. The board of affairs shall have the authority to
2 levy and collect an annual tax on real estate and personal property
3 in said city, and to impose a license and assess a tax thereon on
4 wheeled vehicles for public hire and upon all dogs kept within said
5 city, and to impose a tax upon all other subjects of taxation un-
6 der the several laws of the state which taxes shall be uniform with
7 respect to persons and property within the jurisdiction of said
8 city, and shall only be levied on such property, real, personal and
9 mixed, and on capital, on which the state imposes a tax; pro-
10 vided, that no greater levy shall be laid by said board of affair-11 on the taxable property of said city than is now permitted to be
12 laid under the state law relating to municipalities, except, how-
13 ever, that the said board of affairs may, by the unanimous vote
14 of its members, by ordinance, lay an additional levy not to exceed
15 forty-five cents on the hundred dollars of all the taxable property
16 within said city, but said ordinance laying said additional levy
17 shall not become effective or operative if two-fifths of all the mem-
18 bers elected to the common council shall express a veto to said or-
19 dinance in the manner prescribed in article three of this act.

Sec. 77. All taxes assessed upon real estate within the said
2 city shall remain a lien thereon from the time the same are so
3 assessed, which shall have a priority over all other liens, except for
4 taxes due the state, county or district, and all taxes whether as-
5 sessed upon realty or personalty or otherwise may be enforced and
6 collected in the same manner and by the same remedies as now or
7 may hereafter be provided by law for the enforcement of liens and
8 levies for county taxes, or in such manner as the board of affairs
9 may by ordinance prescribe. And in levying of taxes and collection thereof, and the return of property delinquent for non-payment of taxes, the duties of the city clerk shall be similar to the duties of the county clerk of Summers county in that behalf; the duties of the sergeant in collection of taxes, licenses and moneys due the city and accounting for the same and the return of property delinquent for non-payment of taxes, shall be similar to the duties of the sheriff of Summers county; except the board of affairs may make such regulations and ordinances prescribing the duties of the city clerk and sergeant and their manner of performances as the board may deem necessary. And the board shall, through itself and such officers and employees as it may appoint or employ under such regulations and ordinances as it may enact not contrary to the laws of this state), having such authority and power as may be necessary for the levying and collection of taxes, tithables, fines, licenses, sewer and paving assessments owing the city, with power and authority to enforce the collection of such fines by imprisonment in the city or county jail.

Sec. 78. No taxes or levies shall be assessed upon or collected from the taxable persons or property within the corporate limits of said city, for the construction, improvement or keeping in repair of roads outside of said corporate limits, except as provided for in section six, article two of this act. And neither the county court of Summers county, nor the authorities of the district or districts in which said city is situated, shall have or exercise jurisdiction within the corporate limits with relation to the roads, streets, and alleys, except by article of agreement provided for in section six, article two of this act, but the same shall be and remain under the exclusive jurisdiction and control of the municipal authorities of said city, and said city shall be liable only for the construction, improvement, repair and good order of the roads, streets and alleys in its corporate limits.

Sec. 79. There shall be a tax of one dollar annually assessed on each and every male inhabitant of said city, over twenty-one years of age up to fifty years, by the board of affairs, and the same shall be set out and included in the personal property books against every such inhabitant, and shall be collected by the city treasurer or other officer of the city acting in lieu thereof and under the authority of the board of affairs, at the time of collecting other levies and taxes. All money collected under this section shall go...
9 into the street fund to be expended upon the streets, alleys, side- 
walks, drains, gutters and bridges of said city.

Depositng City Funds.

Sec. 80. It shall be the duty of the commissioner charged 
with the duties of the sergeant to keep all funds of the city in 
some bank or banks within said city which shall pay two per cent. 
or more per annum interest on such deposits, payable quarterly, 
based on the average daily balance of such funds in all accounts. 
If no bank within said city is willing at any time to receive de- 
posits of the sergeant and to pay such interest thereon, the sergeant 
shall report this fact to the board of affairs who shall thereupon 
designate a bank or banks in which he shall deposit said funds 
for the time being and until some bank in said city will receive 
such deposits said bank or banks shall give bond in the penalty 
prescribed by the board of affairs, and with sureties to be approved 
by said board, conditioned for the prompt payment, whenever law- 
fully required, of all the city moneys, or parts thereof which may 
be deposited with them, which bonds shall be renewed at such 
times as the board of affairs may require.

Street Paving.

Sec. 81-(a). The board of affairs of the city of Hinton 
may order and cause any avenue, street, road, or alley therein to 
be graded, or curbed, or recurbed with stone, concrete or other 
suitable material, or paved or repaved, between curbs, with brick, 
wooden blocks, asphalt or other suitable material, or to be graded 
and curbed or recurbed and paved or repaved as aforesaid, or to 
be macadamized, or to be otherwise permanently improved or re- 
paired, under such supervision as may be directed by ordinance 
or resolution, upon the best bid to be obtained by advertising for 
proposals therefor, except the city may do the work without 
letting it to contract as hereinafter provided in (d) of this sec- 
tion; and may purchase or condemn land for opening or widening 
avenues, streets, roads and alleys. The entire cost, or any part 
thereof designated by the board of affairs, of such grading, curb- 
ing and paving, or macadamizing, or other permanent improve- 
ments, of any of the avenues, streets, roads and alleys as afore- 
said, from and including the curb of either side thereof to the 
middle thereof, and the cost, or any part thereof, of purchasing 
or condemning land as aforesaid for street purposes, may be 
avessed to and required to be paid by the owners of the land, 
lots or fractional parts of the lots fronting or bounding on such
22 avenue, street, road or alley so improved, except as otherwise provided in (g) of this section.

24 (b) Payment is to be made by all land owners on either side of such portion of any avenue, street, road or alley so paved, opened, widened or improved in such proportion of the total cost as the frontage in feet of his abutting land bears to the total frontage of all the land so abutting on said avenue, street, road or alley or portion thereof opened, widened, paved or improved as aforesaid, but the cost of such paving or improvement of said avenue, street, road or alley (not including opening or widening) shall not include any portion or amount paid for the paving or improvement of the intersection of avenues, streets, roads or alleys, unless the work to be done, and the payment made therefor, as especially otherwise provided therein, as follows, to-wit:

26 (c) Upon petition in writing of the owners of not less than one-half in lienal feet of property abutting upon any avenue, street, road or alley in said city, asking the city to grade, curb, pave, or macadamize or otherwise to permanently improve such avenue, street, road or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvement abutting upon their property, as therein otherwise provided, but also offering to have their said property proportionately assessed with the total cost of the paving, grading and curbing, or macadamizing or other permanent improvement, of the intersections of the avenue, street, road or alley so paved or otherwise permanently improved, as petitioned for, the board of affairs may order such work to be done, as heretofore provided in this section, and the total cost thereof, including cost of intersection, to be charged to and paid by the owners of the property abutting on such avenue, street, road or alley, and that the paving assessment or certificate made or issued to cover the cost of paving, grading and curbing or otherwise permanently improving such intersections shall be made a separate and one of the last assessments or certificates due against him and their property so assessed; and the city may assume the payment of such assessment or certificate covering the cost of such intersections, or may reimburse the property owners paying the same out of its general levies for streets, but there shall be no legal obligation on the city to do so.

26 (d) The city itself may do such work and charge and collect the cost thereof in the manner set out in section eighty-two.
The decision of the city to do such work may be without notice or after the publication of the notice mentioned in this section, or after the rejection of all bids for the doing of the work.

(e) The cost of grading, curbing and paving, or otherwise improving, the intersections, or parts of intersections, of avenues, streets, roads or alleys, on the plans adopted by the board of affairs for such work, shall be paid by the city except as otherwise provided in paragraph (c) of this section.

(f) And if any such avenues, streets, roads or alleys be occupied by street car tracks or tracks of other railroads the cost of said improvement of the space between the rails and two additional feet outside of each rail shall be assessed to and borne and paid entirely by the person or company owning or operating such street car or other railway line, unless otherwise provided by the franchise of such street car or other railway company granted previous to the passage of this act.

(g) Provided, the board of affairs, if they so elect, may order and cause any avenue, street, road or alley, public park or public place to be widened, graded or changed in grade and curbed and recurbed, and paved or repaved, with brick, concrete, asphalt or other suitable materials, or macadamized, or otherwise permanently improved, including the construction of the retaining walls, sewers, drains, water pipes, water dam and water courses, in connection therewith, and may purchase land, or condemn land as provided in this act, for any public avenue, street, road or alley, or part thereof, for park or other public purpose and the board may assess all or any part of the entire cost of such improvement (or taking of land, or both) upon the abutting, adjacent, contiguous or other lots or land especially benefited.

The board of affairs, when they decide to order the improvements under this plan, shall, by ordinance or resolution before doing the same fix the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous and other specially benefited land or lot so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed improvements; and the board may, in fixing such assessment, take into consideration the assessed value of the lot or
land as fixed, for the last assessment year, for state and county
purposes.

(a) When the board of affairs shall deem it expedient and
proper to cause any avenue, street, road or alley, or any portion
thereof, in such city, to be graded, or graded and paved, curbed
or macadamized, or otherwise permanently improved, or land to
be acquired or taken for street purposes, as provided in (a) of
this section, or shall deem it expedient and proper to cause the
construction of any public sewer in or under any such avenue,
street, road or alley, or land or easement therein to be acquired
or taken therefor, or elsewhere, as provided in section eighty-six
of this act, they shall by ordinance or resolution, order the work
done, stating the method of payment thereof, and, if it be let to
contract, notice shall be in the following manner, to-wit:

(i) The notice for bids or proposals for doing such im-
provements, either for street improvements or the construction
of sewers, shall be published for at least fifteen days in two news-
papers of opposite politics, or in one newspaper if two such news-
papers be not published in the city. If the publication of the
notice cannot be procured in any newspaper in said city at rea-
sonable rates, then said notice may be given in the manner di-
rected by the board. Said notice shall state where and how the
bids or proposals shall be made; and whether so stated in the
notice or not, the city may reject any and all bids, for such pro-
posed work. Before advertising for bids on the work, the city
shall approve and adopt plans and specifications therefor, and
the advertisement for bids, and the contract awarded thereon,
shall refer to such plans and specifications. The fact that such
contract shall be let for said work shall be prima facie proof that
the notice mentioned above was given as required therein.

(j) The cost of said paving, macadamizing or other per-
manent improvement may be paid in one or two ways (to be
specified by ordinance by the board of affairs), either as set out
in section eighty-two or in section eighty-four of this act.

(k) If the abutting land on any such avenue, street, road
or alley, sought to be improved as aforesaid, or in which a sewer
is ordered laid, is not laid off into lots by a map or record, the
board of affairs, may, for the purpose of making the assessments
provided for in this section and section eighty-six therein, lay
off such lands into lots of such size as the board deems advisable
for the purpose of laying a proper assessment against such land.
Sec. 82. (a) Said city of Hinton is hereby authorized to issue its bonds for the purpose of providing for the cost of grading, paying and curbing, or macadamizing, or otherwise permanently improving the avenues, streets, roads and alleys of the said city, in anticipation of special assessment to be made upon the property abutting upon the avenues, streets, roads and alleys so improved. Said bonds may be in such an amount as shall be sufficient to pay the entire costs and expenses of said improvements for which such special assessments are to be levied; and the said city is authorized to sell said bonds, but not below the par value thereof, and said bonds shall bear interest not to exceed six per cent. per annum, payable annually; and in the issuance and sale of said bonds the said city shall be governed by the restrictions and limitations of the constitution of this state, and the restrictions and limitations of the laws of this state, relating to the issuance and sales of bonds, so far as such state laws are not in conflict with the provisions of this act; and the assessments as provided for and required to be paid herein shall be applied to the liquidation of said bonds and interest thereon, and if, by reason of the penalties collected with the delinquent assessments, there be any balance after the payment of the bonds and all accrued interest and costs, it shall be turned into the city treasury to the credit of the interest and sinking fund of the city.

But said city shall not become indebted in any manner or for any purpose to an amount including existing indebtedness, in the aggregate exceeding two and one-half per centum of the value of all the taxable property therein, as provided in chapter fifty-one of the acts of the legislature of one thousand nine hundred and five, except for the purpose of grading, curbing, paving, macadamizing, or otherwise permanently improving the avenues, streets, roads, and alleys therein, or constructing sewers therein or elsewhere, or acquiring or taking land or easement therein for street and sewer purposes, as provided for in this act, and for that purpose in estimating "existing indebtedness," special assessment bonds representing the cost of paving or other permanent improvements of streets, roads or alleys, or the construction of sewers, or acquiring or taking land for such purposes, and the cost of which is assessed against the abutting property on such avenues, streets, roads or alleys, or especially benefited property adjacent thereto, or on such owner, shall not be included; and likewise the amount in any sinking fund, or the amount invested therefor as provided by law, for
the payment of outstanding bonds, shall not be included in the
estimate of existing indebtedness; provided, that the aggregate of
its debt of every kind whatsoever, including such special street
permanent improvement bonds, or sewer bonds, shall not exceed five
per centum of the value of all taxable property therein.

(b) And it shall be the duty of the board of affairs to im-
mediately certify such assessments to the sergeant for collection,
as herein provided; and for the purpose of facilitating the collec-
tion of such assessments against the properties herein, the board
of affairs may issue assessment certificates, with interest coupons
attached thereto, to be delivered to and charged against the city
sergeant who shall collect the same, and as such certificate and
coupons are paid he shall deliver the cancelled certificates to the
party paying the same. A copy of said order shall be certified by
the city clerk to the clerk of the county court of Summers county,
who is hereby required to index the same in the proper trust deed
book in the name of each person against whose property assess-
ments appear therein.

(c) The amounts so assessed against said abutting lots and
owners thereof, respectively, shall be paid in ten payments, as fol-
low, that is to say, one-tenth of said amount, together with inter-
est on the whole assessment for one year, shall be paid into the
city treasury of the city before the first day of the following Jan-
uary; and alike one-tenth part, together with interest for one year
upon the whole amount remaining unpaid before the first day of
January in each succeeding year hereafter, until all shall have
been paid. Each of said installments of one-tenth shall bear in-
terest at six per centum per annum payable annually from the
date of assessment. Provided, however, that the owner of any
land, so assessed for the cost of the paving of said avenue, street
road or alley, shall have the right at any time to anticipate and
pay the whole of such unpaid assessment and interest thereon until
the first day of the following January, and have the lien against
the property so assessed released as hereinafter provided.

(d) If any such assessment shall not be paid when due, the
board of affairs shall cause to be enforced the payment of said
assessment and interest in all respects as herein provided for the
collection of taxes due the city; and said assessments shall be a
lien upon the property liable therefor the same as for taxes, which
lien may be enforced in the same manner as provided for the sale
of property for the payment of taxes and tax liens; and the liens
(e) When all of said assessments for grading, paving and curbing, or macadamizing, or other permanent improvements shall be paid in full to the sergeant, he shall deliver to the owner of said property a release of the lien therefor, which may be recorded in the office of the clerk of the county court as other releases of liens are recorded.

Under this plan for the payment of the cost of such permanent improvements of avenues, streets, roads and alleys, and the construction of sewers, the contractor (if the work is let to contract) shall look only to the city for the payment of the work, and in no sense to the abutting land owners.

(f) The board of affairs may contract for such paving (including grading and curbing), or other said improvements to be 99 as aforesaid, and may acquire or take land for street purposes, as aforesaid, and may, if the board so elect, stipulate that the costs thereof, in whole or in part, shall be paid in installments by the abutting property owners, as provided in (a) of section eighty-one, or specifically benefited property owners, as provided in (g) of said section, in five equal installments, to be evidenced by five paving certificates issued therefor, payable in thirty days and one, two, three and four years, respectively, after the date of their issue, and shall bear interest not to exceed six per centum per annum, payable annually, which certificate, to be signed by the mayor and the clerk, or other person or persons designated of record, by the board, may be sold, either to the contractor doing the paving or other of said improvements, or to any other person, and which shall cover the entire cost of such work, or the cost of acquiring or taking land for street purposes, including the cost of surveys, notices and other things pertaining thereto; provided, the city in negotiating and selling such certificates, shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of affairs as expressed by resolution of record before such sale. And the certificates covering the amount of the assessment shall be paid by the owner of the land, lot or fractional part thereof, so assessed for the cost of said improvement on such avenue, street, road or alley so paved or improved, of land acquired or taken, as aforesaid. The amount specified in said assessment certificate shall be a lien as
125 aforesaid in the hands of the holder thereof upon the lands, lot or
126 part of lot so assessed, and shall also be a debt against the owner
127 of such real estate, and said amount shall draw interest from the
128 date of said certificate, payable annually, and the payment of the
129 debt may be enforced as provided by law for the collection of
130 other debts, or such lien may be enforced as provided in this act
131 in the name of the holder of such certificates.
132 After a contract has been made by the board to pave or other-
133 wise permanently improve any public road, avenue, street, or alley
134 in said city under this act, and the paving or other permanent
135 improvements, or any stipulated part thereon, has been completed,
136 or the cost of acquiring or taking land, as aforesaid, has been
137 ascertained, the board shall assess the amount each lot shall bear
138 and shall make a written report, stating the number of lots and
139 the blocks or tracts of land when not laid off into lots and the
140 names of the owners such lots or land when known, and the
141 amount assessed theron, and when the said board approves said
142 report, or modifies it and then approves it, a copy of said report
143 so adopted by the board, when certified to by the city clerk, of
144 said city, may be recorded in the clerk's office of the county court
145 of Summers county in a trust deed book, and shall be a continuing
146 tax lien upon the lot or land against which the assessment is made
147 until the certificates as aforesaid are paid. except as otherwise
148 provided in section eighty-seven of this act, and the clerk shall
149 index the same in the name of each lot or land owner mentioned
150 therein.

Sec. 83. Payment is to be made by all land owners on either
2 side of such portion of any avenue, street, road or alley so paved
3 or improved in such portion of the total cost (less the portion,
4 if any, chargeable to the street or other railway company) as the
5 frontage in feet of his abutting land bears to the total frontage
6 of all the land so abutting on said avenue, street, road or alley or
7 portion thereof paved or improved as aforesaid; but the cost of
8 such paving or improvement on said avenue, street, road or alley
9 shall not include any portion or amount paid for the paving or
10 improvement of intersections of avenues, streets or alleys.
11 The amount of assessment to be paid by the owner of the lot, or
12 road or alley, or portion thereof, shall have been completed, under
13 the contract awarded therefor, the board of affairs shall cause the
14 several frontages abutting thereon to be measured, and cause the
15 assessment upon each owner of land abutting thereon to be calcu-
lated, showing the proper amount to be determined as provided in the foregoing plan; and the said board of affairs shall enter the same together with the description of the lots of land as to location, frontage and ownership, upon its record, and direct on its records that such owners and lots be assessed and chargeable with the amounts so ascertained to be borne by them, respectively, and when so approved and entered of record the same shall be and constitute an assessment against said owners and lots for such respective amounts.

Sec. 84. The board of affairs may, if they so elect, cause the costs of any such grading, paving, curbing or macadamizing or other permanent improvements, to be paid in the following manner, to-wit:

Whenever the board of affairs shall contract for such paving or other permanent improvement to be done, and that it shall be paid in installments by the property owners, fronting on such streets, avenues, or alleys as aforesaid, the board may cause the mayor and city clerk to issue to the contractor doing the paving, or other said improvement, a certificate for each installment of the amount of assessment to be paid by the owner of the lot, or fractional part thereof, fronting on such street, avenue, road or alley; and the amount specified in said assessment certificate shall be a lien as aforesaid in the hands of the holder thereof, upon the lot or part of lot fronting on the street, avenue, road or alley so improved, and said amount shall draw interest from the date of said assessment, and the payment may be enforced as set out in this act, in the name of the holder of such certificate; and after a contract has been made by the board to pave or otherwise permanently improve any public highway, street or alley in said city, under this act, and paving or other permanent improvements, or any stipulated part thereof, has been completed, the said board shall assess the amount each lot shall pay for the improvement so made, and shall make a written report, stating the number of lots and the blocks and the names of the owners of such lots when known and the amount assessed thereon; and when the said board approves said report, or modifies it and then approves it, a copy of said report, so adopted by the board, when certified to by the city clerk of said city, may be recorded in the clerk's office of the county court of Summers county, in the trust deed book, and shall be a continuing tax lien upon the lot against which the assessment is made, until the certificates as aforesaid are paid, and the clerk
33 shall index the same in the name of each lot owner mentioned therein; and upon the presentation by the lot owner of all the certificates issued as aforesaid against the lot owner, the clerk of said court shall mark upon the margin of the book in which said certified report is recorded, that the lien is released as to the lot mentioned in the certificate produced.

The board of affairs may order any such avenue, street, road or alley, between the curbs and between designated points, to be graded or graded and paved or otherwise permanently improved in the manner authorized and provided in section eighty-one hereof, and may order proper curbs or stone, cement or other suitable material to be set on both sides of the avenue, street or alley so paved or improved, and the entire cost of grading, paving and setting curbs may be assessed to the owners of the lots or fractional parts of the lots fronting or bounding on such avenue, street or alley between such designated points in proportion to the distance so fronting or bounding owned by each, except the cost of intersection, which shall be borne and paid by the city. The cost of such grading, paving and setting of curbs to be borne by the abutting owners as herein provided, shall be paid in installments as provided in section eighty-two hereof, and shall become liens and be enforcible as provided by section eighty-two hereof and the work hereby authorized to be done by the board of affairs and the assessment therefor, hereby authorized to be made, shall be subject to sections eighty-one and eighty-two hereof, and the board shall proceed in relation thereto in accordance with said sections eighty-one and eighty-two.

Sec. 85. Upon the petition in writing of the owners of not less than one-half in lineal feet of property abutting upon any avenue, street or alley in said city asking the board of affairs to grade, curb, pave or macadamize or otherwise permanently improve such avenue, street or alley, and offering in said petition to have their property so abutting as aforesaid assessed not only with their part of the cost of such improvements abutting upon their property as provided for in section eighty-one of this act, but also offering to have their said property proportionately assessed with the total cost of the paving, grading, curbing or macadamizing or other permanent improvements of the intersection of the avenue, street or alley so paved or otherwise permanently improved as petitioned for, the board of affairs may order such avenue, street or alley to be paved or otherwise permanently improved as provided in section
eighty-one herein and the paving certificates issued to cover such
intersection shall be made separate and the last certificate due
against them and their property so agreed to be assessed; and the
city may pay such last mentioned certificate, or may re-imburse
the property owners paying the same, out of the general levy for
streets and wharves, but there shall be no legal obligations on said
city to do so.

Sewer Construction.

Sec. 86. The board of affairs of said city are authorized and
empowered to order and cause to be constructed in said city, of
part within and part outside the limits of said city, any public
sewer, either main or lateral, or both, by contract, or direct by
the city, for the benefit of said city or any part thereof, and to
purchase land or easement therein, or to condemn land or ease-
ment therein, in the manner provided in this act, for such sewer;
and when the board shall order the construction of any such sewer
or any part thereof in said city, the owners of the property abut-
ting thereon, or abutting upon an avenue, street, road or alley, in
which such sewer shall be constructed, or abutting on any land or
easement therein specially procured for the purpose of the con-
struction of a sewer therein, may be charged with all or any part
of the cost thereof, including the cost of such sewer at and across
intersections at avenues, streets, roads and alleys adjacent thereto.
If said work is let to contract, the provision of (i) of section
eighty-one shall apply.

When said sewer is completed in any block, or between two
designated points, the board of affairs shall cause a report to be
made in writing, setting out the total cost of such sewer and
a description of the lots or lands as to location, frontage and
ownership liable therefor, including the cost of acquiring or
taking land or easement therein for such purposes and cost of sur-
vey, notices, etc., therefor, together with the amount chargeable
against each lot or piece of land and the owner thereof. If any
lot fronts on two streets, or on a street and a road, or on a street
(or road) and alley, in which a sewer is constructed, it may be
assessed on both said street, or street and road, or street and alley.
Said board shall enter an order upon its records setting forth the
location and owner of each lot or piece of land, and the amount of
said sewer assessments there against, calculated in the same way
as provided for street paving in (g) of section eighty-one herein.
The entry of such order shall constitute and be an assessment for such proportionate amount so fixed therein against said respective lots and land and the owners thereof; and said board shall thereupon certify the same to the treasurer for collection; and for the purpose of facilitating the collection of such assessments against the properties herein, the board of affairs may issue assessment certificates, with interest coupons attached thereto, to be delivered to and charged against the city treasurer who shall collect the same, and as such certificates and coupons are paid he shall deliver the cancelled certificates to the party paying the same; and the city clerk shall file a certified copy of said order with the clerk of the county court of Summers county, who shall record same in the proper trust deed book and index the same in the name of each owner of any lot or land thus charged with said assessment and the assessments so made shall constitute and be a lien upon said lots or land, respectively, which shall have priority over all other liens except those for taxes due the state and county, and shall be on a parity with other taxes and assessments due the city.

The amounts so assessed against said abutting lots of land, and which shall be a lien there against, shall be collected in the manner provided in this act for the collection of paving liens. Said assessments shall be divided into three installments, each for one-third of the amount thereof, and the first due and payable in thirty days, the second in one year, and the third in two years, from the time of certifying the same to the sergeant except as hereinafter provided in this section, all bearing interest at six per centum per annum from such date, payable annually; and the board of affairs may issue sewer certificates thereon, as of said date, as further evidence of said indebtedness and lien therefor, and said certificates may be sold or negotiated, at not less than par and without any kind of discount, to the contractors doing such work, or other person if the board deem it expedient: provided, the city in negotiating and selling such certificates shall not be held as guarantor or in any way liable for payment thereof, except upon the direct action of the board of affairs as expressed by resolution of record before such sale. But the owner of the land or lot so assessed may at any time anticipate and pay such assessment or certificate with interest thereon on the whole unpaid amount until the time when the next certificate shall become due. If such assessment shall not exceed fifteen dollars,
it shall be in one amount, due and payable thirty days from date; if more than fifteen dollars and less than thirty dollars, then in two installments of equal payments, due and payable in thirty days and one year, respectively, from date; and if more than thirty dollars, then in three equal installments and payable as first aforesaid.

Provided, the board of affairs may, if they so elect, order and cause the construction of any such sewer, and may acquire or both, for said sewer purposes, and assess all or any part of the cost thereof upon and against the abutting, adjacent, contiguous and other lots of land especially benefited by the construction of such sewer, and said assessment shall be a lien upon such lots or lands, and a debt against the owners thereof for the amount so charged against them respectively, which debt may be collected as provided by law for the collection of other debts of like kind, and which lien may be enforced in the same manner as provided for the enforcement of paving liens in this act.

The board of affairs, when they decide to order the construction of the sewer under this plan, shall, before doing the same fix, by ordinance or resolution, the total amount of the special benefits to be derived from such improvements to the abutting, adjacent, contiguous, and other specially benefited land or lots so assessed, setting out the names of the owners, the amount of the special benefits, and the approximate amount of the total cost of the proposed sewer, and the board may, in fixing such assessments, take into consideration the assessed value of the lots or land as fixed, for the last assessment year, for state and county purposes.

### Release of Liens.

Sec. 87. In addition to the provisions for the release of said assessment liens, either for street paving or other permanent street improvements, or construction of sewers, as elsewhere set out in this act, on the presentation by the land or lot owner of any of the certificates issued as aforesaid against him or his predecessor in title to such lot, and clerk of the county court shall mark upon the margin of the trust deed book at which said certified report is recorded, that the lien is released to the land or lot mentioned in such certificate to the extent of the amount of the certificates thus exhibited; and the county clerk shall thereupon
11 write across the face of each of said certificates the date of their
12 production to him for the release of lien and shall sign his name
13 thereto in his official capacity for which he shall receive in ad-
14 vance a fee of twenty-five cents for each certificate so marked,
15 from the person demanding the release of the lien aforesaid; but
16 if more than one of the serial certificates against the land or lot
17 or lots shall be produced at the same time, the fee of the county
18 clerk shall not exceed twenty-five cents for the release of the liens
19 as to all the certificates thus produced and relating to the same
20 real estate.
21 Provided, that the owner of any lot or land against which
22 any paving or sewer certificate is an unreleased lien of record
23 shall make and produce to the county clerk an affidavit, or some
24 person for such owner shall make and produce such affidavit, set-
25 ting out therein that such certificate (or certificates) has been paid
26 in full, and after diligent search, cannot be found, said county clerk
27 shall, upon the payment of a fee of twenty-five cents, file and
28 preserve said affidavit as a public document and shall forthwith
29 note the release of said lien to the extent of said lost certificate
30 (or certificates) and the lots or land against which it is a lien
31 upon the margin of the trust deed book, as aforesaid, and noting
32 therewith the filing of said affidavit, which shall operate as a re-
33 lease of such lien to the extent of such marginal notation. If
34 the affidavit so filed be false, the person making oath and sub-
35 signing thereto shall be guilty of a felony, and upon conviction
36 thereof shall be fined not to exceed five hundred dollars, or sen-
37 tenced to be confined in the penitentiary for a term of not more
38 than one year, or both, in the discretion of the court passing
39 sentence.
40 Provided, further, that any paving or sewer lien, which may be
41 created in consequence of the provisions of this act, or any lien,
42 which may have heretofore been created in consequence of any
43 act of which this is an amendment, for an assessment, the last
44 payment of which is not yet due, shall not, under any circum-
45 stances, be a lien against the lot or land or fractional part of
46 the lot or land, against which it may have been assessed and
47 made a lien, for a longer period than one year after the last as-
48 sessment or certificate of the same date and group, representing
49 such lien, shall have become due and payable, unless some suit
50 or action, at the termination of said one year period, shall be
pending for the enforcement of such lien, or unless the amount
of the lien or some part thereof is in some way involved in a suit
or action pending at the end of said one year period; and further,
that no such paving or sewer lien heretofore placed to record in
said county court clerk's office for an assessment, the last payment
of which is past due, shall remain or be a lien against the real
estate therein described for a longer period than one year from
the time this act takes effect, unless a suit shall be pending at
the end of each one year period for the enforcement of said lien,
or the amount thereof shall in some way be involved in some ac-
tion then pending.

All of the assessment certificates, which may be issued under
the provisions of the act, shall be made payable at the office of
the treasurer, who shall receive payments thereon when due, if
tendered to him, and interest thereon from the date of such pay-
ments shall cease. The treasurer shall keep a separate and special
account of all said sums of money received by him, and he shall
hold said money in trust for the persons who thereafter deliver
the certificate for cancellation any and all certificates on which
said treasurer has received full payment as aforesaid; but the
owner of said certificates shall not be entitled to interest on said
sum after the date of payment thereof to the treasurer. When
the whole amount of any such assessment lien shall have been
paid to the treasurer as aforesaid, or the treasurer shall be con-
vinced that all of the paving or sewer certificates against any
land, lot or fractional part of lot, shall have been paid in full,
he shall, when demanded, execute a release of said lien in the
manner hereinbefore provided for the release of paying liens.
If the city shall have no person for treasurer, the sergeant, un-
less some other person is designated by ordinance, which the
board of affairs is hereby authorized to enact, shall perform the
duties here required to be performed by the treasurer.

Sec. 88. It shall be lawful for said city of Hinton to issue
and sell its bonds, as provided in this act for the sale of other
paving and sewer bonds, to pay the city's part of the cost of the
construction of said sewers and the paving or other permanent
improvements of streets and alleys, as required by this act; and
said city may levy taxes, in addition to all other taxes, author-
ized by law, to pay such bonds and interest thereon; provided,
that the total indebtedness of the city for all purposes shall not
9 exceed five per centum of the total value of all taxable property
10 therein.
11 It is especially provided that no bonds shall be issued under
12 the provisions of this act, unless and until the question of issuing
13 said bonds shall have first been submitted to a vote of the peo-
14 ple of said city, and shall have received three-fifths of all votes
15 cast at said election for and against the same. The board of
16 affairs of said city may provide by ordinance for submitting
17 to the people at any regular election, or special election called
18 for that purpose, the question of whether or not said city shall
19 be authorized to issue bonds for the purpose specified in this act;
20 but the ordinance relating to the issuance of said bonds, and the
21 submission of the same to the vote of the people, need not specify
22 in detail the location of the improvements contemplated to be paid
23 out of said aggregate issue authorized thereby; and if at such
24 election the people, by their vote thereon, shall authorize the issu-
25 ance of said bonds, said board of affairs may order the sale of
26 same, as needed for said improvements, dealing with all the re-
27 quirements set forth in this act; and notwithstanding the pro-
28 visions of sections two, three and six of chapter forty-seven-a of
29 the code, it shall be sufficient description of the purpose for which
30 said election is held for the ordinance calling the same, or sub-
31 mitting said question to a vote at any general election, if it shall
32 recite that it authorizes the board of affairs to issue bonds for the
33 purpose of grading, paving, curbing, sewering, or otherwise per-
34 manently improving the streets, roads and alleys of said city, at
35 such times as to the board of affairs shall seem fit or expedient.
36 The provisions of chapter forty-seven-a of the code, concern-
37 ing bond election, shall, so far as they are not in conflict with the
38 provisions of this chapter, apply to the bond election and special
39 bond election herein provided for.

Sec. 88-a. For the purpose of leasing, purchasing or erect-
2 ing, owning, maintaining and operating a system of water works
3 for the city and the inhabitants and industries thereof, and the
4 territory of the city of Hinton which the board of affairs may from
5 time to time agree to supply from the city water works, as pro-
6 vided for in this or any other act of the legislature, said city of
7 Hinton is hereby authorized to issue and sell its bonds, which
8 shall bear interest not to exceed six per cent. per annum, interest
9 payable annually, by which to procure funds for such purpose,
and for said purpose the city may issue and sell its bonds to an amount equal to two and one-half per centum on the taxable property therein in addition to the aggregate of its debts for all other purposes, and of every kind whatsoever; provided, that the total indebtedness of said city for all purposes shall not exceed five per centum of the total value of all taxable property therein.

But the said city shall not make such issue and sale of bonds without at the same time providing for the collection of a direct annual tax sufficient to pay annually the interest on such debt and the principal thereof within and not exceeding thirty years, and for the purpose of aiding in the payment of any bonds issued under the provisions of this act, to enable the city to lease, own, operate and maintain a water works and system, the board of affairs of the city are hereby authorized to lay a levy of not exceeding ten cents on the one hundred dollars valuation of all taxable property in the city, which said levy may be in addition to the aggregate of all other levies authorized by law; and any revenue derived from said water works over and above the expense of operating and maintaining the same, shall be applied to the payment of the bonds issued therefor.

Sec. 89. The cost of any improvement contemplated in this act and for which assessments may be made, shall include the cost and expenses of making the assessments, the expenses of the preliminary and other surveys, and of printing and publishing all notices required to be published, and serving the notices on property owners, and the cost of construction.

Proceedings with respect to improvements shall be liberally construed by the board of affairs and the courts, to secure a speedy completion of the work at a reasonable cost and the speedy collection of the assessments after the time has elapsed for their payments, and merely immaterial objection in such cases shall be disregarded.

Sec. 90. In setting forth the lots and lands abutting upon the improvement, it shall be sufficient to describe them as the lots and lands bounding and abutting upon said improvement between and including the termini of said improvement, or by the description by which they are described on the land books of the county in which said lots are situate; and this rule of description
Sec. 91. When work shall have been completed on any avenue, street, road or alley, or part thereof, as provided in section seventy-four or section eighty-one, or the construction of any sewer or other work shall have been completed on any avenue, street, road or alley, or part thereof, or elsewhere, as provided in section eighty-six, and said assessments thereagainst shall have been calculated as provided in this act, the board of affairs shall give notice, by publication at least once a week for two successive weeks in two newspapers of opposite politics, published in said city, or in one newspaper, if two such papers be not published in said city, that an assessment under this act is about to be made against the property so assessed and the owners thereof, mentioning the kind of work and the location thereof, and the owners of said property shall have a right to appear before said board, either in person or by attorney or agent, at any regular or special meeting called for that purpose within two weeks of the first publication thereof, and move the board to correct any apportionment of the assessment excessive or improperly made and the board shall have the power to make any such corrections before it enters the same, as corrected, upon the records. If the publication in the newspapers aforesaid cannot be had at reasonable rates, the notice may be given in some other manner designated of record by the board. The fact that said assessment shall have been entered of record, as provided by this act, shall be prima facie proof that the notice mentioned herein was given as prescribed in this section.

Sec. 92. The board of affairs shall hear and determine all charges against any officer or person holding a position in the police department and the fire department, after ten days' written notice to the accused of the charges preferred against him, and the time and place of hearing on said charges, and an opportunity to the accused to have been heard, at such meeting, in his defense. After thus hearing said charges the board may, by a vote of three of its members, sustain the same, and by like vote may reprimand or suspend or dismiss said accused person from the service of the city. Upon the making of such charges, and pending the trial thereon, the board, by a majority vote, or the mayor, if in his judgment the provocation is sufficient, may suspend the accused officer, and if he be hereafter found guilty on the charge preferred,
14 and by reason thereof dismissed, or suspended, he shall draw no
15 salary during the period of either of his suspensions.

Code of Laws, Et cetera

Sec. 93. The board of affairs may adopt by ordinance, a code
2 of laws and ordinances, which when adopted shall be printed in
3 book form, or it may be adopted as a whole after it is printed,
4 and said code shall be the law and ordinances of said city, and
5 shall be received as such in all the courts of this state and the
6 laws, ordinances, franchises and rules when printed therein shall
7 be _prima facie_ proof of their correctness.

Non-Partisan Administration.

Sec. 94. The object and aim of this act is to procure an hon-
2 est and efficient administration of the affairs of the city of Hint-
3 ton, free from partisan distinction or control; and the municipal
4 authorities of the city and courts of the state shall construe this
5 act with that aim in view.

Service of Notice.

Sec. 95. Whenever any notice is required to be given, or any
2 summons, warrant or other process is required to be served or
3 otherwise executed, under the provisions of this act, it shall be
4 sufficient, if such notice, summons, warrant or other process be
5 executed by an officer of the police department of the city in the
6 same way or manner in which the laws of the state prescribe for
7 executing summons and subpoenas by state officers, unless otherwise
8 provided by this act.

Board of Affairs Successors to Council.

Sec. 96. The board of affairs (together with the common
2 council) provided for in this act, and their successors in office,
3 shall be held and deemed, in law and in fact, the successors of the
4 board of affairs and the common council of the city of Hinton and
5 the mayor and common council of the city of Avis.

Sec. 97. The board of affairs and city council of the
2 city of Hinton and the common council of the city of Avis,
2-a as constituted before this act becomes effective, shall at a
3 joint meeting of said municipal bodies to be held in the city
4 building in the city of Hinton on the 15th day of November, nine-
5 teen hundred and nineteen, call a special election to be held on the
second Tuesday in December, nineteen hundred and nineteen, for
the election of commissioners and members of the council of the
city of Hinton, as herein provided. Said joint body shall appoint
the election officers to conduct said election and do any and all
things necessary pertaining to the proper conduct of said election.
Said nominations shall be made and said special election shall
be conducted and held in the manner herein set forth and provided
for regular elections by the council then in office in said city of
Hinton, and in all manner according to the provisions of the laws
of the state relating to such matters and not in conflict with the
provisions of this act.

And the common council of the city of Hinton and the com-
mon council of the city of Avis, as constituted before this act be-
comes effective, is hereby made the canvassing board and before
which a joint meeting the election returns of said first election
under this act shall be canvassed, and the result thereof declared
in the manner prescribed by this act and by the state laws for
like purposes, relating to municipal elections, and it shall be the
imperative duty of said common councils to declare the result of
said election within the time now provided by law, and by the char-
acter and provisions of the city ordinances of the city of Hinton,
and shall designate the commissioners of the several departments as
herein provided for, and in the manner herein provided. And
thereafter, the board of affairs shall be ex-officio the board of can-
vassers, and as such perform said duty.

The members of the board of affairs and members of the
common council elected at the first election held under the pro-
visions of section ninety-seven, shall begin their term of office on
the first day of January, one thousand nine hundred and twenty
and they shall hold their respective offices until the thirty-
first day of December, one thousand nine hundred and twenty-one
or until their successors are elected and qualified.

If at any time a commissioner is a candidate for re-election
to said office, the common council may appoint some person of
the same political party to act in his stead on the canvassing board,
or if two or more commissioners are candidates for re-election,
the common council may appoint a person for each candidate for
re-election to act in his stead on the canvassing board, and the
person or persons so appointed shall, with the other members of
the board, if any, who are not candidates for re-election, canvass
the returns of said election and make declaration of the result
47 thereof; and in that event each commissioner who is a candidate
48 for re-election, shall not have anything to do with the canvass
49 of said election returns or the making of the declaration of the
50 result thereof.
51 The city clerk, acting under state laws in so far as they are
52 not in conflict with this act, shall perform such duties relating to
53 all municipal elections held under the municipal authorities of
54 said city as the clerk of the county court of Summers county
55 performs, under state laws, in relation to state, county and dis-
56 trict elections in said county and he shall likewise be the custo-
57 dian of all ballots, tally sheets, etc., pertaining to all municipal
58 elections.

Existing Ordinances and Records.

Sec. 98. The ordinances of the city of Hinton and the ordi-
2 nances of the city of Avis, which are in existence at the time this
3 act goes into effect, and which are not inconsistent with each
4 other, and not inconsistent with the provisions of this act, shall
5 be and remain in force until new ordinances shall have been
6 adopted hereunder. Provided, however, that the present stock
7 laws and ordinances prevailing in the city of Avis, as now con-
8 stituted, shall remain in full force and effect and not subject to
9 repeal or change by new ordinances. However, the said stock
10 ordinances in the city of Avis may be changed, altered or repealed
11 if three-fifths of the voters of said city of Avis, as now constituted,
12 and comprising the fifth and sixth wards of the city of Hinton
13 under this act, shall so vote in the affirmative at any city election.

Sec. 100. The city clerk, except as may be otherwise pre-
2 scribed by the board of affairs, shall be the custodian of all the
3 records and papers pertaining to the city of Hinton, and said
4 records and papers shall be kept by him at his office and open to
5 public inspection.

Sec. 101. All other acts and parts of acts coming within the
2 purview of this act and inconsistent herewith are hereby re-
3 pealed.

ARTICLE XV.

Schools.

Sec. 102. That in the event of a majority of the votes cast at
2 an election which shall be held as hereinafter provided, on the
3 twenty-seventh day of May, one thousand nine hundred and nine-
4 teen, in the district of Greenbrier in the county of Summers, be
5 in favor thereof, the territory included within the boundaries of
6 the city of Hinton, as bounded and designated in section two of
7 the act, shall constitute and be and the same is hereby created
8 and made an independent school district, to be known as the “In-
9 dependent District of Hinton in the county of Summers.”

Sec. 103. There shall be a board of education of said district
2 to consist of four school commissioners, who shall be elected as
3 herein after provided, and who shall be citizens entitled to vote
4 at the municipal election in the city of Hinton at which they
5 are elected, and either freeholders, owning real estate within
6 said district, or persons having a child or children residing within
7 said district who are entitled to attend school therein.

Sec. 104. There shall be appointed by the board of affairs of
2 the city of Hinton at a regular meeting of said board, held prior to
3 the first day of July, one thousand nine hundred and nineteen, or
4 as soon thereafter as practicable, four school commissioners or
5 members of the board of education of said district, not more than
6 two of whom shall be members of the same political party, and
7 who shall be otherwise qualified as herein provided, whose term
8 of office shall begin on the first day of July, one thousand nine
9 hundred and nineteen, and who shall hold their respective offices
10 until the first day of July, one thousand nine hundred and twenty-
11 two, or until their successors are elected and qualified as herein-
12 after provided.

Sec. 105. There shall be elected by the qualified voters of
2 said district at the regular municipal election to be held in the
3 city of Hinton on the second Tuesday in December, one thousand
4 nine hundred and twenty-one, four school commissioners or mem-
5 bers of the board of education of said district, two members of
6 said board of education shall be elected for the term of two years
7 and two members of said board of education for the term of four
8 years; the two persons of opposite politics receiving the highest
9 number of votes for school commissioner at said election shall be
10 declared elected for the full term of four years, and the two per-
11 sons of opposite politics receiving the next highest number of
12 votes for said office at said election shall be declared elected for
13 the short term of two years; and each two years thereafter at the
14 regular election for municipal officers of said city, there shall be
15 elected, by the qualified voters of said city, two school commis-
sioners, or members of the board of education, for the full term of four years. Their term of office shall commence on the first day of July next after their election, and they shall hold their said office for the term of four years and until their successors shall have been elected and qualified. *Provided*, that, after the first election of the said board of education as herein provided for, not more than one person whose name appears on the ticket of any party being voted at an election for members of said board of education shall be elected to said office. The two candidates of opposite politics receiving the greatest number of votes shall be declared elected, it being the intention of this act to make and keep said board of education non-partisan, and that no political party, at any time, shall have on said board of education more than one-half of the members to be elected thereto.

Sec. 106. The election for members of said board of education shall be held, returned and the result thereof asserted and declared in the same manner and under the supervision of the same authorities as provided for the election of commissioners of the board of affairs of the city of Hinton.

Sec. 107. Candidates to be voted for at any election for members of the said board of education may be nominated at the same time and in the same manner that candidates for members of the board of affairs of said city are nominated, except that no political party may nominate more than two persons for said office to be voted for at the same election and that no candidate shall be nominated who is a resident of the same ward in said city in which either of the holdover members of said board of education resides.

Sec. 108. Every person so nominated for the office of school commissioner, shall, within five days after his nomination has been certified by the political party making the nomination or a petition thereof shall have been filed, make, under oath, and file with the city clerk, a statement of the political party to which he claims allegiance, and if nominated by two or more parties, he shall state to which of them he belongs. If such person fail to make the oath, and file the same, as herein provided, the ballot commissioners shall not place his name on the ballot to be voted at the approaching election.

Sec. 109. If a vacancy occurs on the board of education it shall be filled by said board by the appointment thereto of some
3 eligible person from the same ward of the city and from the same
4 political party as the member whose vacancy is being filled, and
5 the person so appointed shall hold said office for the unexpired
6 term and until his successor is elected and qualified.

Sec. 110. The board of education of said independent dis-
2 trict shall be a corporation by the name of “The Board of Educa-
3 tion of the Independent District of Hinton in the county of
4 Summers,” and as such may sue and be sued, plead and be im-
5 pleaded, contract and be contracted with; may purchase and hold
6 such real estate and personal property as it may deem necessary
7 for the purposes of education in said district, and may receive
8 and hold any gift, grant or donation, devise or bequest for the
9 benefit of the schools in said district; and shall succeed and be
10 substituted to the rights of the former board of education of the
11 district of Greenbrier in the county of Summers in so far as re-
12 lates to or in any way affects the school or schools or school prop-
13 erty located within the boundaries of said independent district,
14 and may prosecute and maintain any and all suits and proceed-
15 ings now pending or which might have been brought and prose-
16 cuted in the name of such former board of education of the dis-
17 trict of Greenbrier for the recovery of any money or property or
18 damage to any property located within the boundaries of said
19 independent district, due to or vested in said former board of
20 education, and shall also be liable in its corporate capacity for
21 all claims and demands legally existing against said former board
22 of education of which it is successor, in so far as the same re-
23 lates to the schools or school property located within the boun-
24 daries of said independent district. The title to all school prop-
25 erty, both real and personal, located within the boundaries of said
26 independent district is hereby vested in said board of education
27 of said independent district and its successors.

Sec. 111. Annually, at the first meeting of the said board of
2 education, which is hereby required to be held on the first Monday
3 in July of each year, or as soon thereafter as practicable, the said
4 board of education shall organize by electing one of its members
5 president and one of its members secretary, who shall perform the
6 duties required by the general school law of their respective of-
7 fices and such additional duties as are herein required or as may
8 be prescribed by said board of education. Each member of said
Sec. 112. The salary of the member of said board of education acting as president, as herein provided, shall be forty dollars per year; the salary of the member of said board of education acting as secretary, as herein provided, shall be fixed by the board of education at the time of his appointment as such secretary, provided that said salary shall not exceed the sum of one hundred and fifty dollars per year; and the salary of each of the other members of said board shall be thirty dollars per year. Provided, that each member of said board shall have deducted from his salary as herein provided the sum of two dollars for each regular meeting of said board which he fails to attend. Said salaries shall be payable out of the building fund of said district.

Sec. 113. Said board of education shall hold regular or stated meetings at such times and places as the board may appoint, and special meetings of said board may be called by the president, or at the request of any member, by the secretary. No business shall be transacted at a special meeting, except it be mentioned in the call for such special meeting, which call shall be in writing and be recorded by the secretary in the record of the proceedings of said meeting. Three members of said board of education shall constitute a quorum for the transaction of business at any meeting of said board, provided that all members of said board shall have had notice of the time, place and purposes of any special meeting called by the president or secretary as herein provided.

Sec. 114. It shall be the duty of the board of education of the Independent district of Hinton in the county of Summers, annually, at the same time and in the same manner now provided, or that may hereafter be provided by the general school law of this state, for the ascertaining and making of estimates and fixing and laying of levies by the boards of education of the various school districts within the state for the support of the free schools therein, to ascertain and make such estimates of the amounts necessary for the support of the schools within said independent district, and to determine, fix and lay such levies on the property located within said independent district for the support of the schools therein. It shall be the duty of the board of education of said Independent district of Hinton, annually, at such meeting to
levy as many cents on each one hundred dollars of the valuation of the taxable property of the district, according to the last assessment thereof, as will produce the amount shown by the estimate of said board to be necessary to be levied for building fund purposes, and levy in like manner the amount necessary, after deducting the sum receivable from the general school fund of this state, for teachers' fund purposes, to continue the schools in session in said independent district for the minimum term of eight months in the graded or grammar schools and for the minimum term of nine months in the high school or high schools; and to levy and provide sufficient funds for all purposes to keep said schools in session for the full minimum term as herein provided; and the board of education of said independent district is hereby authorized and empowered to lay a levy in addition to the levies authorized by the general school law of the state sufficient for all purposes to conduct the school of said independent district for the term fixed.

Sec. 115. It shall be the duty of said board of education to provide by purchase, leasing, building, or otherwise all necessary school buildings, grounds, furniture and fixtures, apparatus and appliances, and all other necessary supplies, which it deems necessary to maintain the schools and for the education of the children of school age within said independent district, and to keep the school property in said district in good repair and to supply the school buildings therein with proper fuel or heat and light and other things necessary for the comfort and convenience of said schools, and pay the cost of the same out of the building fund of said district.

Sec. 116. It shall be the duty of said board of education to establish and cause to be taught in said independent school district such schools, including a high school or high schools, as it may deem necessary for the proper instruction of all children of school age residing therein. Said board of education shall have exclusive control of all the schools within said district; shall, with the approval of the superintendent of said schools, prescribe the subjects to be taught in the high school and other schools of said district; shall have power to make all necessary rules and regulations for the government of said schools, for the admission of pupils therein, and for the exclusion of any and all pupils whose attendance would be dangerous to the health or detrimental to the morals of said
schools. Said board may, with the approval of the superintendent, prescribe and adopt an uniform line of text-books for the use of the schools of said district, and may furnish such books and stationery and other supplies necessary to make the system efficient, and pay the cost of the same out of the building fund of said district.

Sec. 117. The board of education of said district shall provide and maintain one or more graded or grammar schools for the education of the colored youth of the district, and shall establish, provide and maintain a high school for the education of the colored youth who have completed the grammar school course, if in the opinion of the board there are a sufficient number of such colored youth residing within the district to justify the maintenance of such high school; provided, that in no case shall such high school be maintained where the average daily attendance of the same is less than ten pupils. Said schools shall be under the same supervision and direction, have the same length of term and receive the same attention in all particulars and details as the schools provided for the education of the white youth of the district. But, in no case shall the white and colored youth of said district be required or permitted to attend the same school, or schools in the same building, or use, or occupy the same school library at the same time.

Sec. 118. The board of education of said district shall appoint, as hereinafter provided, all teachers and principals, and provide substitute teachers when necessary, for the public schools within said district, and fix their compensation. The said teachers and principals shall be subject in all respect to the rules and regulations adopted by the board and superintendent of schools, and they may be removed by said board of education for incompetency, neglect of duty, gross immorality, or whenever from any cause it shall appear to said board that their removal is for the best interest of the schools of said district. The said board may also employ janitors and custodians of their school buildings and fix their compensation, and may remove any such janitors whenever it shall appear to said board, from any cause, that their removal is for the best interest of the schools of said district.

Sec. 119. Annually, at the first meeting, or as soon after as circumstances will allow, the board shall elect a superintendent of schools for the district and fix his salary; provided, that nothing in this act shall prevent the board from contracting with such superintendent for a longer period than one year should it so desire. Such superintendent shall be known as, “The Superintend-
The superintendent of schools may be removed from office at any time for incompetency, neglect of duty, immorality, or for any palpable violation of law. But he shall not be removed except upon charges preferred in writing by a school commissioner. A copy of such charges and notice of the time and place set for hearing shall be delivered to him at least five days before the time set for such hearing, and he shall be allowed to present any evidence of his innocence he may desire, and be heard in his own defense. A vacancy in the office of superintendent of schools shall be filled by the board of education by appointment, whenever such vacancy shall occur.

It shall be the duty of the superintendent of schools annually, at the first regular meeting of the board or as soon thereafter as possible to recommend to the board a sufficient number of teachers and principals to fill the schools of the district.

The board of education may refuse to appoint any or all of the persons so recommended and may require the superintendent of schools to recommend others, but no teacher, principal or supervisor shall be employed except upon the recommendation of the superintendent of schools; provided, that should the superintendent of schools within a reasonable time after being required to do so, fail or refuse to recommend a sufficient number of persons, under this section, to fill vacancies, the board of education may proceed to fill such vacancies without his recommendation.

It shall be the duty of the superintendent of schools with the approval of the board of education, to prescribe the branches to be taught in the high schools of the district, to carry out the provisions of the course of study prescribed by the state board of education and to supplement the high school course thus prescribed and to adopt it to the high schools of the district; to prescribe regulations for the examinations and graduation of pupils, to prescribe conditions for admission of pupils to the high schools, to have prepared questions for the examination of such pupils, to issue certificates to such pupils as are deemed worthy to be admitted to high schools, to keep a register of all certificates issued, to select courses of reading to be pursued by the teachers of the district, to select books for the school libraries, to acquaint himself with the best methods in the schools of other cities; and to this end the
board of education may appropriate such sums out of the building
fund of the district as it may deem proper to pay his traveling
expenses, to prepare and have printed all necessary forms to be
used in the district, to make such annual report to the board of
education as it shall require, to provide suitable certificates for
graduates of the grammar schools and diplomas for graduates
from the high schools and prescribe the manner and circumstances
under which the same may be conferred, to arrange with other
schools and colleges for the recognition of work done in the dis-

The salary of the superintendent of schools may be paid out
of either the teachers' fund or the building fund, or both.

Sec. 120. No pupil shall be entitled to enter the high school,
or high schools, of said district until the superintendent of said
schools shall have satisfied himself that the said pupil has made due
proficiency in the grades of grammar schools of said district.
Pupils who are non-residents of the district may be allowed to
attend the schools of the said independent district upon payment
of such tuition as is provided by the general school law or as the
board of education may prescribe; provided, that all pupils residing
within the district of Greenbrier in the county of Summers, out-
side the limits of said independent districts, who have completed
the free school course of said diserict, shall be admitted to the
high school, or high schools, of said independent district without
the payment of such tuition.

Sec. 121. The special election required to be held by section
one hundred and two of this act shall be held under the supervision
of the board of education of the district of Greenbrier in the county
of Summers. The said board of education shall prepare or cause to
be prepared a notice, stating that the question of ratifying the
act of the legislature of the state of West Virginia creating the in-
dependent district of Hinton in the county of Summers out of
part of the territory embraced in the district of Greenbrier in said
county will be submitted to the voters of said Greenbrier district at
a special election to be held on the fourth Tuesday in May, one
thousand nine hundred and nineteen, at not less than three voting
places in said district, (to be specified in said notice), which no-
tice shall be signed by the president and secretary of said
board and be posted at least ten days before said election at the
voting places designated by said board for the purposes of said
election. Said notice shall also be published once a week for two
16 weeks prior to said election in two newspapers of opposite poli-
tics published in Summers county. The said board of education
of the district of Greenbrier shall designate the voting places for
said election, appoint commissioners and poll clerks to conduct
the same, ascertain the result thereof, and pay the expenses thereof
out of the building fund of said district.

The ballot to be voted at said election shall be printed upon
plain white paper and the following form:

23-a

School District Election.

Indicate how you desire to vote by a cross in the square.

[ ] For ratification of Hinton Independent District.

[ ] Against ratification of Hinton Independent District.

If any person or persons shall mar, deface, or otherwise in-
jure any school house, out building, fence, furniture, or other
property of the district, the person or persons so offending shall
be liable to prosecution before the police judge of the city of Hin-
ton or any justice of the peace within the district; and upon con-
viction shall be subject to a fine of not less than five dollars and
costs of prosecution; and if the amount of damage shall exceed
five dollars, the person or persons convicted of the offence shall be
liable for the full amount thereof.

If the injury be done by a minor, the parent or guardian of
said minor shall be liable for the damages as aforesaid. It shall be
the duty of the board of education of said independent district to
ascertain, if possible, by whom such an offence was committed
and when satisfied thereon, to cause the party or parties to be
arrested, and tried for the offence, in the name and on behalf of
the board of education of said district; and all fines for dam-
ages collected by virtue of this section shall be paid into the dis-
trict treasury to the credit of the building fund of said district.

Sec. 122. All provisions of the general school law of the state,
and all laws and acts heretofore existing, which are in any man-
ner inconsistent with the provisions of the act, shall be void within
the said independent district; otherwise the said general school
law shall remain in full force and effect in said independent dis-
trict, as elsewhere in the state.

Sec. 123. A special election shall be held within thirty days
from the passage of this act under the supervision of the county
court of Summers county at which there shall be submitted to the
legal voters residing within the territory of the city of Hinton as
bound and designated in section two of this act the question of the ratification or rejection of this act, said election to be held in accordance with the general laws of this state governing the holding of elections for the laying of special tax levies by the county courts of this state. The said county court being hereby given full powers to hold, conduct, and ascertain the result of said election and certify the same to the board of affairs of the city of Hinton. The ballot to be voted at said election shall be printed upon plain white paper in the following form:

BALLOT ON CITY OF HINTON CHARTER

[ ] For ratification of charter.
[ ] Against ratification of charter.

If a majority of the votes cast be for ratification, then this act shall be in force on and after the date on which the results of said special election are declared by the county court, otherwise this act shall be void on and after said date.
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